

# AGENDA

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**Meeting:** Northern Area Planning Committee

**Place:** Council Chamber - Council Offices, Monkton Park, Chippenham,  
SN15 1ER

**Date:** Wednesday 25 May 2022

**Time:** 2.00 pm

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Please direct any enquiries on this Agenda to Ben Fielding and Leo Penry of Democratic Services, County Hall, Bythesea Road, Trowbridge, email [benjamin.fielding@wiltshire.gov.uk](mailto:benjamin.fielding@wiltshire.gov.uk) and [Leonora.penry@wiltshire.gov.uk](mailto:Leonora.penry@wiltshire.gov.uk)

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## Membership:

Cllr Tony Trotman (Chairman)  
Cllr Howard Greenman (Vice-Chairman)  
Cllr Chuck Berry  
Cllr David Bowler  
Cllr Steve Bucknell  
Cllr Gavin Grant

Cllr Jacqui Lay  
Cllr Dr Brian Mathew  
Cllr Nic Puntis  
Cllr Martin Smith  
Cllr Elizabeth Threlfall

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## Substitutes:

Cllr Clare Cape  
Cllr Ruth Hopkinson  
Cllr Peter Hutton  
Cllr Bob Jones MBE

Cllr Dr Nick Murry  
Cllr Ashley O'Neill  
Cllr Tom Rounds

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## **Public Participation**

Please see the agenda list on following pages for details of deadlines for submission of questions and statements for this meeting.

For extended details on meeting procedure, submission and scope of questions and other matters, please consult [Part 4 of the council's constitution](#).

The full constitution can be found at [this link](#).

For assistance on these and other matters please contact the officer named above for details



# AGENDA

## Part I

Items to be considered when the meeting is open to the public

1 **Apologies**

To receive any apologies or substitutions for the meeting.

2 **Minutes of the Previous Meeting** (*Pages 5 - 10*)

To approve as a true and correct record the minutes of the previous meeting held on 27 April 2022.

3 **Declarations of Interest**

To receive any declarations of disclosable interests or dispensations granted by the Standards Committee.

4 **Chairman's Announcements**

To receive any announcements through the Chair.

5 **Public Participation**

The Council welcomes contributions from members of the public.

### **Statements**

Members of the public who wish to speak either in favour or against an application or any other item on this agenda are asked to register **no later than 10 minutes before the start of the meeting**. If it is on the day of the meeting registration should be done in person.

The rules on public participation in respect of planning applications are linked to in the Council's Planning Code of Good Practice. The Chairman will allow up to 3 speakers in favour and up to 3 speakers against an application, and up to 3 speakers on any other item on this agenda. Each speaker will be given up to 3 minutes and invited to speak immediately prior to the item being considered.

Members of the public will have had the opportunity to make representations on the planning applications and to contact and lobby their local member and any other members of the planning committee prior to the meeting. Lobbying once the debate has started at the meeting is not permitted, including the circulation of new information, written or photographic which have not been verified by planning officers.

### **Questions**

To receive any questions from members of the public or members of the Council received in accordance with the constitution which excludes, in particular,

questions on non-determined planning applications.

Those wishing to ask questions are required to give notice of any such questions in writing to the officer named on the front of this agenda no later than 5pm on 18 May 2022 in order to be guaranteed of a written response. In order to receive a verbal response, questions must be submitted no later than 5pm on [change this to the day which is 2 clear working days before the meeting 20 May 2022. Please contact the officer named on the front of this agenda for further advice. Questions may be asked without notice if the Chairman decides that the matter is urgent.

Details of any questions received will be circulated to Committee members prior to the meeting and made available at the meeting and on the Council's website.

## 6 **Planning Applications**

To consider and determine the following planning applications.

### 6a **COMMONS ACT 2006 – SECTIONS 15(1) AND (2) APPLICATIONS TO REGISTER LAND AS TOWN OR VILLAGE GREEN – LAND OFF SEAGRY ROAD, LOWER STANTON ST QUINTIN** *(Pages 11 - 404)*

To consider the evidence submitted with two applications made under Sections 15(1) and (2) of the Commons Act 2006, to register land off Seagry Road, Lower Stanton St Quintin, as a Town or Village Green (TVG), in order to seek approval to appoint an independent Inspector to hold a non-statutory Public Inquiry and provide an advisory report for the Northern Area Planning Committee on the applications to register land off Seagry Road, Lower Stanton St Quintin, as a TVG.

## 7 **Urgent Items**

Any other items of business which, in the opinion of the Chairman, should be taken as a matter of urgency.

## Northern Area Planning Committee

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### MINUTES OF THE NORTHERN AREA PLANNING COMMITTEE MEETING HELD ON 27 APRIL 2022 AT COUNCIL CHAMBER - COUNCIL OFFICES, MONKTON PARK, CHIPPENHAM, SN15 1ER.

#### **Present:**

Cllr Tony Trotman (Chairman), Cllr Chuck Berry, Cllr Steve Bucknell, Cllr Gavin Grant, Cllr Jacqui Lay, Cllr Dr Brian Mathew, Cllr Nic Puntis, Cllr Martin Smith, Cllr Elizabeth Threlfall, Cllr Peter Hutton (Substitute) and Cllr Bob Jones MBE (Substitute)

#### **Also Present:**

Cllr Allison Bucknell

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#### 24 **Apologies**

Apologies for absence were received from Councillor Howard Greenman, who arranged for Councillor Peter Hutton to attend the meeting in his absence. Additionally, apologies for absence were received from Councillor David Bowler, who arranged for Councillor Bob Jones MBE to attend the meeting in his absence.

#### 25 **Minutes of the Previous Meeting**

The minutes of the meeting held on 2 March 2022 were presented for consideration, and it was;

#### **Resolved:**

**To approve and sign as a true and correct record of the minutes of the meeting held on 2 March 2022.**

#### 26 **Declarations of Interest**

There were no declarations of disclosable interest or dispensations granted by the Standards Committee.

#### 27 **Chairman's Announcements**

The Chairman informed those in attendance of the procedures in place if there was to be a fire alarm.

28 **Public Participation**

No questions had been received from councillors or members of the public.

The Chairman welcomed all present. He then explained the rules of public participation and the procedure to be followed at the meeting.

29 **Planning Appeals and Updates**

Development Management Team Leader, Lee Burman noted that there had been an amendment to the Planning Appeals Report, with the final item on page 18 of the agenda (PL/2021/08453) being a hearing rather than written representations.

Councillor Tony Trotman moved that the Committee note the contents of the appeals report included within the agenda. It was seconded by Councillor Chuck Berry.

**Resolved:**

**To note the Planning Appeals Update Report for 27 April 2022.**

30 **Planning Applications**

The Committee considered and determined the following planning applications:

31 **PL/2021/08063 - Meadow View, The Common, Minety, Malmesbury, SN16 9RH**

**Public Participation**

Richard Cosker spoke in support of the application.

Ged Brockett spoke in support of the application.

Andy Richardson spoke in support of the application.

Development Management Team Leader, Lee Burman presented a report which outlined demolition of existing residential dwelling and garage, and construction of a replacement dwelling and garage plus associated works

Details were provided of the site and issues raised by the proposals, including the principle of development, impact on the character and appearance of the site & locality, impact on residential amenities, highways safety, ecology, lawfulness.

Members of the Committee had the opportunity to ask technical questions regarding the application. Details were sought on whether the fire had taken place within the house itself, with it clarified by the officer that the fire had taken place within the house and that this would not render the building incapable of retention and could be repaired. Furthermore, it was questioned where the boundary starts and ends for buildings being appropriate for repair, it was clarified by the officer that the latest submissions provided by the applicant

suggested it would be more cost effective to completely replace the building. Additionally, it was clarified by the officer that the current building was not insulated up to modern standards with it acknowledged that the proposed replacement would have greater energy efficiency.

Additional technical questions were received in relation to Policy H4 with examples cited of 1950s bungalows being purchased and then knocked down to be replaced by a new house. It was clarified by the officer that Policy H4 only deals with developments in the countryside. Additionally, it was clarified by the officer that the building was currently occupied and was not abandoned. Further questions were asked as to whether it would be possible to add a condition surrounding the use of an air source heat pump, to which the officer stated that this would not be possible but the property itself would demonstrate energy improvements. It was also confirmed by the officer that the property was in the countryside and outside of any framework boundaries.

Members of the public then had the opportunity to present their views to the Committee as detailed above.

The Local Unitary Member, Councillor Chuck Berry then spoke regarding the application. Cllr Berry raised the following points that having listened to the applicant the reasoning behind the replacement property was clear, however he did have an understanding why the officer had applied the policies within their recommendation. Cllr Berry acknowledged that within a year's time, this application could fall within the policies in place and that time could have been lost in terms of reducing Carbon Dioxide. Cllr Berry noted that as a wider community, Minety has been contributing to this reduction by having larger numbers of battery and solar farms. In addition, the road in which the property is located on already has a number of properties on both sides.

At the start of the debate a motion to refuse the officer's recommendation was moved by Councillor Chuck Berry and seconded by Councillor Gavin Grant. The reasoning being that Members heard presentations from the applicant team and considered that the energy efficiency benefits of development and the financial costs benefits of a rebuild as opposed to repair were sufficient material considerations to support approval and an assessment that the proposals accorded with saved policy H4 of the North Wiltshire Local Plan.

During the debate, issues were raised such as the need to consider the policies in place at the time of consideration and not to be speculative to future policy changes. Policy H4 was discussed in relation to the application, with it acknowledged that in order for Policy H4 to be applied, all three of its criteria needed to be met. Policy H4 2.b was identified as a point of criteria that could not be met, with an argument placed that though if millions of pounds were to be spent on the property it would make it capable of retention, the property is a domestic home and therefore an expert assessment of the costs suggest there would be no real financial benefit of completing repairs. It was stated that the application would not be an attempt to build for benefit of profit but rather for family use; therefore suggesting that the current building would be incapable of retention due to the repair costs.

Further issues that were debated included the need to create properties that are more environmentally friendly and the importance of taking every opportunity to promote such developments. In addition to this, it was stated that the applicant could have potentially gone further in their proposal from an environmental perspective, with it acknowledged that it would have been positive to have seen a passive house design with the lowest Carbon footprint possible.

At the conclusion of the debate, it was,

**Resolved:**

**To delegate authority to the Head of Development Management to grant planning permission subject to appropriate conditions to be prepared by officers and following presentations to Committee and debate for the following reason(s):**

**Members having heard presentations from the applicant team considered that the energy efficiency benefits of development and the financial costs benefits of a rebuild as opposed to repair were sufficient material considerations to support approval and an assessment that the proposals accorded with saved policy H4 of the North Wiltshire Local Plan.**

32 **PL/2021/03235 - Land at Rosehill Close, Bradenstoke, SN15 4LB**

Public Participation

Robin Goodfellow spoke in objection to the application.

Kate McFarlane spoke in objection to the application.

Charlotte Watkins spoke in support of the application.

Shendie Green spoke on behalf of Lyneham and Bradenstoke Parish Council.

Development Management Team Leader, Lee Burman presented a report which outlined the construction of four dwellings and associated works.

Details were provided of the site and issues raised by the proposals, including the principle of development in this location; the design and effect of the proposed development on the character and appearance of the locality; the impact on residential amenity; highways safety and parking; drainage; ecology.

Members of the Committee had the opportunity to ask technical questions regarding the application. Details were sought on whether the neighbourhood development plan made in October 2021 had designated this site for development, to which the Officer clarified that the development had not designated any site nor had it made any allocations for housing. In addition, the Lyneham Banks landslip issue was mentioned with there being rumours that a separate development may have caused the slip; the Officer clarified that there were no indications that that the proposal would exacerbate the situation or cause further issues. The Officer also clarified in relation to the access road to the proposed development that this was a private road which highways officers advised was sufficiently wide enough for two-way travel.

Additional technical questions were received in relation to whether the officer's recommendation for this application was looking to make up a shortfall of housing not arising elsewhere in the county; to which the Officer noted that this was not the case and that shortfalls are considered in relation to defined housing market areas by Inspectors at appeal rather than as being county wide. Comparisons were also drawn to another recent proposal which was rejected, to which the Officer stated that each application is assessed on its own merits and that this was a small-scale development in comparison to the other proposal of 50+ dwellings which would be disproportionate. Furthermore that 4 dwellings in the instance of Bradenstoke would not be enough to refuse as it would be proportionate to the scale of development.

Furthermore, clarification was sought as to what "infill" meant to the site in question, with it clarified by the officer that infill is defined as a small gap that can be used to accommodate a maximum of 4 dwellings but most commonly 1 and is an area surrounded by other dwellings, which this application was not.

Members of the public then had the opportunity to present their views to the Committee as detailed above.

The Local Unitary Member, Councillor Allison Bucknell then spoke regarding the application. Cllr Bucknell raised the following points that despite the applicant's opinion that they had fulfilled requirements, the application was still contrary to policies, with the only point in favour being that Wiltshire Council can't demonstrate a 5-year land supply and has a tilted balance. Cllr Bucknell stated that the application lies on the edge of a village in open land and outside of a settlement boundary, with no buses available for sustainable use and that the footpaths to Bradenstoke and Lyneham were unsafe and in some parts unlit. Furthermore, Cllr Bucknell highlighted that the development would be contrary to Core Policies 1, 2, 19 and 45. Additionally, that the case officer had applied moderate weight to the notion of creating additional homes, however, did not mention the recent granting of 250 houses in two nearby locations in Lyneham.

At the start of the debate a motion to refuse the officer's recommendation was moved by Councillor Steve Bucknell and seconded by Councillor Gavin Grant. The reasoning being that the proposal is outside of any defined settlement and so is located in the open countryside, has not been allocated for residential development within the development plan. The proposals would result in an increased need to travel and the elongation of the village not being infill development.

During the debate, issues were raised such as the unfairness towards neighbourhood plans if they can be overruled by tilted balance due to a lack of 5-year land supply. The importance of local plans was further stressed and how they are intrinsic to the considerations of the Committee and in ensuring that there is an element of control in what takes place in towns and villages. It was also stated that there had not been an extension of the village boundary proposed within the neighbourhood plan that was agreed less than 2 years ago

and that though this development would not meet the criteria of being infill, it would however elongate the village which would be contrary to Core Policy 2.

At the conclusion of the debate, it was,

**Resolved:**

**To refuse on the basis that the conflict with the development plan, including the neighbourhood plan, outweighed the benefits of development, which were considered to be limited. Committee members being of the opinion that insufficient weight was afforded to the wishes of the local community as expressed by the Lyneham and Bradenstoke Neighbourhood Plan. Members Resolved to refuse for the following reason: -**

**The proposal is outside of any defined settlement and so is located in the open countryside, has not been allocated for residential development within the Wiltshire Core Strategy (January 2015), The Wiltshire Housing Sites Allocation Plan (February 2020) or the Lyneham & Bradenstoke Neighbourhood Plan (2021). The development fails to meet any of the special circumstances for the creation of additional residential development in such circumstances listed under Paragraph 4.25 of the Wiltshire Core Strategy. The proposals do not constitute infill development and elongate the village of Bradenstoke. Therefore, the proposal is contrary to Core Policies 1, 2, 19, 60 (i & ii) & 61 of the Wiltshire Core Strategy, Saved Policy H4 of the North Wiltshire Local Plan, and the Lyneham & Bradenstoke Neighbourhood Plan. The proposal is in conflict with the development plan taken as a whole. As such, the proposal fails to constitute and secure sustainable development as required by the NPPF and is contrary to the development strategy of the development plan. In accordance with paragraph 11d (ii) of the NPPF the benefits of the proposal have been fully considered but the adverse impacts would significantly and demonstrably outweigh those benefits, when assessed against the policies in the NPPF taken as a whole.**

**33 Urgent Items**

There were no urgent items.

(Duration of meeting: 2.00pm – 3.43pm)

The Officer who has produced these minutes is Ben Fielding –  
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WILTSHIRE COUNCIL

AGENDA ITEM NO.

NORTHERN AREA PLANNING COMMITTEE

25 MAY 2022

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## COMMONS ACT 2006 – SECTIONS 15(1) AND (2)

### APPLICATIONS TO REGISTER LAND AS TOWN OR VILLAGE GREEN – LAND OFF SEAGRY ROAD, LOWER STANTON ST QUINTIN

#### Purpose of Report

1. To consider the evidence submitted with two applications made under Sections 15(1) and (2) of the Commons Act 2006, to register land off Seagry Road, Lower Stanton St Quintin, as a Town or Village Green (TVG), in order to seek approval to appoint an independent Inspector to hold a non-statutory Public Inquiry and provide an advisory report for the Northern Area Planning Committee on the applications to register land off Seagry Road, Lower Stanton St Quintin, as a TVG.

#### Relevance to the Council's Business Plan

2. Working with the local community to provide a countryside access network fit for purpose, making Wiltshire an even better place to live, work and visit.

#### Background

3. Wiltshire Council, as the Commons Registration Authority (CRA), is in receipt of two applications made under Section 15(1) of the Commons Act 2006, to register land off Seagry Road, Lower Stanton St Quintin, as a TVG, (see **Appendix A-2** Application Plans). The relevant dates for the applications are the dates of receipt by the CRA on 30 April 2018 (application no. 2018/01) and 26 April 2019 (application no. 2019/01), respectively. Section 15(1) of the 2006 Act states, (see relevant legislation at **Appendix A-5**):

*“15 Registration of green*

*(1) Any person may apply to the commons registration authority to register land to which this Part applies as a town or village green in a case where subsection (2), (3) or (4) applies.”*

4. The applications are also made under Section 15(2) of the Act where use of the land for recreational purposes is claimed to be continuing at the time of application. Wiltshire Council, as the CRA, must therefore consider the evidence in order to determine the applications under Section 15 (2) of the Act which applies where:

- (a) a significant number of the inhabitants of any locality, or of any neighbourhood within a locality, have indulged as of right in lawful sports and pastimes on the land for a period of at least 20 years; and
- (b) they continue to do so at the time of application.

5. The applications are made by Stanton St Quintin Parish Council. Application no.2018/01 is signed by the then Chair, Cllr Nick Greene, and application no.2019/01 is signed by the subsequent Chair, Cllr Adrian Andrews.
6. The land is unregistered and covers an area of approximately 408 square metres, located off Seagry Road at Lower Stanton St Quintin, being presently planted with trees and laid to grass with two commemorative wooden benches; a picnic table and benches; the “Wee Free Library”; Stanton St Quintin Parish Council notice board and a commemorative tree, present on the land. The southern boundary of the site is formed by a low stone and concrete capped wall. This forms the boundary between the application land and the properties ■■■ and ■■■ Lower Stanton St Quintin, located to the south of the application land. The application land is semi-circular in shape, the north; east and west boundaries being the recorded highway Seagry Road, without gates or other limitations upon access, (see **Appendix A-1** Location Plan, **Appendix A-2** Application Plans and **Appendix A-3** Photographs of Application Land).
7. The property ■■■ Lower Stanton St Quintin is owned by Mr M Reeves, the main Objector in this matter; however, he is not the registered owner of the application land. He has previously applied for planning permission for a vehicular access over the application land to form a direct link between his property and the Seagry Road highway: Planning Application no.18/01108/FUL for a new direct access to highway for vehicles and pedestrians over verge to class C road in 30mph limit –

Application registered – 1 February 2018

Decision – Refused 7 March 2018

Appeal Decision – Dismissed 3 October 2018

8. The Growth and Infrastructure Act 2013, introduced provisions to make it more difficult to register land as a TVG, including, at Section 16, the removal of the “right to apply” to register land where specified planning “trigger” events have occurred, e.g. an application for planning permission in relation to the land, which would be determined under Section 70 of the Town and Country Planning Act 1990, is first publicised in accordance with the requirements imposed by a development order by virtue of Section 65(1) of that Act. The right to apply is revived where a corresponding “terminating” event has taken place, e.g. planning permission is refused and all means of challenging the refusal by legal proceedings in the UK are exhausted and the decision upheld.
9. In the Stanton St Quintin case, upon receipt of the first application to register the whole of the semi-circular area as a TVG, (application no.2018/01, received 30 April 2018, see **Appendix A-2** Application Plans), as advised by “DEFRA Guidance to Commons Registration Authorities in England on Sections 15A to 15C of the Commons Act 2006 – December 2016”, (see **Appendix A-5**), the CRA consulted with the relevant Planning Authorities who confirmed that there

was a valid planning trigger event in place over part of the land in the form of planning application no.18/01108/FUL, without a corresponding terminating event, (see trigger event consultation replies at **Appendix A-12**). The guidance states that where there is a planning trigger event in place on only part of the land, the application may be processed as usual on that part of the land which is not subject to the exclusion. Therefore, the application 2018/01 was accepted by the CRA in part.

10. When the planning application no.18/01108/FUL was refused and all means of appeal were exhausted, a planning “terminating” event was considered to have taken place and the right to apply to register the land previously affected by the planning application, was revived. Therefore, the Parish Council applied to register the section of land excluded from the original application, (application no.2019/01 received 26 April 2019, see application plan at **Appendix A-2**). Consultation with the Planning Authorities regarding this application confirmed that there were no planning trigger events in place on this section of the land, (please see trigger event consultation replies at **Appendix A-12**), (although this is disputed by the Objector, Mr M Reeves), and the application was accepted by the CRA. For the purposes of this report, the applications are taken together to cover the whole of the semi-circular area of land.

### **Main Considerations for the Council**

11. The Council, as the CRA, has considered the following evidence in its consideration of the application:
  - (i) Application no.2018/01 dated 18 April 2018 and received by Wiltshire Council on 30 April 2018, in the form of “Form 44” and statutory declaration, including statement from Mrs H Creasy.
  - (ii) Application no.2019/01 dated 18 April 2019 and received by Wiltshire Council on 26 April 2019, in the form of “Form 44” and statutory declaration.
  - (iii) Supplementary Information provided by Mr Reeves for Planning Application no.18/01108/FUL (14 February 2018 - Mr M Reeves) (Extract **Appendix A-8**).
  - (iv) Objections received prior to formal consultation period (Mr M Reeves 11 June 2018) (**Appendix A-8**).
  - (v) Trigger/terminating event consultation replies (**Appendix A-12**).
  - (vi) Objections and representations received during formal notice period for applications 2018/01 and 2019/01 (13 August 2020 – 28 September 2020) (**Appendix A-6** and **Appendix A-7**).
  - (vii) Applicants’ revised comments on the objections (10 December 2020) (**Appendix A-9**).

- (viii) Objectors' comments on the Applicants' comments on the objections (5 January 2021; 19 January 2021 and 2 February 2021 – Mr M Reeves and Mrs K Reeves; 26 January 2021 – Mrs O Kelly and Mr J Kelly) (**Appendix A-10**).
  - (ix) Additional evidence submitted by Applicants' (April 2021) (**Appendix A-11**).
  - (x) Officers Report regarding extent of highway – 2019 (**Appendix A-18**).
12. Officers have considered the evidence submitted, (please see paragraphs 14.1.-14.84. of the decision report attached at **Appendix A**, in which the evidence is considered in detail) and concluded that there are matters of dispute within the evidence, which are likely to be resolved by holding a non-statutory public inquiry at which the witnesses may give evidence in chief and be subject to cross-examination. Appointing an independent Inspector to preside over a public inquiry and produce a recommendation to the CRA, would assist the CRA in its determination of this application.

### **The Evidence**

13. The legal test to be applied in this case, i.e. Section 15(2) of the Commons Act 2006, may be broken down into a number of components, each of which must be satisfied in order for the applications to succeed, where it is no trivial matter for a landowner to have land registered as a green. The burden of proving that each of the statutory tests is met lies with the applicant and there is no duty placed upon the CRA to further investigate the claim. The standard of proof lies in the balance of probabilities, i.e. that it is more likely than not that recreational rights for local inhabitants, have been acquired. Officers have carefully considered the evidence submitted both in support of and in objection to the applications, in order to draw the following conclusions, (please see paragraphs 14.1.-14.84. of the decision report attached at **Appendix A**, which examines the evidence in detail):

### **Significant Number of Inhabitants**

14. Caselaw (High Court in *R v Staffordshire County Council, ex parte Alfred McAlpine Homes Ltd* [2002] EWHC 76 (Admin)), has set out that "significant" does not necessarily mean a considerable or substantial number, as a small locality or neighbourhood may only have a very small population, but that the number of people using the land must be sufficient to show that the land was in general use by the local community, for informal recreation, rather than just occasional use by individuals as trespassers. The requirement is that users should include a significant number of inhabitants of the claimed locality or neighbourhood, in order to establish a clear link between the locality or neighbourhood and the proposed green. In this case, 21 statements (including 4 completed jointly), are submitted in support of the application, 21 of these 25 individuals are identified as residents of the parish of Stanton St Quintin, (please see witness evidence summary at **Appendix A-14**). Being a small rural area with a relatively low population and witness evidence of use of the land by others and with others; the presence of local amenities on the land and community

events taking place on the land, this is considered sufficient evidence to show that the land was in general use, by the local community, for informal recreation, rather than just occasional use by individuals as trespassers. Additionally, there is evidence of maintenance of the land by the Parish Council, public maintenance of a piece of land which did not have local benefit, was unlikely to have persisted.

15. The Objectors dispute that the land has been used by a significant number of inhabitants and claim the main use is by people from outside the locality.

### **Of any Locality or of any Neighbourhood Within a Locality**

16. A TVG is subject to the rights of local inhabitants to enjoy general recreational activities over it. The “locality” or “neighbourhood within a locality” is the identified area inhabited by the people on whose evidence the application/s rely and it is the people living within the identified locality or neighbourhood who will have legal rights of recreation over the land if the applications are successful. In the case of *Paddico (267) Ltd v Kirklees Metropolitan Council & Ors* [2011] EWHC 1606 (Ch) (23 June 2011), these two distinct areas were defined as follows: a “locality” being an administrative district or an area with legally significant boundaries, such as a borough or parish, whilst a “neighbourhood” does not need to be an area known to law, but must be a cohesive area which is capable of meaningful description, such as a housing estate.
17. In this case the applications identify the parish of Stanton St Quintin as the defined locality, which itself has two distinct parts separated by the main A429 road, Stanton St Quintin to the west and Lower Stanton St Quintin to the east. The claimed use of the application land appears to be mainly by residents of Lower Stanton St Quintin, rather than the entire parish of Stanton St Quintin, as the identified locality in this case, (please see witness evidence map at **Appendix A-16**). However, there are clear links identified between the land and the whole of the parish, through Parish Council maintenance of the land; amenities relevant to the whole of the parish, such as the parish notice board, located on the land and the land as a focal/connection point of the village, (as mentioned by many of the supporters). The TVG applications themselves are made by Stanton St Quintin Parish Council.
18. The Objectors’ claim that the majority of use of the land is by those living outside the locality of Stanton St Quintin altogether and that maintenance of the land by the Parish Council for 50 years is not sufficiently demonstrated and is irrelevant in any case.
19. Additional evidence obtained through the means of an inquiry would assist the CRA in reaching a conclusion on this point.

### **Have Indulged as of Right**

20. Officers conclude that the land has been used “as of right”, i.e. without force, without secrecy and without permission, as follows:

21. **Without Permission** - There is no evidence that the inhabitants sought or were given permission to use the land. Mr M Reeves in objection considers that the application fails on the “as of right” test, by virtue of his claim that the application land is already highway and thus any use of the land is not “as of right”, but “by right” under the Highways Act. However, Officers do not agree that the application land is public highway which is supported by the highway record held by Wiltshire Council as the local highway authority and therefore the argument regarding use being “by right” does not follow, (excluding that section of the application land on the eastern side which is recorded public highway and should be correctly excluded from the application land).
22. **Without Force** – In the Planning Inspectorate publication “*Wildlife and Countryside Act 1981 – Definitive Map Orders Consistency Guidelines*”, (updated 16 March 2021), it is stated that “*force would include the breaking of locks, cutting of wire or passing over, through or around an intentional blockage such as a locked gate.*” The application land in this case is open to the public highway (Seagry Road) on three sides, giving unhindered access from the highway. It is therefore considered that users of the land would not have been required to use force to enter the land.
23. Use by force does not refer just to physical force, but also where use is deemed contentious, for example by erecting prohibitory notices in relation to the use in question. In the Supreme Court judgment R (on the application of Lewis) (Appellant) v Redcar and Cleveland Borough Council and another (Respondents) (2010), Lord Rodger commented that:
- “The opposite of “peaceable” user is user which is, to use the Latin expression, vi. But it would be wrong to suppose that user is “vi” only where it is gained by employing some kind of physical force against the owner. In Roman law, where the expression originated, in the relevant context vis was certainly not confined to physical force. It was enough if the person concerned had done something which he was not entitled to do after the owner has told him not to do it. In those circumstances what he did was done vi.”*
- In the Stanton St Quintin case, there is no evidence of notices ever having been erected on the land, or any other action which would have deemed use of the land contentious and thus use by force.
24. **Without Secrecy** – There is no evidence that users of the land did so in secrecy and there are photographs of events taking place on the land in an open manner, (please see **Appendix A-17**).

### **In Lawful Sports and Pastimes**

25. Although there is a lack of direct evidence relating to dog walking/walking and playing on the land, given the land as the location of the “wee free library”; two benches; picnic table with benches and village notice board, it is reasonable to assume that local inhabitants would visit the land frequently to make use of these amenities and it is clear from the evidence that the land provides a focal point for local people to gather and celebrate national events. There is also, produced in evidence, an itinerary of open-air church services for Pentecost held

annually between 2001 and 2007 (excluding 2004), (one or two were cancelled due to the weather, but Mrs Cullen confirms her attendance at the 2001 service). Mrs Cullen also makes reference to a party on the green for the wedding of Prince William and Catherine Middleton, in April 2011 and the Queen's Jubilee in 2012 and there is photographic evidence of children planting wildflower seeds on the land for a community garden in May 2018, (please see **Appendix A-17**). These events might be less frequent, i.e. annually, however, photographic evidence of events taking place on the land is limited and from the witness evidence statements provided it is not always clear if witnesses are speaking to their own use of the land for these activities or an indirect knowledge of activities, (please see summary of witness evidence at **Appendix A-14** and photographs of events taking place on the land at **Appendix A-17**). There certainly appears to be a desire locally to register the land, but the decision of the CRA must be based on evidence and additional evidence regarding lawful sports and pastimes taking place on the land would assist the CRA in making a determination on this point.

26. The Objectors dispute use of the land for lawful sports and pastimes and that if events have occurred, they have been infrequent and poorly attended. The Objectors do focus upon community events taking place on the land; however, other activities such as walking, small gatherings, sitting on benches, viewing the parish notice board, etc, can equally contribute to TVG status and are perhaps activities which are less likely to come to the attention of the Objectors than large, organised events, although Mrs K Reeves states, in her belief that that application land is highway, "*The real current usage of the land is not under threat. People will continue to use this land for walking across, walking their dogs, small gatherings and sitting on benches as they have done for many years.*" and Mr M Reeves in the supplementary information for the planning application no.18/01108/FUL states: "*The most regular use for this verge is by villagers looking at the notice board or people using the one relatively clean bench, often these are cyclists taking a breather, not villagers. Non (sic) of these usages are frequent. The only other use of this verge is people walking across it...*".

## On the Land

27. There are photographs of events and activities taking place on the land, (see **Appendix A-17**); however, the Objectors contend that the application land as a whole is in fact highway land and therefore cannot be recorded as TVG. The current highway record is not conclusive in law, but it is reasonable for the Council to rely upon these records and the burden of proving otherwise lies with the person questioning its validity. In this case the evidence regarding the highway record has been investigated in detail and the extent of highway maintainable at the public expense is correctly recorded at this location, (please see Officer's report regarding extent of highway, 2019 at **Appendix A-18**), therefore the majority of the application land is capable of registration as a TVG, although this is disputed by the Objectors. Additionally, the Objectors are concerned that if the land is indeed highway, it has wider public rights, therefore if the land is registered as TVG, the Council would fail in its duty to protect and assert all public rights.

28. At the eastern side of the land there is a section of the application land which is shown in the highway records to be maintainable at the public expense and if the land is successfully registered as a TVG, it is proposed to exclude from the registration that part of the application land which is existing highway.

### **For a Period of at Least Twenty Years**

29. There is evidence of events taking place within the relevant user periods of 1998-2018 and 1999-2019, for example, the itinerary of open-air church services for Pentecost taking place annually between 2001 and 2007 (excluding 2004 with one or two cancellations); a party on the green to celebrate the wedding of Prince William and Catherine Middleton, in April 2011; the Queen's Jubilee in 2012 and photographic evidence of children planting wildflower seeds on the land for a community garden in May 2018. There is also some evidence that the activities of walking across the land, walking dogs, small gatherings and sitting on benches, have taken place for many years. However, there appears to be a gap in the evidence of use for the early part of the user periods in question. Additional evidence would assist the CRA in making a determination on this point.
30. The Objectors, who have also known the land for the full relevant user periods, dispute events/activities taking place on the land and those that did take place were poorly attended. In the early years of the user periods, they claim that the land was untidy and unkempt, in a condition which did not lend itself to the exercise of lawful sports and pastimes. Mr and Mrs Reeves both confirm their knowledge of only one event taking place on the land within the relevant time period, the Queens 90<sup>th</sup> birthday celebrations in June 2016.
31. Additionally, Wessex Water considers that the 20 year user periods may not be met where at any time the exercise of lawful sports and pastimes within the requisite time periods, (i.e. 1998-2018 and 1999-2019), may have been halted by the service of the requisite notice under Sections 159 and 168 of the Water Industry Act 1991, for the installation/maintenance of apparatus. However, Wessex Water provides no specific example of such interruption, based upon its own activities, within the relevant time periods. Any interruption to user for the maintenance of apparatus is likely to have been for only a very short period and is unlikely to have covered the whole of the application land. Also, it is understood that Wessex Water plant was installed in around 1986, it would appear that use of the land for lawful sports and pastimes and for the activities of the statutory undertakers have co-existed throughout the relevant user periods, and the principle of "give and take" is applied to the two uses, as set out in the case of TW Logistics Ltd v Essex County Council [2018] EWCA Civ 2172, which examines the rights of all parties, including the landowner, following the registration of land as a TVG.

### **They Continue to do so at the Time of Application**

32. The evidence suggests that use of the land is continuing at the time of the applications, for example the VE day celebrations in 2020; a book sale to raise funds for the "Wee Free Library" in June 2019 and the subsequent opening of the library in the same month, as events occurring after the date of receipt of the



second TVG application (2019/01), by the CRA on 26 April 2019. Photographs of these events taking place are included at **Appendix A-17**. The Objectors dispute that events held on the land post 30 April 2018, (the date of receipt of application no.2018/01), are admissible as evidence in this case, i.e. events taking place after the first application to register the land as a TVG. Officers would disagree where these events demonstrate use of the land continuing after the applications, which is part of the legal test set out at Section 15(2) of the Commons Act 2006.

### Comments on Other Objections

33. **Land ownership** - The matter of ownership of the land is not of great concern in this application, it is noted that Stanton St Quintin Parish Council does not own the land and the Officer who previously considered the extent of highway at this location, in her 2019 report considers, (see **Appendix A-18**): *“Whatever the history of ownership of this land since 1783 it is irrelevant to the matter of whether highway rights were subsequently acquired.”* Officers would suggest that the same is true in the TVG case. The land in question is not registered and the notices of application were correctly posted on site and in a local newspaper addressed to all owners and occupiers as the CRA are required to do under statute. No landowner has come forward. For the purposes of correctly recording the rights of local inhabitants over the land, it matters not that there is no recorded landowner, or that the land is not owned by the Parish Council, if the legal tests as set out at Section 15(1) and (2) of the Commons Act 2006 are met in full.
34. **Human Rights Act 1998** - The Objector, Mr M Reeves, is concerned that services provided to his property located beneath the application land will be made criminal if the land is registered as TVG by virtue of the “Victorian Statutes”, i.e. Section 12 of the Inclosure Act 1857 *“Protecting from nuisances town and village greens and allotments for exercise and recreation”*, which makes it an offence to carry out any act to the injury of the green or to the interruption of the use or enjoyment thereof as a place for exercise and recreation, and Section 29 of the Commons Act 1876, *“Amendment of law as to town and village greens”*, any encroachment on or inclosure of a green and also any erection thereon or disturbance or interference with, or occupation of the soil thereof, which is made otherwise than with a view to the better enjoyment of the green, is deemed a public nuisance. Mr Reeves is concerned that the services will be removed, and this would be an improper action for the Council and a breach of the Human Rights Act under which every *“person is entitled to the peaceful enjoyment of his possessions”* which includes property. In addition, the Human Rights Act Article 14, prohibits discrimination, including discrimination due to association with a particular property. Article 8 of the Act is also applicable where it includes “respect” for “his home” and “family life”.
35. If Mr Reeves is correct that the area now being claimed as TVG is in fact highway, it would be possible to lay new services in the highway and carry out works to the existing services present in the highway, with the relevant permissions. However, the highway authority does not agree that the area claimed as TVG is highway which is supported by the highway record held by Wiltshire Council.

36. Mr Reeves refers to the Victorian Statutes under Section 12 of the Inclosure Act 1857 and Section 29 of the Commons Act 1876, under which it becomes an offence to disturb the soil of the green otherwise than with a view to better enjoyment or the land, or to undertake any action which interrupts its use as a place for exercise and recreation. It is not possible to carry out works on a TVG and it is not generally possible to gain consent for works on a TVG under Section 38 of the Commons Act 2006, as it would be on common land, the only remedy for works to a TVG is the exchange of land to remove TVG status from the land requiring works. Mr Reeves is understandably concerned that if the land is registered, it will require the removal of the services to his property, located within the land, where it will not be legally possible to carry out works and maintenance which will require disturbance to the soil of the green, not for the benefit of the green. This, he claims, would result in a breach of the Human Rights Act, making the existing services criminal; cutting off his property from the services it has enjoyed since 1987 and making the installation of new services illegal, (services were installed in 1986/7 with the exception of gas which was installed in 2016). Wessex Water shares these concerns and the effect of registering the land as a TVG on its ability to meet its statutory duties as the appointed sewerage and water undertaker. Wales and West Utilities has requested that if the land is registered the presence of the gas pipe is recognised to ensure that it is not damaged or disturbed and that access can be maintained for repair or maintenance.
37. The TW Logistics Supreme Court case, T W Logistics Ltd (Appellant) v Essex County Council and other (Respondents) [2021] UKSC 4, is the first case which examines the scope of the rights of the parties involved, including the landowner, post registration of a TVG and scrutinises the effect that the Victorian Statutes and other legislation might have in respect of the landowner. It confirms that the landowner does not lose all rights and what was not criminal before registration does not become criminal by virtue of registration/legislation, as long as the activities which they continue to undertake are consistent with the activities undertaken before registration, with “give and take” on both sides.
38. Parallels may be drawn in the Stanton St Quintin case and Officers would suggest, in applying the caselaw, that although the statutory undertakers are not landowners, where plant is already present under/in/over/across/along the land, the maintenance of these services is consistent with the presence of the plant prior to registration, this use of the land by the utility companies having co-existed alongside the use of the land by local inhabitants since 1986/87 and 2016 and is therefore not made a criminal offence or a nuisance under the Victorian Statutes. The use of the land by statutory undertakers for carrying on their undertakings, is warranted by law as referred to by Wales and West Utilities (the Gas Act 1986) and Wessex Water (Section 159 and 168 of the Water Industry Act 1991) and use by local inhabitants has been shaped around the use by statutory undertakers, through the practice of “give and take” which has taken place previously and can lawfully continue.
39. **Trigger event – Planning Inspectorate reply** – Mr Reeves in objection contends that Wiltshire Council, as the CRA, should not have continued to consider the TVG application (2019/01), given the Planning Inspectorate reply dated 17 May 2019 (application no.2019/01 consultation dated 30 April 2019):

*"I confirm that a trigger event has occurred but no corresponding terminating event has occurred on the land*

*The land is part of a site allocation plan which is with our Local Plans Team and is still under consideration as part of the Wiltshire Council Local Plan.*

*I would suggest discussing with the relevant Team/Programme Officer at Wiltshire but I think the Trigger Event might be para 3 of Schedule 1A of the Commons Act 2006."*

(Please see trigger event consultation replies in full at **Appendix A-12**).

40. Mr Reeves claims that Wiltshire is acting in contravention of paragraph 79 of the DEFRA Guidance to Commons Registration Authorities in England on Sections 15A to 15C of the Commons Act 2006 and exceeding its authority by ignoring the Planning Inspectorate's response. As such, he has carried out a Freedom of Information (FOI) request amongst other CRA's as to whether or not they had continued to determine an application in the light of Planning Inspectorate advice that a trigger event had occurred on land subject to an application. Of 72 requests made by Mr Reeves, 60 responses were received with data on 544 TVG applications and showed that none of the CRA's had ignored a Planning Inspectorate response confirming an exclusion applied and then continued to progress the application.
41. Officers consider that the nature of the FOI request made of other CRA's in England, does not assist in the determination of whether or not a planning trigger event applies over the land and in this case. Each of the 544 applications referred to, must be considered on their own merits. The CRA has not ignored the advice of the Planning Inspectorate, but indeed followed their suggestion and carried out further consultations with the Wiltshire Council Spatial Planning Department, who confirmed that the Planning Inspectorate reply was most likely a reference to the Wiltshire Housing Sites Allocation Plan (WHSAP), which does not allocate sites in Lower Stanton St Quintin and therefore is not a relevant trigger event, (reply dated 7 June 2019, please see **Appendix A-12** trigger event consultation replies). The advice given in the Planning Inspectorate response is vague and they do not identify the plan which they refer to and they invite the CRA to clarify with Wiltshire Council's own Officers, which of course it has done. Officers have viewed the FOI request sent to other CRAs and without the specific detail of the Planning Inspectorate reply dated 17 May 2019 and the subsequent Wiltshire Council Spatial Planning reply, the FOI request is out of context, not site specific and does not assist this case. It is not correct to consider the Planning Inspectorate reply in isolation in this case without reference to the subsequent reply from Wiltshire Council Spatial Planning Officers.
42. **Trigger event – 2015 Planning permission on adjacent site** – Mr Reeves contends that the planning permission for the remodelling of his property, adjacent to the application land, granted in 2015 and ongoing, is a valid planning trigger event at paragraph 1 of schedule 1A of the Commons Act 2006, "*in relation to the land*", where the development needs this land for services, which has the effect of extinguishing the right to apply to register the land as a TVG, (planning application no.15/08031/FUL – [REDACTED] Lower Stanton St Quintin – Conversion of bungalow to a house by adding a second storey and new roof – approved with conditions 7 October 2015). This planning permission has not

been identified as a valid planning trigger event by the relevant planning authorities and, in fact, the majority of services provided in the land pre-date the 2015 planning permission, being present since 1986/87, with the exception of gas installed in 2016.

43. **Cooper Estates Case** – Mr Reeves claims that comparisons may be drawn between this case and the Royal Wootton Bassett case in the Court of Appeal, where Wiltshire Council lost its case regarding the trigger event point, i.e. land included within the settlement boundary for Royal Wootton Bassett as a Market Town, within the Wiltshire Core Strategy (WCS) Document was sufficient to identify the land within an adopted development plan, as a valid planning trigger event which would extinguish the right to apply to register the land in Royal Wootton Bassett as a TVG. Mr Reeves suggests that the land in the Stanton St Quintin case is comparable where the land is included within a draft plan under paragraph 3 of Schedule 1A to the Commons Act 2006, as the land at Royal Wootton Bassett came under paragraph 4 for a full plan. Officers do not agree that the two cases are comparable, unlike Royal Wootton Bassett, Stanton St Quintin does not have an identified settlement boundary within the WCS document. Officers disagree that a trigger event is in place on the land, given the consistent replies of the Planning Authorities. In the Planning Inspectorate reply dated 17 May 2019, it is suggested that the CRA should seek further advice from local planners, who confirmed no trigger event was in place where the draft WHSAP is not site specific and does not sufficiently identify the land.

### **Overview and Scrutiny Engagement**

44. Overview and Scrutiny engagement is not required in this case. The CRA must follow the statutory procedure which is set out under “The Commons (Registration of Town or Village Green) (Interim Arrangements) (England) Regulations 2007 (2007 SI no.457)” and DEFRA Guidance, (see **Appendix A-5**).

### **Safeguarding Considerations**

45. Considerations relating to safeguarding anyone affected by the registration of the land as a TVG under Sections 15(1) and (2) of the Commons Act 2006, are not considerations permitted within the Act. The determination of the applications must be based upon the relevant evidence alone.
46. The Committee’s attention is brought to the High Court decision in the case of Somerford Parish Council v Cheshire East Borough Council (1) and Richborough Estates (2) [2016] EWHC 619 (Admin) where the High Court quashed the local Borough Council’s decision not to register land as a new town or village green on the basis of procedural error. The case highlights a number of practical points to note regarding privilege, equity and the importance of the Public Inquiry in determining an application to register land as a TVG. The court’s decision also reinforces the findings in the Whitmey case, (see paragraph 51 below) and the need for Registration Authorities to hold a non-statutory Public Inquiry where there are sufficient disputes over factual issues.

### **Public Health Implications**

47. Considerations relating to the public health implications of the registration of the land as a TVG under Sections 15(1) and (2) of the Commons Act 2006, are not considerations permitted within the Act. The determination of the applications must be based upon the relevant evidence alone.

### **Corporate Procurement Implications**

48. In considering and determining applications to register land as a TVG, there are a number of opportunities for expenditure to occur and these are considered at paragraphs 53-55 of this report.

### **Environmental and Climate Change Impact of the Proposal**

49. Considerations relating to the environmental or climate change impact of the registration of the land as a TVG under Sections 15(1) and (2) of the Commons Act 2006, are not considerations permitted within the Act. The determination of the applications must be based upon the relevant evidence alone.

### **Equalities Impact of the Proposal**

50. Considerations relating to the equalities impact of the registration of the land as a TVG under Sections 15(1) and (2) of the Commons Act 2006, are not considerations permitted within the Act. The determination of the applications must be based upon the relevant evidence alone.

### **Risk Assessment**

51. Wiltshire Council has duty, at common law, to process applications made under Section 15(1) of the Commons Act 2006 to register land as a TVG, in a fair and reasonable manner, as set out in the case of R (on the application of Whitmey) v Commons Commissioners [2004] EWCA Civ 951, where Arden LJ at paragraphs 28 and 29, held that:

*“28...the registration authority is not empowered by statute to hold a hearing and make findings which are binding on the parties by a judicial process. There is no power to take evidence on oath or to require the disclosure of documents or to make orders as to costs (as the Commons Commissioners are able to do: section 17(4) of the 1965 Act). However, the registration authority must act reasonably. It also has power under section 111 of the Local Government Act 1972 to do acts which are calculated to facilitate, or are incidental or conducive, as to the discharge of their functions. This power would cover the institution of an inquiry in an appropriate case.*

*29. In order to act reasonably, the registration authority must bear in mind that its decision carries legal consequences. If it accepts the application, amendment of the register may have a significant effect on the owner of the land or indeed any person who might be held to have caused damage to a green and thus to have incurred a penalty under section 12 of the Inclosure Act 1857). (There may be other similar provisions imposing liability to offences or penalties). Likewise, if it*

*wrongly rejects the application, the rights of the applicant will not receive the protection intended by Parliament. In cases where it is clear to the registration authority that the application or any objection to it has no substance, the course it should take will be plain. If however, that is not the case, the authority may well properly decide, pursuant to its powers under section 111 of the 1972 Act, to hold an inquiry...”*

At paragraph 66 Waller L J agreed:

*“66. I make these points because the registration authority has to consider both the interest of the landowner and the possible interest of the local inhabitants. That means that there should not be any presumption in favour of registration or any presumption against registration. It will mean that, in any case where there is a serious dispute, a registration authority will invariably need to appoint an independent expert to hold a public inquiry, and find the requisite facts, in order to obtain the proper advice before registration.”*

52. If the Council fails to pursue its duty it is liable to complaints being submitted through the Council’s complaints procedure, potentially leading to complaints to the Local Government Ombudsman. Ultimately, a request for judicial review could be made with significant costs against the Council if it is found to have acted unlawfully.

### **Financial Implications**

53. Presently, there is no mechanism by which a CRA may charge the applicant for processing an application to register land as a TVG and all costs are borne by the Council.
54. It is possible for the CRA to hold a non-statutory public inquiry into the evidence, appointing an independent Inspector to produce a report and recommendation to the determining authority. There is no clear guidance available to authorities regarding when it is appropriate to hold an inquiry; however, it is the authority’s duty, at common law, to determine the application in a fair and reasonable manner and its decision is open to legal challenge, therefore a public inquiry should be held in cases where there is serious dispute of fact, or the matter is of great local interest. The responsibilities of the Council in this regard were recognised by the justices in the Court of Appeal in the case of R (on the application of Whitmey) v The Commons Commissioners [2004] EWCA Civ. 951, see paragraph 51. above. Even where a non-statutory public inquiry is held, there is no obligation placed upon the authority to follow the recommendation made.
55. The cost of a three or four day non-statutory public inquiry is estimated to be in the region of £12,000 - £15,000 plus VAT. In the Stanton St Quintin case, it is considered that appointing an independent Inspector to hold a non-statutory public inquiry, in order to hear from the witnesses and consider the evidence, producing a recommendation to the CRA, would assist the Council, as the CRA, in its determination of the applications.

## **Legal Implications**

56. If the land is successfully registered as a TVG, the landowner is able to challenge the CRA's decision by appeal to the High Court under Section 14(1)(b) of the Commons Registration Act 1965, which applies where Section (1) of the Commons Act 2006 is not yet in place, as in Wiltshire. A challenge under the 1965 Act is not just an appeal but enables the High Court to hold a complete re-hearing of the application and the facts of law. There is currently no statutory time limit in bringing these proceedings following the registration of the land.
57. Where the Registration Authority determines not to register the land as a TVG, there is no right of appeal for the applicant. However, it is open to both parties, (landowner or applicant), to judicially review the decision of the CRA, whether that is to register the land or not to register the land, for which the permission of the court is required and the application to challenge the decision must be made within three months of the date of the decision of the CRA.

## **Options Considered**

58. The options available to Wiltshire Council as the CRA, are as follows:
- (i) To appoint an independent Inspector to hold a non-statutory Public Inquiry and examine the evidence including any oral evidence given by witnesses and provide an advisory report and recommendation for the CRA to assist the CRA in its determination of the application.
  - (ii) Based on the available evidence, to register the land as a TVG either in full or in part where it is considered that the legal tests for the registration, as set out under Sections 15(1) and (2) of the Commons Act 2006, have been met in full either over the whole or over part of the application land, or
  - (iii) Based on the available evidence, to refuse the applications where it is considered that the legal tests for the registration of the land as a TVG, as set out under Sections 15(1) and (2) of the Commons Act 2006, have not been met in full.

## **Reasons for Proposal**

59. In the Stanton St Quintin case, the evidence of whether a significant number of inhabitants of any locality, or of any neighbourhood within a locality, have indulged as of right in lawful sports and pastimes on the land for a period of least 20 years, with use continuing at the time of application, is in dispute. Matters of particular conflict within the evidence include:
- (i) use by a significant number of the inhabitants of any locality, or of any neighbourhood within a locality,
  - (ii) user as of right,
  - (iii) the exercise of lawful sports and pastimes on the land for a period of at least 20 years.

60. Additionally, the Objectors raise the following legal points:
- (1) Is the land subject to a planning trigger event which would extinguish the right to apply to register the land as a TVG?
    - (a) by virtue of planning permission granted for the re-development of 29A Lower Stanton St Quintin (15/08031/FUL - 2015) and the required services present being “in relation to” the application land, and/or
    - (b) the Planning Inspectorate trigger event consultation reply dated 17 May 2019, regarding a development plan.
  - (2) The effect of registration of the land as a TVG upon existing services for the neighbouring property, located in/on the land.
61. It is possible to seek a legal opinion regarding these points before proceeding to a non-statutory public inquiry at a cost to the CRA; however, where the evidence regarding use of the land by local inhabitants for legal sports and pastimes for a period of 20 years or more, as of right, is disputed, it may be preferable to proceed to hold a non-statutory public inquiry and seek the Inspector’s opinion on these legal points.
62. It is the duty of the CRA, at common law, to determine the applications in a fair and reasonable manner. The CRA has received objections to the registration of the land as a TVG which have not been resolved. A non-statutory public inquiry is therefore considered necessary in this case because the factual evidence is strongly disputed. It is open to the CRA to appoint an independent Inspector to preside over the inquiry and produce a report with recommendations to the determining authority. Although it is open to the CRA to later reject the Inspector’s report and recommendation, it can only lawfully do so if the CRA finds that the Inspector has made a significant error of fact or law. If the Inspector’s recommendation is rejected, the CRA must give legally valid reasons, supported by evidence of the error of fact or law, otherwise the CRA’s decision would be open to legal challenge.
63. Where the Registration Authority decides not to register land as a town or village green there is no right of appeal to the council or for example to the Secretary of State as there is with a planning application. The applicant’s course for redress is by way of judicial review to the High Court. Applications of this nature, focus closely on the procedure used in the decision making process. To avoid the risk of the significant costs of defending a legal challenge it is important that the Council adopts the proper decision making process in dealing with this application.

### **Proposal**

64. To seek approval to appoint an independent Inspector to hold a non-statutory Public Inquiry and provide an advisory report for the Northern Area Planning Committee on the applications to register land as a TVG at Seagry Road, Lower



Stanton St Quintin. As there is significant dispute regarding the evidence and legal points raised by the Objectors regarding planning trigger events, property and highway issues and the presence of services within the application land, to propose that an independent Inspector be appointed on behalf of the CRA to preside over a non-statutory public inquiry at which the evidence of all parties will be heard and tested through cross-examination and to address the legal points raised in order that a recommendation can be made on the applications to the CRA, to assist the CRA in its determination of the applications to register land off Seagry Road, Lower Stanton St Quintin, as a TVG, as soon as is reasonably practicable.

**Peter Binley**

Acting Director of Highways and Transport

Report Author:

**Janice Green**

Senior Definitive Map Officer

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**Appendices:**

**Appendix A: Decision Report – 3rd February 2022 (with Appendices):**

**Appendix 1** - Location Plan

**Appendix 2** – Application Plans

**Appendix 3** – Photographs of Application Land

**Appendix 4** – Aerial Photographs

**Appendix 5** – i) Commons Act 2006 – Section 15

ii) The Commons (Registration of Town or Village Greens) (Interim Arrangements) (England) Regulations 2007

iii) DEFRA Guidance to Commons Registration Authorities in England on Sections 15A to 15C of the Commons Act 2006 – December 2016

**Appendix 6** – Objections (8)

**Appendix 7** – Other Representations (23)

**Appendix 8** – Supplementary Information provided by Mr Reeves for Planning Application no.18/01108/FUL (Extract) and Objections from Mr M Reeves prior to Service of Form 45

**Appendix 9** – Applicants’ Revised Comments on the Objections

**Appendix 10** – Objectors’ Comments on Representations

- Appendix 11** – Applicants’ Additional Evidence (April 2021)
- Appendix 12** – Trigger/Terminating Event Consultation Replies
- Appendix 13** – Documents Relied Upon
- Appendix 14** – Summary of Witness Evidence
- Appendix 15** – Summary of Objectors’ Evidence
- Appendix 16** – Witness Evidence Map
- Appendix 17** – Photographs of Events on the Land
- Appendix 18** – Officer’s Report Regarding Extent of Highway-2019

## APPENDIX A – DECISION REPORT – 25 MAY 2022

### Decision Report

#### Commons Act 2006 – Sections 15(1) and (2)

#### Applications to Register Land as a Town or Village Green – Land off Seagry Road, Lower Stanton St Quintin – Application No's 2018/01 & 2019/01

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### Timeline of Case:

<b>Action</b>	<b>Date</b>
TVG Application received (2018/01)	30/04/2018
Trigger and terminating event consultations (2018/01)	08/05/2018
Cooper Estates determined (High Court)	05/07/2018
Second trigger event consultation (2018/01)	04/12/2018
TVG Application accepted in part - allotted no.2018/01	15/03/2019
Second TVG application received (2019/01)	26/04/2019
Trigger and terminating event consultations (Application 2019/01)	30/04/2019
Cooper Estates determined (Appeal Court)	16/05/2019
Second TVG application accepted – allotted no.2019/01	14/06/2019

Applications returned to applicant for putting in order	08/07/2019
Amended applications received	01/10/2019
Applications returned to applicant for putting in order for second time	09/10/2019
Applications received	20/07/2020
Applications found to be in order	30/07/2020
Notice of application	13/08/2020
Objections forwarded to applicant for comment	09/10/2020 (deadline for comments: 25/11/2020)
Applicants comments on objections received	10/12/2020
Applicants comments on objections forwarded to objectors for comment	18/12/2020 and 21/12/2020 (deadline for comments: 15/02/2021)
Revised applicants comments on objections received	18/01/2021
Revised applicants comments on objections forwarded to objectors for comment	19/01/2021 and 20/01/2021 (deadline for comments 08/03/2021)

## APPENDIX A – DECISION REPORT – 25 MAY 2022

### Decision Report

#### Commons Act 2006 – Sections 15(1) and (2)

#### Applications to Register Land as a Town or Village Green – Land off Seagry Road, Lower Stanton St Quintin – Application No’s 2018/01 & 2019/01

#### 1. Purpose of Report

- 1.1. To consider the evidence submitted regarding two applications made under Sections 15(1) and (2) of the Commons Act 2006, to register land off Seagry Road, Lower Stanton St Quintin, as Town or Village Green (TVG) - Application no’s 2018/01 and 2019/01. A detailed decision report was considered necessary for this agenda item due to the complex evidential issues raised by the parties concerning property, planning (trigger events) and highway issues in respect of these applications.

#### 2. Relevance to the Council’s Business Plan

- 2.1. Working with the local community to provide a countryside access network fit for purpose, making Wiltshire an even better place to live, work and visit.

#### 3. Location Plan

- 3.1. Please see **Appendix 1**.

#### 4. Application Plans

- 4.1. Please see **Appendix 2**.

**5. Photographs**

5.1. Please see **Appendix 3**.

**6. Aerial Photographs**

6.1. Please see **Appendix 4**.

**7. Applicant**

7.1. Both applications are made by Stanton St Quintin Parish Council:

**2018/01**

Stanton St Quintin Parish Council

C/O Councillor Nick Greene

(Chair – April 2018)

■ Rectory Close

Stanton St Quintin

Wiltshire

SN14 ■

**2019/01**

Stanton St Quintin Parish Council

C/O Councillor Adrian Andrews

(Chair – April 2019)

■

Avils Lane

Lower Stanton St Quintin

Chippenham

Wiltshire SN14 ■

**8. Registered Landowners**

8.1. According to Land Registry, the whole of the application land is unregistered. Notice of Application dated 13<sup>th</sup> August 2020 was placed on the land, (12<sup>th</sup> August 2020), addressed to all owners and occupiers of the land - no additional parties with an interest in the land have come forward.

## 9. Legal Empowerment

9.1. Under the Commons Registration Act 1965, Wiltshire Council is now charged with maintaining the register of TVG's and determining applications to register new greens. The applications to register land off Seagry Road, Lower Stanton St Quintin, as TVG, have been made under Sections 15(1) and (2) of the Commons Act 2006, which amended the criteria for the registration of greens. (please see Section 15 of the Commons Act 2006 attached at **Appendix 5**). Also attached at **Appendix 5** are the relevant regulations for the processing of applications - The Commons (Registration of Town or Village Greens) (Interim Arrangements) (England) Regulations 2007 and DEFRA Guidance to Commons Registration Authorities in England on Sections 15A to 15C of the Commons Act 2006 – December 2016, (Section 15C – planning trigger and terminating events which will be considered later in this report).

## 10. Background

10.1. Wiltshire Council, as the Commons Registration Authority (CRA), were in receipt of an application to register the whole of the application land, a horseshoe shaped area adjacent to Seagry Road, Lower Stanton St Quintin, under section 15(1) of the Commons Act 2006, dated 18<sup>th</sup> April 2018, (received by the CRA 30<sup>th</sup> April 2018). Upon consultation with the planning authorities regarding planning trigger events in place on the land, (the full effect of planning trigger and terminating events will be discussed later in this report), it was found that there was an undetermined planning application in place over part of the land forming a valid trigger event, which had the effect of extinguishing the right to apply to register part of the land as a TVG. Therefore, the application was accepted only in part, excluding the land affected by the planning application, on 15<sup>th</sup> March 2019 - application no.2018/01.



- 10.2. In the meantime, a compatible terminating event had taken place on the excluded section of the land, i.e. the planning application was refused and all means of appeal exhausted. Therefore, the applicants submitted a second application to register the excluded area of land dated 18<sup>th</sup> April 2019, (received by the CRA 26<sup>th</sup> April 2019). Following another planning trigger event consultation in relation to that application, there were found to be no trigger events in place over this area of land and the second application was accepted 14<sup>th</sup> June 2019 - application no.2019/01. Both applications are based upon the same evidence and they are considered in this report together.
- 10.3. The applications are also made under Section 15(2) of the Act, i.e. where it is claimed that a significant number of inhabitants of any locality, or of any neighbourhood within a locality, have indulged as of right in lawful sports and pastimes on the land for a period of at least 20 years and continue to do so at the time of application.
- 10.4. Part 7 of the application form requires the applicant to provide a summary of the case for registration:

**2018/01** – *“The land has been used as a village green for the past 50 years by local residents and has been maintained by the Parish Council throughout this period.*

*Regular maintenance of the land has been undertaken by the Parish Council on behalf of the residents, including grass cutting, works to trees, bench installation and planting of flowers.*

*A further seat has been sited on the green as a memorial to a former resident and a commemorative tree was planted in memory of a former Chairman of the Parish Council and a plaque on the green confirms this. Throughout this period the village green has provided a focal point for the community and is home to the parish notice board and has been the site of many community events and celebrations.*

*It is therefore clear that the land is of community value, it being used both now and in the past to further the social well being and cultural interests of the local community.*

*The Parish Council fully intends to continue to maintain and enhance the village green for the benefit of all residents and has plans for community celebrations on the green in 2018 which will bring people together and encourage neighbourliness and community cohesion.”*

**2019/01** – *“An application to register the whole of the land known as a village green was made in April 2018 and has been allocated application number 2018/01.*

*However, that application has only been registered in part, excluding a small section of the land which was, at the time of the application subject to a planning trigger event (application 18/01108/FUL) which extinguished the right to apply to register land as a village green over that part of the land as shown on the attached plan.*

*The Parish Council has been advised that it is now possible to apply to register that excluded section of land and this application is for that part of the land, excluded from the original application to be registered as a village green as shown on the attached plan.*

*The justification for this is as stated in application no.2018/01.”*

- 10.5. The applications were received by Wiltshire Council, as the CRA, on 30<sup>th</sup> April 2018 and 26<sup>th</sup> April 2019 respectively and accepted by Wiltshire Council as complete and correct on 30<sup>th</sup> July 2020. Application no.2018/01 was accompanied by a statement from Mrs Hilary Creasy:

*“The Pond Not the Village Green*

*The village green is on the other side of the road, with the pole in the middle – in front of Spider Cottage.*

*The POND was dug out by the Farmers (maybe JONES') so their Cattle and Horses could drink.*

*They also put their Carts through the water to swell the spokes on the wheels, so the metal bands wouldn't fall off.*

*When we were children (the pond had been filled in then) we used to have fetes on the pond. There were Fancy Dress Competitions and Picnics.*

*Where the wall is now there were trees, weeping willows and smaller trees.*

*There was a Reading Room to the right of the pond, near the access to the bungalow, and house. Here our Parents and Grandparents played games – Cards – Dominoes – Whist Crib etc.*

*There has been Church Services there as well. Also other Celebrations.*

*The Reading Room has gone.*

*The Methodist Chapel has gone.*

*The Shop has gone.*

*All of the Farm Yards have gone.*

*The POND is the only original Landmark of the village that is left.*

*There are two Benches on the Pond, one was in memory of a Villager, People sit there in the summer months.*

*If there was an access to the house onto the road it would be dangerous for cars coming from the Seagry Road.”*

- 10.6. Following notice of the application (Form 45) being posted on site, advertised in a local newspaper and served upon all interested parties, 8 objections were received (included at **Appendix 6**) and 23 representations were received (included at **Appendix 7**), (please note that correspondence from Wessex Water dated 22<sup>nd</sup> September 2020, was originally included as a representation, where they stated “*In submitting these observations, we would like to make it clear that Wessex Water does not object to the use of the Land for sports and pastimes. Wessex Water simply wishes to record the need for careful consideration of Wessex Water’s statutory obligations in deciding how to approach the future designation of the Land.*”, however, they

have subsequently requested that their representation is treated as an objection). Mr M Reeves also made objections prior to the service of Form 45, these are included at **Appendix 8**.

- 10.7. The regulations require that the objections are sent to the Applicant for comment. The Parish Council were forwarded the correspondence attached at **Appendices 6 and 7** and made the (revised) comments on the objections, attached at **Appendix 9**. The Objector's comments regarding the Applicant's comments on the objections are attached at **Appendix 10**. The applicants have since submitted additional evidence in support of the application, attached at **Appendix 11**.
- 10.8. The application land is located off Seagry Road, Lower Stanton St Quintin and occupies an area of approximately 408 square metres, presently being planted with trees and laid to grass with two commemorative wooden benches; a picnic table and benches; the "Wee Free Library"; Stanton St Quintin Parish Council notice board and a commemorative tree, present on the land. The southern boundary of the site is formed by a low stone and concrete capped wall. This forms the boundary between the application land and the properties ■ and ■ Lower Stanton St Quintin, located to the south of the application land. The application land is semi-circular in shape, the north; east and west boundaries being the recorded highway Seagry Road, without gates or other limitations upon access. Part of the application land is recorded highway, which will be discussed later in this report. Please see photographs at **Appendix 3**.
- 10.9. The property ■ Lower Stanton St Quintin is owned by Mr M Reeves, but he is not the registered owner of the application land. He has previously applied for planning permission for a vehicular access over the application land to form a direct link between his property and the Seagry Road highway: Planning Application no.18/01108/FUL for a new direct access to

highway for vehicles and pedestrians over verge to class C road in 30mph limit.

Application registered – 1<sup>st</sup> February 2018

Decision – 7<sup>th</sup> March 2018 Refused

Appeal Decision – 3<sup>rd</sup> October 2018 Dismissed

- 10.10. As pointed out by Mr Reeves, there are services to his property located within the application land, i.e. Wessex Water; Wales and West Utilities and BT Openreach, (please note that Gigaclear Ltd have moved equipment previously present on the application land, at the request of the Parish Council, please see representations at **Appendix 7**). It is believed that services have been present in the land since 1986/87, with the exception of gas installed in 2016.

## **11. Right to Apply**

- 11.1. The Growth and Infrastructure Act 2013 introduced a series of provisions to make it more difficult to register land as a TVG. This includes, at Section 16, the removal of the “right to apply” to register land as a TVG where specific planning “trigger events” have occurred in relation to the land, e.g. where an application for planning permission 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.
- 11.2. The right to apply is revived where a corresponding “terminating event” has taken place, for example, the withdrawal of the planning application; a decision to decline to determine the application is made under section 70A of the 1990 Act; where planning permission is refused and all means of challenging the refusal by legal proceedings in the UK are exhausted and the decision is upheld; or where planning permission is granted and the period within which the development to which the permission relates must be

started expires without the development having begun. A full list of trigger and terminating event is included at Schedule 1A of the Commons Act 2006 (as amended).

- 11.3. This alters the way in which the CRA deals with new applications to register land as a TVG. DEFRA has issued interim guidance to Registration Authorities and has recommended that upon receipt of an application the authority should write to the local planning authorities and the Planning Inspectorate, enclosing the application map, to seek confirmation of whether or not there are planning trigger/terminating events in place in relation to all or part of the application land, (DEFRA Guidance to Commons Registration Authorities in England on Sections 15A to 15C of the Commons Act 2006 – December 2016 – see **Appendix 5**).
- 11.4. In the Stanton St Quintin case, as per the guidance, the CRA wrote to the Planning Inspectorate; Spatial Planning and Development Control at Wiltshire Council on receipt of Application no.2018/01, on 8<sup>th</sup> May 2018 and on receipt of application no.2019/01, on 30<sup>th</sup> April 2019, (additionally before acceptance of Application no.2018/01 a second consultation was undertaken on 4<sup>th</sup> December 2018, where it had been some time since receipt of the application, however, it is now considered that this second consultation was unnecessary where only the position with regard to planning trigger events at the time the application is received, is relevant). The CRA used the letter template as set out within the DEFRA guidance, including a map of the application land and links to the list of trigger and terminating events and amendments to the list. Please see **Appendix 12** for trigger/terminating events consultation replies from the Planning Authorities.
- 11.5. When the first application was received by Wiltshire Council as the CRA on 30<sup>th</sup> April 2018, a planning application had been lodged with Wiltshire Council as the Planning Authority - Application no.18/01108/FUL for a vehicular access over the land to the property owned by Mr M Reeves.

- 11.6. This planning application formed a valid planning trigger event over part of the land and therefore the application was accepted only in part by the CRA on 15<sup>th</sup> March 2019 (Form 6). The DEFRA guidance states that where the right to apply to register the land is extinguished over only part of the land: “96. For the portion of land not subject to the exclusion, the application should proceed as usual.” The delay between receipt of the application and acceptance of the application was due to the CRA awaiting the outcome of a Court of Appeal case on the subject of planning trigger events, which Wiltshire Council was already involved with: *The Queen on the Application of Cooper Strategic Land Limited v Wiltshire Council and (1) Richard Gosnell (2) Royal Wootton Bassett Town Council* [5<sup>th</sup> July 2018] EWHC 1704 (Admin) and the subsequent appeal: Lord Justice Lewison, Lord Justice Floyd and Lord Justice Henderson *Between Wiltshire Council (Appellant) and Cooper Estates Strategic Land Ltd (Respondent) and Richard Gosnell, Royal Wootton Bassett Town Council* [16<sup>th</sup> May 2019] EWCA Civ 840. In these cases the question of whether inclusion of the application land within a settlement boundary in the Wiltshire Core Strategy (WCS) document sufficiently identified the land to form a valid planning trigger event under paragraph 4 of Schedule 1A of the Commons Act 2006, was examined. The Court of Appeal held that it did, however, Stanton St Quintin is listed within the WCS as a settlement where there is no longer a settlement boundary, therefore the caselaw, of a very specific nature, could not be applied to the Stanton St Quintin case.
- 11.7. The applicants then submitted a second application to register the previously excluded area of land, when a corresponding planning trigger event had taken place, i.e. the planning application for a vehicular access was refused and all forms of challenge were exhausted. The trigger event consultation presented no reason to the CRA to refuse to accept the application and therefore this application was accepted on 14<sup>th</sup> June 2019 (Form 6).

- 11.8. Mr M Reeves in objection, considers that the Wiltshire Council, as the CRA, should not have continued to consider the TVG application (2019/01), given the Planning Inspectorate reply dated 17<sup>th</sup> May 2019, (application no.2019/01, consultation dated 30<sup>th</sup> April 2019):

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

*The land is part of a site allocation plan which is with our Local Plans/Development Plans Team and still under consideration as part of the Wiltshire Council Local Plan.*

*I would suggest discussing with the relevant Team/Programme Officer at Wiltshire but I think the Trigger Event might be para 3 of Schedule 1A of the Commons Act 2006."*

- 11.9 Mr Reeves has carried out a Freedom of Information request amongst other CRA's as to whether they have continued to determine an application in the light of the Planning Inspectorate advice that a trigger event has occurred in relation to the land:

*"Paragraph 79 of the guidance clearly states that the reason for contacting the Planning Inspectorate is for confirmation that it is ok to proceed and accept the application. The Planning Inspectorate did not provide such confirmation, and instead told Wiltshire Council that TVG applications were excluded...Wiltshire Council is acting in contravention to these guidelines and exceeding its authority in ignoring the Planning Inspectorate's response. To see how common or not such behaviour was I have made FOI requests to all similar authorities in England, that is to all the Unitary Councils and to all County Councils as Wiltshire Council used to be, but excluding the pioneer authorities and the 2014 Act authorities who operate under different rules and of course Wiltshire since I know Wiltshire Council has ignored the Planning Inspectorate without the need for an FOI request. This was a total*



*of 72 requests. So far 60 (83%) have replied with data on 544 TVG applications. Exactly zero of these authorities have ignored a Planning Inspectorate response that an exclusion applies and continued to process an application. Wiltshire Council is clearly acting outside of its lawful authority and its actions are without precedent or any justification.*

*The raw data behind the above summary can be found on the What Do They Know site at:*

*<https://www.whatdotheyknow.com/>*

*Just search for “TVGs processed against Planning Inspectorate opinion” which will return 73 hits as it includes a request to Defra who unfortunately do not collect centralised data on this.”*

- 11.10. Officers consider that the nature of the FOI request made of other CRA's in England does not assist in the determination of whether or not a planning trigger event applies over the land in this case and each of those 544 applications referred to, must be considered on their own merits. Wiltshire Council has not ignored the advice of the Planning Inspectorate, but as invited to do by the Planning Inspectorate in their reply, has carried out further investigations regarding the plan to which they refer and found that it is most likely to refer to the Wiltshire Housing Sites Allocation Plan (WHSAP), which does not allocate sites in Lower Stanton St Quintin and is therefore not a relevant trigger event. Spatial Planning Officer's replied on 7<sup>th</sup> June 2019 when asked to clarify the plan referred to by the Planning Inspectorate:

*“I think PINS must be referring to the Wiltshire Housing Site Allocations Plan (WHSAP) which was submitted for examination on 31<sup>st</sup> July 2018. The WHSAP is a site specific plan and does not propose any allocations for development at Lower Stanton St Quintin. As far as I understand it, this means no trigger event in relation to the land has occurred.”*

11.11. The advice given in the Planning Inspectorate response is vague and they do not identify the plan to which they refer and invite the CRA to clarify with Wiltshire Council's own Officer's, which of course it has done. Officers therefore viewed the FOI request sent to other CRA's and without the specific detail of the Planning Inspectorate reply dated 17<sup>th</sup> May 2019 and the subsequent Wiltshire Council Spatial Planning reply, the FOI request is out of context, not site specific and does not assist this case. It is not correct to consider the Planning Inspectorate reply in isolation in this case without reference to the subsequent reply from Wiltshire Council Spatial Planning Officers.

11.12. Mr Reeves continues, in his correspondence dated 23<sup>rd</sup> September 2020, to compare this case to the Royal Wootton Bassett case in the Court of Appeal, where Wiltshire Council lost its case regarding the trigger event point, i.e. land included within the settlement boundary for Royal Wootton Bassett as a market town within the WCS document. He suggests that the land in the Stanton St Quintin case is comparable where the land is included within a draft plan under paragraph 3 of Schedule 1A to the Commons Act 2006, as the land at Royal Wootton Bassett came under paragraph 4 for a full plan. Officers do not agree that the two cases are comparable, where unlike Royal Wootton Bassett, Stanton St Quintin does not have an identified settlement boundary within the WCS document. Officers disagree that a trigger event is in place on the land, given the consistent replies of the Planning Authorities. In the Planning Inspectorate reply dated 17<sup>th</sup> May 2019 they suggested that the CRA should seek further advice from local planners, who confirmed no trigger event where the draft WHSAP is not site specific and does not identify the land.

**Right to Apply** - Wiltshire Council, as the CRA, have, based upon all replies from the relevant Planning Authorities, determined that there is no trigger event in place on both of the areas of land subject to the applications and has continued to

accept and consider the applications (2018/01 and 2019/01).

The Cooper Estates caselaw is not applicable in the Stanton St Quintin case, where the land is not included within a settlement boundary in the WCS and the WHSAP is not site specific.

**If this case is referred to a non-statutory public inquiry, the independent Inspector may take an alternative view on the trigger event point.**

## 12. Validity of Application

12.1. The Commons (Registration of Town or Village Greens) (Interim Arrangements) (England) Regulations 2007, (see **Appendix 5**), at parts 3 and 10, set out the requirements of a valid application. Where an application is found not to be in order, under Regulation 5(4) the CRA must not reject the application without allowing the applicant reasonable opportunity to put the applications in order:

*“...but it appears to the authority that any action by the applicant might put the application in order, the authority must not reject the application under this paragraph without first giving the applicant a reasonable opportunity of taking that action.”*

12.2. In this case upon examination of the applications, they were found to be flawed but the CRA considered that the Applicant should be given a reasonable opportunity to put their applications in order, the CRA therefore returned Form 44; the statutory declaration and map exhibit, to the applicant on 8<sup>th</sup> July 2019:

2018/01 –

1) Statutory declaration not adapted to reflect the application.

- 2) Map – distinctive colouring does not extend to whole of the area intended to be the subject of the application.
- 3) Map not marked as an Exhibit to the statutory declaration.
- 4) Locality or neighbourhood identified as *“The land is within the Parish of Stanton St Quintin, within the Chippenham Community Area of Wiltshire”* requires clarification as Stanton St Quintin parish or Chippenham Community area.

2019/01 –

- 1) Statutory declaration not adapted to reflect the application.
- 2) Map – Area of application land excluded from the distinctive colouring.
- 3) Locality or neighbourhood identified as *“The land is within the Parish of Stanton St Quintin, within the Chippenham Community Area of Wiltshire”* requires clarification as Stanton St Quintin parish or Chippenham Community area.
- 4) Supporting documentation upon which the application relies is not set out.

12.3. Confirmation of receipt of the revised applications was sent on 1<sup>st</sup> October 2019, however, re-examination of the documents found them still to be flawed for the following reasons and they were again returned to the applicant to be put in order on 9<sup>th</sup> October 2019:

2018/01 -

- 1) Statutory declaration not amended to reflect that this application is not voluntary registration.
- 2) Map Exhibit A and new map Exhibit B not referred to in Form 44 application.

2019/01 -

- 1) Statutory declaration not amended to reflect that this application is not voluntary registration.
- 2) Exhibits labelled as “*First of two Exhibits*” and “*Second of two Exhibits*”, may be preferable to refer to these as Exhibits A and B.
- 3) Map Exhibits not referred to in Form 44 application.
- 4) On map area of land subject to application is shaded as per the adjoining land subject to application no.2018/01. Preferable to shade the area of land subject to application no.2019/01 by different colouring to differentiate it from the other land and clearly show the land subject to this application.
- 5) Application ticked to say that map of locality/neighbourhood is included. No map included, either include map or untick box.
- 6) At section 10, no information regarding supporting documentation is given, either refer to section 7 or state “None” where the supporting documentation is included with application no.2018/01.

12.4. Wiltshire Council acknowledged receipt of the revised applications on 20<sup>th</sup> July 2020. It was noted that in application no.2018/01, 3 pages were missing from the amended application. It was considered that the most sensible course of action in this matter, where pages were lost, was to import these pages from the original application, (a copy of which was retained by the CRA), if the applicant confirmed that there were no changes to these pages as part of the amended application and they were satisfied that they could be included in their original form. The applicant agreed this and the application was checked with the imported pages. Both applications were found to be in order on 30<sup>th</sup> July 2020 and Wiltshire Council as the CRA is now placed under a duty, at common law, to process the applications in a fair and reasonable manner.

12.5. The issues of timing and validity of an application are dealt with in a very detailed manner in case law, in the Court of Appeal before Lady Justice

Arden, Lord Justice Richards and Lord Justice Vos – R (Church Commissioners for England) v Hampshire County Council and Anr and Barbara Guthrie [2014] EWCA Civ 643. It concerns a case where Mrs Barbara Guthrie filed an application with the registration authority on 30<sup>th</sup> June 2008, however, the application was defective in several respects, finally complying with all the requirements of the regulations on 20<sup>th</sup> July 2009.

- 12.6. Lady Justice Arden states sets out the requirements of an application and states:

*“Form 44 refers to guidance notes, which are published separately. They are thus non-statutory and do not form part of the Regulations. They state in relation to a TVGA that the stamp which the registration authority gives to the application as the date of receipt “may be important, because it is the date against which the time limits on applications in section 15(3) and 15(4) apply”.”*

*“34. The limited possibility for correction to which I referred in paragraph 1 of this judgement is to be found in Regulation 5(4) of the Regulations. This suspends the registration authority’s right to reject a non-compliant application and thus its obligation to give notice of application to persons interested in the land and to the public, until the applicant has been given a reasonable opportunity to put her application in order:*

*“(4) Where an application appears to the registration authority after preliminary consideration not to be duly made, the authority may reject it without complying with paragraph (1), but where it appears to the authority that any action by the applicant might put the application in order, the authority must not reject the application under this paragraph, without first giving the applicant a reasonable opportunity of taking that action.”*

*“35. Mr Karas contends that Regulation 5(4) is not retrospective so that any corrected application only takes effect from the date of filing of the corrected application. But this argument runs up against this point, pressed by Mr Hobson, that under Regulation 4 (set out in the Annex to this judgement) the Registration authority must stamp every application on receipt. Regulation 5(4) does not suspend this obligation nor is there any provision for altering that date. In response to this difficulty, Mr Karas argues that the expression “made” in Regulation 5(1), which starts with the words “where an application is made under section 15(1)” of the CA 2006, means “duly made in accordance with the regulations”: see sections 15 and 24(1). But if that were so, Regulation 5(4) would not have to suspend that obligation...”*

*“...If within the reasonable opportunity so given the applicant corrects the errors, the original application has full force and effect and therefore the Regulation must be retrospective.*

*I reach this conclusion on the basis that the Regulations throughout refer to one and the same application. In addition, the application is given a date on the receipt. Dating the application must be for some purpose...”*

*“...The point remains that it would be wholly misleading for the application to be dated with the date of its receipt if that were not its effective date.*

*42. The guidance note referred to in form 44 is consistent with the view that I have taken (see paragraph 10, above). Although it is non-statutory, it has some weight because it is referred to in form 44 which is a statutory document.*

*44. Accordingly, I conclude on this issue that Regulation 5(4) provides a means for curing deficiencies in an application which does not provide all the*

*statutory particulars, and, once an application is so cured, it is treated as duly made on the date on which the original defective application was lodged.”*

- 12.7. It is therefore correct to take the date on which the applications were received and stamped by the CRA as the relevant dates in these applications:

2018/01 – 30/04/2018

2019/01 – 26/04/2019

### **13. Public Consultation**

- 13.1. Wiltshire Council served notice of the applications, Form 45 dated 13<sup>th</sup> August 2020, upon interested parties and the Applicant on 31<sup>st</sup> July 2020. Notice was also posted on site and placed in the Wilts Gazette and Herald on Thursday 13<sup>th</sup> August 2020. The applications, including the supporting evidence, were placed on public deposit at the Offices of Wiltshire Council at County Hall, Trowbridge and Monkton Park, Chippenham. All parties were given at least 6 weeks to make representation or objection regarding the applications, (i.e. by 5pm on Monday 28<sup>th</sup> September 2020).
- 13.2. Following notice of the application, 8 objections were received, please see **Appendix 6** and 23 other representations were received, please see **Appendix 7**. Please note that Mr M Reeves made a number of objections regarding the applications prior to the formal notice period, attached at **Appendix 8**. In the interests of fairness, these representations are also considered in this report and form part of the decision making process.
- 13.3. As required under Regulation 6(3) of the Commons (Registration of Town or Village Greens) (Interim Arrangements) (England) Regulations 2007, (see **Appendix 5**), the CRA are required to send the applicant a copy of every



written statement in objection and the application must not be rejected without first giving the applicant a reasonable opportunity of dealing with the matters contained in the statement of objection. All correspondence attached at **Appendices 6 and 7** was forwarded to the applicants for comment on 9<sup>th</sup> October 2020. The applicants made the revised comments on the objections at **Appendix 9**.

- 13.4. These comments were forwarded to the objectors in the interests of fairness on 18<sup>th</sup> December 2020 with opportunity to comment until 15<sup>th</sup> February 2021. The original comments of the Parish Council were withdrawn and re-submitted to the Objectors on 20<sup>th</sup> January 2021 with opportunity to comment until 8<sup>th</sup> March 2021. The Objectors representations on the applicant's comments on the objections are included at **Appendix 10**. The Parish Council also submitted some additional evidence in April 2021, included at **Appendix 11**.
- 13.5. In summary, in its consideration of the applications to register land off Seagry Road, Lower Stanton St Quintin as Town or Village Green, the CRA have considered the documents listed at **Appendix 13**. A useful chronology of the application is included here for reference:

<b>Action</b>	<b>Date</b>
TVG Application received (2018/01)	30/04/2018
Trigger and terminating event consultations (2018/01)	08/05/2018
Cooper Estates v Wiltshire Council – High Court Judgment	05/07/2018
Second trigger event consultation (2018/01)	04/12/2018
TVG Application accepted in part - allotted no.2018/01	15/03/2019

Second TVG application received (2019/01)	26/04/2019
Trigger and terminating event consultations (Application 2019/01)	30/04/2019
Cooper Estates v Wiltshire Council – Court of Appeal Judgement	16/05/2019
Second TVG application accepted – allotted no.2019/01	14/06/2019
Applications returned to applicant for putting in order	08/07/2019
Amended applications received	01/10/2019
Applications returned to applicant for putting in order for second time	09/10/2019
Applications received	20/07/2020
Applications found to be in order	30/07/2020
Notice of application	13/08/2020
Objections forwarded to applicant for comment	09/10/2020 (deadline for comments: 25/11/2020)
Applicants comments on objections received	10/12/2020
Applicants comments on objections forwarded to objectors for comment	18/12/2020 and 21/12/2020 (deadline for comments: 15/02/2021)
Revised applicants comments on objections received	18/01/2021
Revised applicants comments on objections forwarded to objectors for comment	19/01/2021 and 20/01/2021 (deadline for comments 08/03/2021)

## **14. Main Considerations for the Council**

- 14.1. Under section 15(1) of the Commons Act 2006, it is possible, (where the right to apply is not extinguished), for any person to apply to the CRA to register land as a TVG and under section 15(2) where a significant number of inhabitants of any locality, or of any neighbourhood within a locality, have indulged as of right in lawful sports and pastimes on the land for a period of 20 years or more and they continue to do so at the time of application, (please see legislation attached at **Appendix 5**).
- 14.2. The legal tests set out under Sections 15(1) and (2) of the Commons Act 2006 can be broken down into a number of components, each of which must be satisfied in order for the application to succeed, where it is no trivial matter for a landowner to have land registered as a green. The burden of proving that each of the statutory qualifying requirements are met, lies with the applicant and there is no duty placed upon the CRA to further investigate the claim. The standard of proof lies in the balance of probabilities, i.e. that it is more likely than not that recreational rights for local inhabitants have been acquired.

### **Significant number of inhabitants**

- 14.3. The meaning of the word “significant” has never been defined, but was considered at the High Court in *R v Staffordshire County Council, ex parte Alfred McAlpine Homes Ltd* [2002] EWHC 76 (Admin). It was held that this did not mean a considerable or substantial number, as a small locality or neighbourhood may only have a very small population, but that the number of people using the land must be sufficient to show that the land was in general use, by the local community, for informal recreation, rather than just occasional use by individuals as trespassers.

- 14.4. The requirement is that users should include a significant number of inhabitants of the claimed locality or neighbourhood, in order to establish a clear link between the locality or neighbourhood and the proposed green, even if these inhabitants do not comprise most of the users.
- 14.5. 21 statements are received in support of the application, including 4 completed jointly, (the number of individuals rises to 25). 18 individuals are identified as residents of Lower Stanton St Quintin and 3 individuals reside within Stanton St Quintin.
- 14.6. The Victoria County History suggests that from the early 13<sup>th</sup> century the parish of Stanton St Quintin has contained markedly different villages, in 1223 known as Stanton and Nether Stanton. Stanton later became Upper Stanton and Nether Stanton became Lower Stanton. In 1989 they were called Stanton St Quintin and Lower Stanton St Quintin.
- 14.7. The Victoria County History states that neither Upper Stanton nor Lower Stanton was populous until the 20<sup>th</sup> century, the population rising sharply after RAF Hullavington was opened in 1937. The RAF station closed in 1992, when it was transferred to the British Army as Hullavington Barracks, later renamed Buckley Barracks.
- 14.8. Estimated population figures for Stanton St Quintin show the following population, ([wiltshireintelligence.org.uk/population/small-area-populations/](http://wiltshireintelligence.org.uk/population/small-area-populations/)), (information is extracted from the 'Parish Population estimates for mid-2002 to mid-2017' file produced by the Office for National Statistics):

Year	Population		Year	Population
2002	754		2010	884
2003	775		2011	907
2004	802		2012	852
2005	805		2013	815

2006	841		2014	779
2007	836		2015	766
2008	862		2016	754
2009	847		2017	763

*These figures do not differentiate between Stanton St Quintin and Lower Stanton St Quintin.*

- 14.9. Within the 21 statements submitted in support of the application, 21 individuals are identified as residents of Stanton St Quintin Parish, having a consistently low population. This would, on the face of it, form a significant number, particularly given their own use of the land and their knowledge of others using the land, e.g. community events and village amenities present on the land, (evidence of which is examined later in this report).
- 14.10. Mr M Reeves, in objection, refers to the most frequent use of the land being use of benches present on the land, which he has observed by walkers passing through, utility workers and cyclists from outside the area and also use by those viewing the notice board. Mr and Mrs Reeves (05/01/2021) state: *“Benches – these face the road so wouldn’t qualify as a tranquil space under NPPF not the pastime of admiring the view. Again, as mentioned in the representations they are used primarily by walkers or cyclists passing through so do not meet 15(2).”* There is some agreement amongst witnesses in support of the application too, that there is use of the land by those from outside, passing through the village - Mr P Cullen states that benches on the green are used daily at least in summer by residents and also walkers and cyclists passing through the village and Mr G Pattison agrees that the facility is appreciated and frequently used by a wide range of people passing through the village as a resting point and/or to take refreshment such as lunch or coffee.
- 14.11. In order to satisfy the significant number test, inhabitants of the identified locality do not need to comprise most of the users, the requirement is only

that users should include a significant number of inhabitants in order to establish a link between the locality or neighbourhood and the application land and therefore evidence of use by others outside the identified locality, is not necessarily fatal to the application.

**Significant number of inhabitants** – Officers conclude that 21 individuals giving evidence as inhabitants of the parish of Stanton St Quintin, being a small rural area with a relatively low population and witness evidence of: i) use of the land by others and with others; ii) the presence of local amenities on the land, and iii) community events taking place on the land, is sufficient to show that the land was in general use, by the local community, for informal recreation, rather than just occasional use by individuals as trespassers.

Additionally, maintenance by the Parish Council of a piece of land which did not have local benefit, was unlikely to have persisted.

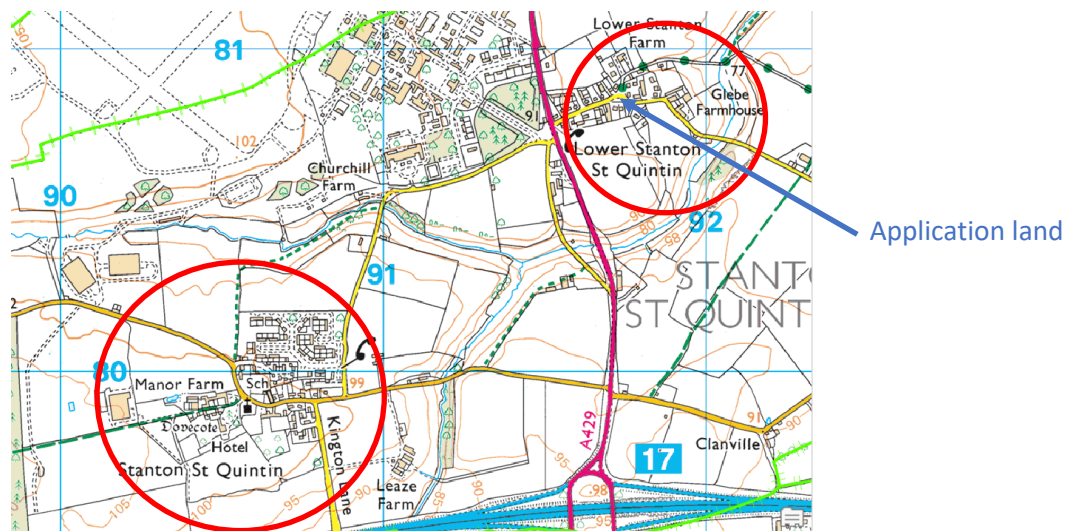
The objectors dispute that the land has been used by a significant number of inhabitants, they claim the main use being from outside the locality.

### **Of any locality or neighbourhood within a locality**

14.12. A town or village green is subject to the rights of local inhabitants to enjoy general recreational activities over it. The “locality” or “neighbourhood within a locality” is the identified area inhabited by the people on whose evidence the application relies, (although it is acknowledged that there is no requirement for most of the recreational users to inhabit the chosen “locality” or “neighbourhood within a locality”, as long as a “significant number” do, other users may come from other localities and/or neighbourhoods). However, it is the people living within the identified locality or neighbourhood who will have legal rights of recreation over the land if the applications are successful.

14.13. The definition of “locality” and “neighbourhood within a locality” were reiterated in the case of *Paddico (267) Ltd v Kirklees Metropolitan Council & Ors* [2011] EWHC 1606 (Ch) (23 June 2011) as follows: a “locality” being an administrative district or an area with legally significant boundaries, such as a borough or parish, whilst a “neighbourhood” does not need to be an area known to law, but must be a cohesive area which is capable of meaningful description, such as a housing estate. So, for example, a housing estate can be a neighbourhood, but not just a line drawn around the addresses of the people who have used the claimed green.

14.14. The identified locality in this application is Stanton St Quintin parish, however, as seen above, Stanton St Quintin has two very distinct parts and it is noted that the two parts are separated by the main A429 road, (Stanton St Quintin to the west and Lower Stanton St Quintin to the east). However, in this case, the application is made by Stanton St Quintin Parish Council as a whole and the identified locality in the application forms is “*Stanton St Quintin*”.



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- 14.15. The statements from witnesses infer that Stanton St Quintin and Lower Stanton St Quintin do not have many other surviving amenities available to them and that this piece of land should be preserved as:
- Focal point for village where people can gather for fun.*
- Geographical centre of Lower Stanton St Quintin for many.*
- Pond is the only original landmark of village.*
- Community asset.*
- Valuable asset and focus of enjoyment for the local community and others.*
- Space has played a part in bringing the village together on many occasions.*
- Living memorial for a number of families who have dedication benches installed.*
- Essential part of community.*
- Identified as green space in draft neighbourhood plan which contributes to the wellbeing of all.*
- Deserves to be protected.*
- Protect the site for current residents of the village as well as providing an opportunity for future residents.*
- This is the only village green in the Stanton Villages, there is no other suitable space to hold village events.*
- 14.16. At **Appendix 16** is attached a map showing the spread of witnesses submitting evidence in support of the application, mostly residents of Lower Stanton St Quintin, but also 3 residents of Stanton St Quintin. In the two statements from residents of Stanton St Quintin, Mr and Mrs Stephens state that they are in favour of registration to protect the land for current and future residents and Cllr Parker refers to use of the land as a village green for many years, Parish Council maintenance and the land being the only village green in the Stanton villages. However, neither party makes direct reference to their own use of the land as resident/s of Stanton St Quintin rather than Lower Stanton St Quintin. Officers are not convinced that residents of Stanton St Quintin would cross the A429 road to use the land and its



amenities, the land is likely to have more value as a place of recreation to the residents of Lower Stanton St Quintin, however, there are links between the land and the whole of the parish.

- 14.17. The application land has a notice board which states "*Stanton St Quintin Parish Council*" and includes notices relevant to the whole parish, e.g. events at St Giles Church, Stanton St Quintin (located west of the A429). There is also a bench "*Donated by Jubilee Fund 2002*" and a tree and plaque in memory of a member of the Parish Council. There is also a memorial bench, but it is not clear if this family remain in the village or were residents of Stanton St Quintin or Lower Stanton St Quintin. There are amenities located on the land which are relevant to the whole of Stanton St Quintin parish. D Pattison in evidence considers that for the small but spread out community, the village green is point of connection.
- 14.18. The local facilities and amenities such as the Stanton St Quintin Parish Council notice board; lending library and benches present on the land, would suggest use by the wider local community of Stanton St Quintin and assist in establishing a link between this locality and the proposed green. From the Stanton St Quintin Parish Council minutes dated 19<sup>th</sup> May 1988, it would appear that the notice board originates from that date, with proposals to restore the village pond being rejected: "*The sub-committee had however indicated their willingness to improve the area with the addition of a number of trees and shrubs and a new notice board. The members discussed the matter in depth and agreed to support the scheme and to provide an initial sum of £100 towards the costs. The sub-committee were instructed to present their plans for approval at the Parish Council meeting in September/October 1988.*"
- 14.19. The Parish Council and witnesses refer to Parish Council maintenance of the land for 50 years. The minutes show the Parish Council could not prove ownership of the land in April 1983 and considered proposals to reinstate the

pond between January – May 1988, resolving not to proceed with these plans at their meeting dated 19<sup>th</sup> May 1988. At the same time the Parish Council began to consider other plans to improve the area by adding trees and shrubs and a new notice board. The first recorded instance of grass cutting by the Parish Council is seen at the meeting dated 2<sup>nd</sup> October 1989 – *“Grass cutting The Clerk reported that the grassed area on the former pond site at Lower Stanton St Quintin had been cut once during the summer, and would need another cut before the end of the season.”*

14.20. Mr and Mrs Reeves observe that: *“Maintenance of the land by parish council – not a sport of pastime and claimed time range is overstated too as the minutes prove. According to the minutes. Mr Heredge of ■ was mowing the grass in 1986 and the parish council would not even contribute to the costs of that. The claim of 50yrs maintenance is thus clearly untrue, belied by the parish council’s own Minutes Book. I also find it strange that Mr Seale repeats the 50yrs claim as we recall him telling us that it was only in recent years that the grass had been kept in a decent state. In any case, the parish council have the Minutes Book going back to 1966 so they could prove exactly when they maintained the land from that, if they feel it is relevant. Unsubstantiated repeating of the 50 yrs claim by people who have not been resident in the village long enough to attest to even a fraction of that time is pointless unless they can provide evidence to support their statement.”* Certainly, the minutes dated 16<sup>th</sup> October 1986, reflect that Mr Heredge, owner of the adjacent property was himself mowing the grass.

14.21. Whilst the maintenance of a village green by the Parish Council does not in itself demonstrate the legal tests as set out at paragraph 15(2) of the Commons Act 2006, it can assist in the locality test in forming a link between the identified locality and the land. Officers would suggest that the first evidence of management of the green by Stanton St Quintin Parish Council is found within the minutes dated 1988 where they considered the reinstatement of the pond, followed by the proposed improvement of the land

in 1988 and then grass cutting in 1989, perhaps not evidence of 50 years maintenance by the Parish Council, but certainly a long period of time. Cllr Andrews writes in support of the application, (e-mail dated 7<sup>th</sup> April 2021) *“The green space in Lower Stanton St Quintin is part of the Neighbourhood plan (The Parish Council fully endorse this) which is in for audit with Wiltshire Council. Areas like this are very important for well being and health reasons as open space (present restrictions being adhered to).*

*The Parish Council has spent well over £7000 pounds maintaining the grass regularly being cut and also pruning of the trees regularly by a qualified Tree surgeon (over a period of about 15 years)...*

*Members of the Parish want this area to be preserved either as a Village Green ideally, but if not as a green space area in the Parish name.*

*The Parish has maintained this area for nearly 40 years (see extracts from Minute book).”*

- 14.22. The objector Mr M Reeves agrees that there must be a significant number of users out of the whole of Stanton St Quintin parish and where it is claimed that villagers use the benches on the land, he states: *“the most frequent use I have observed before Covid was by walkers passing through, utility workers taking their lunch and cyclists taking a break.”*

**Locality** – The claimed use of the application land appears to be mainly by residents of Lower Stanton St Quintin, rather than the entire parish of Stanton St Quintin, as the identified locality in this case. However, there are clear links identified between the land and the whole of the parish, through Parish Council maintenance and amenities relevant to the whole of the parish on the land and as a focal/connection point of the village. Additional evidence obtained through the means of an inquiry on this matter would assist the CRA in reaching a conclusion on this point.

Additionally, the objectors claim that the majority of use of the land is from those living outside the locality of Stanton St Quintin altogether and that maintenance of

the land by the Parish Council for 50 years is not sufficiently demonstrated and is irrelevant in any case.

### **Have indulged as of right**

14.23. Use “as of right” means use without force, without secrecy and without permission. In the Town/Village Green case of R v Oxfordshire County Council Ex p Sunningwell Parish Council [2000] 1 AC 335, Lord Hoffman commented on use as of right:

*“It became established that such user had to be, in the Latin phrase, nec vi, nec clam, nec precario: not by force, nor stealth, nor the licence of the owner...The unifying element in these three vitiating circumstances was that each constituted a reason why it would not have been reasonable to expect the owner to resist the exercise of the right – in the first case, because rights should not be acquired by the use of force, in the second, because the owner would not have known of the user and in the third, because he had consented to the user, but for a limited time.”*

### **Without permission**

14.24. There is no evidence that the inhabitants sought or were given permission to use the land for lawful sports and pastimes.

14.25. Mr M Reeves, in objection, claims that the application fails on the “as of right test” since the application land is already highway and thus any use of the land is not “as of right”, but “as a right”, given by the Highways Act (“as of right” means using the land as though you had a right to do so but in fact didn’t). Officers would agree that, (as will be explored later in this report), part of the application land is in fact recorded public highway and as such cannot be recorded as TVG and should be excluded from the application,

however, Officer's do not agree that the central section of the application land is public highway which is supported by the highway record held by Wiltshire Council as the local highway authority and therefore the argument regarding use being "by right" does not follow.

### **Without Force**

14.26. In the Planning Inspectorate publication "Wildlife and Countryside Act 1981 - Definitive Map Orders Consistency Guidelines", (updated 16 March 2021) it is stated that *"force would include breaking of locks, cutting of wire or passing over, through or around an intentional blockage such as a locked gate."*

14.27. The application land at Stanton St Quintin is open to the public highway, (Seagry Road), on three sides, giving unhindered access from the highway. It is therefore considered that users of the land would not have been required to use force to enter the land.

14.28. Use by force does not refer just to physical force, but also where use is deemed contentious, for example by erecting prohibitory notices in relation to the use in question. In the Supreme Court Judgement R (on the application of Lewis) (Appellant) v Redcar and Cleveland Borough Council and another (Respondents) (2010), Lord Rodger commented that:

*"The opposite of "peaceable" user is user which is, to use the Latin expression, vi. But it would be wrong to suppose that user is "vi" only where it is gained by employing some kind of physical force against the owner. In Roman law, where the expression originated, in the relevant context vis was certainly not confined to physical force. It was enough if the person concerned had done something which he was not entitled to do after the*

*owner has told him not to do it. In those circumstances what he did was done vi.”*

14.29. There is no evidence of notices ever having been erected on the land which would have deemed use of the land contentious and thus use by force.

### **Without Secrecy**

14.30. There is no evidence that users of the land did so in secrecy and there are photographs of events taking place on the land in an open manner, (see **Appendix 17**).

**As of Right** – Officers conclude that the land has been used “as of right”, i.e. without force, without secrecy and without permission.  
The objectors dispute user “as of right” and consider that use of the land is “by right” where they contend that the application land is highway.

### **Lawful sports and pastimes**

14.31. The statements of witnesses make reference to a number of activities taking place on the land (please see photographs of events taking place on the land at **Appendix 17**):

- VE day 2020 celebrations (with WW2 jeep and 3 motorcycles displayed on this land and the land opposite)
- Picnic site
- Fetes on the pond (pond filled in) as children – fancy dress competitions and picnics.
- Church services
- Other celebrations
- National celebrations with bring and share food and drink – e.g. Queens jubilee, royal weddings, VE day

- May 2018 group of adults helped children plant wildflower seeds and establish small community garden (photo)
- June 2019 book sale to raise funds for “wee free library” (photo)
- Library opening (photo), library used at least daily.
- Street parties
- Benches on green used daily at least in summer by residents and also walkers and cyclists passing through village. Resting point or to have lunch/drink.
- A place to sit and enjoy the peace and tranquillity.
- A place to meet and chat with local community.
- Christmas lights
- Only open space for children to play
- Small but spread out community – village green is point of connection
- Social gatherings and informal events

14.32. Mrs Cullen, in an e-mail to Cllr Andrews dated 10<sup>th</sup> April 2021, provides evidence of open-air church services for Pentecost, as follows:

<b>Date</b>	<b>Evidence</b>
3 <sup>rd</sup> June 2001	Minutes of 12 <sup>th</sup> June 2001
19 <sup>th</sup> May 2002	Finance report to AGM in March 2003
8 <sup>th</sup> June 2003	Finance report to AGM in March 2004
15 <sup>th</sup> May 2005	Advert in The Net May 2005
4 <sup>th</sup> June 2006	Sidesman and readers rota Apr-Jun06
27 <sup>th</sup> May 2007	Advert in The Net May 2007

*“...evidence of Church services planned to be held on the village green. (see attachment with a record of where the evidence is located) We had to cancel one or two because of the weather, but the service in 2001 definitely took place (I was there too)*

*We had a road closure and a party on the Green for William and Kate’s wedding in April 2011. We also had a celebration of the Queen’s Jubilee in 2012.*

*The Wee Library is in constant use since being set up in 2019. The benches are often used for picnics and coffee with neighbours.*

*Hope this will add to the bank of evidence that proves the Green has been used over many years for gatherings and celebrations.”*

14.33. There is limited photographic evidence of events taking place on the land and as Mr and Mrs Reeves (05/01/2021) observe *“Why is it then that nobody can produce a photo of their child or family at even one of these events that are claimed to have taken place? [pre-application events]”*. Officers would agree that the photographs relate mainly to more recent events taking place on the land (see **Appendix 17**), however it is accepted by officers that village inhabitants may have been potentially reluctant to agree to allow publication of photographs of their children:

<b>Source</b>	<b>Photographs of activities taking place on the land</b>
Liz Cullen – with e-mail 17/08/20	<i>“In May 2018, a group of adults helped village children plant wildflower seeds, to establish a small Community garden.”</i>
As above	<i>“In June 2019, a book sale was held to raise funds to provide a ‘Wee Free Library’ where people could exchange books.”</i>
As above	<i>“Opening of the library by local poet...”</i> No date of photograph given but believed to be June 2019.
In “Parish Council Comments of Objections & Additional Evidence (10 <sup>th</sup> December 2020) – with e-mail from Liz Cullen 15/11/20	<i>“Opening of Wee Free Library June 2019 (something that has been very well used in both Lockdowns and I have a letter thanking us for it from some visitors).”</i>
E-mail from Cllr A Andrews 07/04/21 (13:47) – forwarding e- mail from Mary Haines 07/04/21	Cllr Andrews: <i>“The Village green today”</i> M Haines: <i>“Pictures of the green for you...”</i>  4 x photographs of the application land showing current condition of the land including notice board and benches



	present on the land – April 2021.
E-mail for Cllr A Andrews 08/04/21 (15:40) – forwarding e-mail from Liz Cullen 08/04/21 (15:33)	L Cullen: <i>“Book sale June 2019 to raise funds for Wee Free Library”</i>
E-mail from Cllr A Andrews 08/04/21 (15:39) – forwarding e-mail from Liz Cullen 08/04/21 (15:32)	L Cullen: <i>“Seed planting on the Village Green May 2018”</i>
Mr M Reeves Correspondence 23/09/20	<i>“Figure 25 – Bench 1 – 21 Nov 2017”</i> <i>“Figure 26 – Bench 2 – 21 Nov 2017”</i> <i>“...as the pictures below show, at the end of 2017 these benches were in a very poor state, covered in mould and lichen. You would only use these benches if you had something to sit on or were already in dirty working clothes. These pictures belie the claim that these benches were regularly used in the years leading up to 2018. If they were then the mould and lichen would not have got established.”</i>
Mr M Reeves & Mrs K Reeves Correspondence 05/01/21	<i>“Figure 1 – VE 75 Celebrations – 8 May 2020”</i> <i>“...the 8 May 2020 is after the TVG application was submitted so is outside of the 20yr period, plus the VE 75 celebration did not actually use the TVG claimed land as the photo in figure 1 shows. If anything this proves that highway verge can be used for events as we have stated, and therefore the TVG is not needed to “protect” the land.”</i>

14.34. The objector Mr Reeves suggests that there is no proof provided to support the claim that the land has been the site of many community events and celebrations, with not even a list of these events and celebrations; when they occurred and the number of attendees, submitted in evidence. He also confirms that the annual Stanton Village Fete and Novelty Dog Show has never been held on this land, which belies the Parish Council’s claim,

particularly as they call this land Stanton St Quintin Village Green. The objectors in this case, dispute that activities have taken place on the land and that if events have taken place, they have been poorly attended:

Objector	Comments
Mrs J Cowley	<p>Born in 1991, I have visited the house all through my childhood (house owned by grandmother and then parents), at various dates and times over the year – New Years Day, Easter Sunday, birthdays, weekends and very regularly during summer as my grandmother had a pool, at lunchtimes on the weekend, after school in the week and some sleepovers. I often played in front driveway area which looked directly onto the land. I still regularly visit.</p> <p>At no point since 1991 (or as early as I can realistically remember) has the land ever been used to host village green events, no fetes, no fayres, no recreational events, nothing.</p> <p>As a child I loved going to village fetes and often Nana took me. If there was a fete directly outside her garden I would have known and attended. She absolutely would have mentioned it.</p> <p>At no point throughout childhood up to TVG application do I recall seeing events or recreational activities advertised.</p> <p>Only ever saw the odd person walk over it on a dog walk or gentle stroll. False claims that the land has been used as a village green for past 50 years by local residents.</p>
Olwyn & John Kelly	<p>To our knowledge, claim that the land has been used as a village green for years is not true and it would be wrong to let this application go on based on this false statement.</p> <p>My husband, children and I regularly stayed with the owner of [REDACTED] Lower Stanton at various times of year, 1987 – 2010.</p> <p>My mother and father also visited at other times, as did my two brothers. At no time during these visits, which were often for a week at a time, did any of us witness anyone using the land for lawful sports and pastimes.</p> <p>In the earlier years the grass was always long and overgrown, so that the one bench that was there at the time could not be used and I</p>

	<p>remember us commenting on it.</p> <p>We enjoy visiting fetes in the area we would certainly be aware of any events taking place directly in front of the house.</p> <p>It was a rough area of open long grass with many trees which grew thickly over the years and never an open space which invited anyone to use it for sports and pastimes.</p>
James Reeves	<p>My grandmother moved into [REDACTED] in 1987 when I was very young. Until 2006 when I moved away, I visited her often for Sunday roasts, bbq's, birthdays and to swim in her pool during summer. My brother and I would sometimes bike over and stay the weekend.</p> <p>Not one recollection of the verge in front of her house ever being used for sports, pastimes or events of any sort, nor did my grandmother ever mention any such activities.</p> <p>It makes no sense that anyone could use the land for this purpose, it is far too narrow for athletic activities, cluttered with trees and slopes towards the road making ball games impractical even if there were space. Whilst I was growing up the land was often long (grass) and unkempt.</p> <p>The claim that this space has been a vibrant village green for years is not credible.</p>
Jonathan Reeves	<p>The adjacent property was, since very early childhood, the home of my grandmother, only a short distance from our home we made many trips to visit her by car and, when older, by bicycle. She had a swimming pool and we went frequently during summer months. Also regular visits for easter egg hunt, birthday parties and more.</p> <p>At no point did I ever notice land being used for sports and recreation. In fact more aware of how empty it was. Surely some sort of event or gathering would have attracted my attention.</p> <p>I had several overnight stays in a room with window facing the ground and cannot recall ever seeing anything happening.</p> <p>Regular visits 1990 to 2010 when I moved away from the area. Even after that, kept in contact with Nana, she never once remarked about the land being used for any sort of group activity which would be a noteworthy event. My family who stayed in the area and continued to</p>

	make regular visits, none of them mentioned it.
Josephine Reeves	<p>My grandmother lived in the property adjacent to the land, I visited regularly throughout childhood for Sunday lunches, sleepovers and to use her pool. As an adult I continued to visit frequently, the total time period was 1988-2014. During this time and since then I have never seen this land used for any events, sports or activities. Visiting so frequently on weekends and school holidays when most events likely to have taken place, impossible not to have noticed anything.</p> <p>My grandmother never mentioned events or activities on the land, I went to many fetes and social events in my own village and surrounding villages when younger, some of which my grandmother drove me to, it seems odd that she would not have mentioned something right outside her house.</p> <p>In 30 years never seen a board or poster advertising any events on this land, yet I notice them in my own village and villages I drive through on my way to work.</p> <p>As a child I walked along the wall at the front of my grandmothers property, I had to jump down several times to avoid the low and overgrown trees on the land. Almost impossible to play on the land, trees prevented sports and games that involved running around. The grass was weedy and overgrown. If the land was suitable for games I would have used it as a convenient space to play with friends, siblings or children from the village, but the area was always deserted.</p> <p>Google Street View May 2009 and October 2011, abundance of trees and 2009 image shows only one bench and a notice board at the time, the grass is so long it would prevent ball games.</p>
Kathryn Reeves	<p>Known the land for over 34 years since mother-in-law purchased the building plot.</p> <p>It has not been used for regular sports and pastimes and anyone claiming this is not telling the truth.</p> <p>Up until recently the grass was not even mown. When we took possession of the property in 2015, no one was able to use the older bench because of the state it was in and the other one was also very neglected.</p>

	<p>May have been odd time when village gathering occurred but given my extensive knowledge of this land they would be very rare for me not to have seen or heard about them. Support for the Queens 90<sup>th</sup> gathering witnessed by me in June 2016 was sparse, no more than 12 people, 2 of whom were myself and my husband who happened to be passing.</p> <p>No other events until May 2018 after the application was submitted.</p> <p>What appeared to be a protest event was held directly in front of our house where certain members of the village congregated, sat on our wall and even encouraged children to climb all over it.</p> <p>As highway land, the real current usage of this land is not under threat, people will continue to use this land for walking across, walking their dogs, small gatherings and sitting on benches as they have done for many years.</p>
Wessex Water	<p><i>“...we would like to make it clear that Wessex Water does not object to the use of the Land for sports and pastimes. Wessex Water simply wishes to record the need for careful consideration of Wessex Water’s statutory obligations in deciding how to approach the future designation of the Land.”</i></p>
Mr M Reeves	<p>At no time when visiting my mother at [REDACTED] have I ever seen anybody using this land for sports and pastimes, nor have I ever seen any events taking place, nor have I seen any boards or flyers or posters advertising events on this land and it is common practice to advertise events.</p> <p>I always see the board set out for Sutton Benger Village Fete, Firework Night, Beer and Sausage Night etc.</p> <p>At no time did my mother tell me about any sports taking place on this land directly in front of her house, nor did my mother tell me about events planned for this land and yet she did tell me about fetes held in other villages as suggestions for a family outing, we visited all the local fetes, it is inconceivable that she would not have mentioned events taking place or planned in front of her house.</p> <p>During 2015, whilst working on the house, we saw no sign of anyone using the land for sports and pastimes, nor any events held on the land nor did we see any flyers for events.</p> <p>In 2016, started work on remodelling the house with scaffolding in place</p>

	<p>until mid Sept 2016. In the whole of 2016, majority of which I had aerial view I saw nobody undertaking sports and pastimes and one candidate event on this land on the Queen's 90<sup>th</sup> birthday. It was a very small gathering of perhaps 12 people, the tree branches were at eye height, nobody sat on benches. No formal arrangement, no cake stalls, beer tent or games, music etc as expected at village fete. I do not think this meets 15(2) requirements and is the only one candidate event I have seen or heard since about in the whole period up to 2018.</p>
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14.35. Use of the land for lawful sports and pastimes does not refer only to organised group activities and can relate to use by individuals for lawful sports and pastimes which would include walking or resting and enjoying the view, perhaps activities less likely to come to the attention of the objectors than an organised event or gathering.

14.36. In this case there is an absence of direct evidence relating to of dog walking / general walking and playing on the land, it is only a small space adjacent to the highway. There is some evidence in the Parish Council minutes dated 1<sup>st</sup> June 1990 that the land was used for playing ball games: "*The use of the green at Lower Stanton for ball games and the possibility of providing protection for the young trees was discussed. It was felt that this would prove more costly than replacement and the Parish Council therefore proposed no action be taken.*", which suggests a level of use sufficient for the Council to consider this course of action. Additionally, Mrs K Reeves suggests that the land is highway and as such "*The real current usage of the land is not under threat. People will continue to use this land for walking across, walking their dogs, small gatherings and sitting on benches as they have done for many years.*" The activities of walking, small gatherings and sitting on benches, having been carried out for many years as Mrs Reeves states, could equally contribute to TVG status, (notwithstanding that this point is made by Mrs Reeves in relation to her claim that the application land is highway).

- 14.37. Given the amenities placed on the land, it is also reasonable to assume that local inhabitants have used the land to access these parish amenities, including the lending library, Parish Council notice board and benches, although note the Objector's observations regarding use of the benches and picnic table mainly by non-residents of Stanton St Quintin.
- 14.38. Mr Reeves states in his objections that *"Another part of the parish councils statement is about the benches and the notice board which is again nothing to do with sports and pastimes so is irrelevant."*, Officers would disagree with this statement. In supplementary information ref planning application no.18/01108/FUL the Objector (and applicant in that planning application), Mr M Reeves states, *"The most regular use for this verge is by villagers looking at the notice board or people using the one relatively clean bench, often these are cyclists taking a breather, not villagers. Non (sic) of these usages are frequent. The only other use of this verge is people walking across it..."* again, these activities can equally qualify as relevant TVG use, as planned community events.
- 14.39. Mr and Mrs Reeves do however, make further reference to the condition of the benches in the representation dated 5<sup>th</sup> January 2021: *"The photos I included in my objection letter (page 17,18), reproduced above in figure 2 and figure 3 show the poor condition of these benches in 2017 which belies the claim that they were in regular, even daily, use for years. And the claim should specify what sports or pastime these benches facilitate, how many residents were doing this sport and pastime, and when and how often this sport or pastime took place, and evidence to support this."*
- 14.40. Mr and Mrs Reeves state in objection *"Most, if not all "in support" representations seem to be repeating hearsay and not speaking from their own personal knowledge"*. Officers would agree that it is often not clear from the evidence statements whether the witnesses have themselves participated in the events/activities, or just have knowledge of the

event/activity having taken place on the land. 5 witnesses simply record their support for registration, without referring to any use of the land to support the application.

**Lawful Sports and Pastimes** – Although there is a lack of direct evidence relating to dog walking/walking and playing on the land, given the land as the location of the “wee free library”, 2 benches, picnic table with benches and the village notice board, it is reasonable to assume that local inhabitants would visit the land frequently to make use these amenities and it is clear from the evidence that the land provides a focal point for local people to gather and celebrate national events. These events might be less frequent, i.e. annually, however, photographic evidence of events taking place on the land is limited and from the witness evidence statements provided it is not always clear if witnesses are speaking to their own use of the land for these activities or an indirect knowledge of activities. There certainly appears to be a desire locally to register the land, but the decision of the CRA must be based on evidence and additional evidence regarding lawful sports and pastimes taking place on the land would assist the CRA in making a determination on this point.

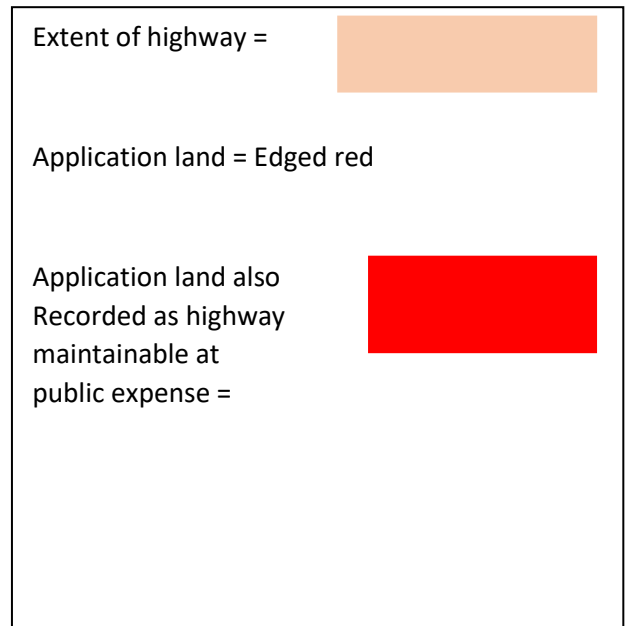
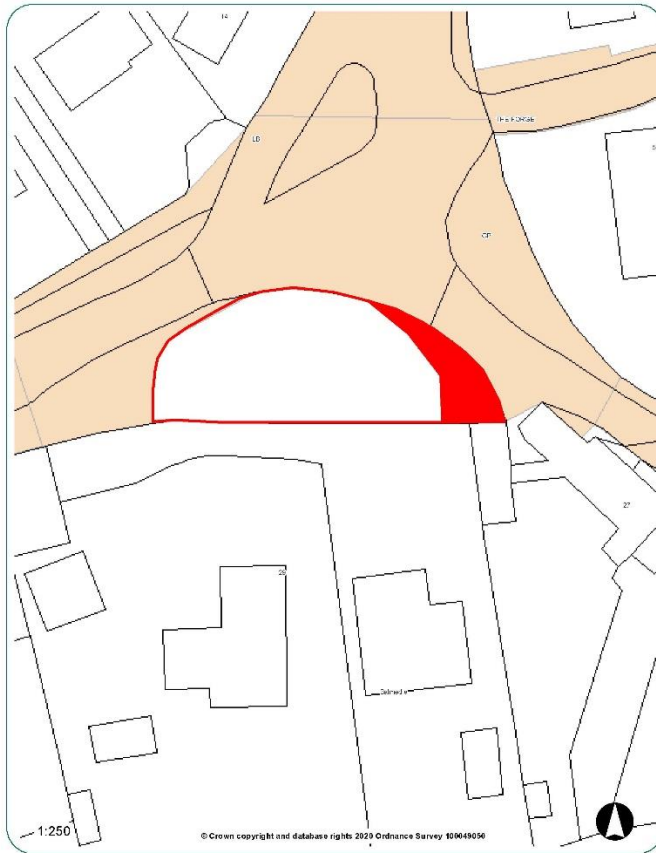
The objectors dispute use of the land for lawful sports and pastimes and state that if events have occurred, they have been infrequent and poorly attended.

### **On the land**

14.41. Witnesses have not included maps of the land to suggest which part of the land they have used, however, the area of land is only relatively small and it is assumed that the areas around and accessing the notice board, library and benches would be well used. Additionally, mingling at the community events over the land is likely to have covered the whole of the land, as can be seen from the photographs listed above, which identify the application land as the location for these events, (see photographs at **Appendix 17**).



- 14.42. Previously the land was a pond, this is referred to by Mrs Creasey who provides evidence that the pond was filled in, (mid 1960's), when she was a child and fetes were then held on the area.
- 14.43. In his objection Mr M Reeves considers that the whole of the application land is highway (verge). This view is supported by Wales and West Utilities who write (24<sup>th</sup> September 2020) regarding their pipe laid in 2016: *“The area of land was found to be unregistered at the time and as it adjoined the public highway it was assumed to be highway verge. Notices were served in relation to work in a highway and the pipe was therefore legally laid.”* It is not possible to record highway as TVG and Mr Reeves claims as such there is nothing to prevent people gathering on the highway verge, those rights are already protected and there is no reason for the TVG applications.
- 14.44. Officers agree that part of the application land is indeed recorded highway at the eastern side and for this reason, should the application to register the land be successful, it would be proposed to exclude that area of existing public highway, as shown in red on the plan below as the CRA may register the land in part where it is considered that the legal tests for the registration, as set out under Sections 15(1) and (2) of the Commons Act 2006, have been met in full over part of the application land. Mr Reeves agrees on this point in his recollection that over the last 34 years this area has been used as a driveway for ■ Lower Stanton St Quintin and there has usually been a car parked in front of the garage located just south of this land, therefore it could not have been enjoyed for lawful sports and pastimes over the last 20 years. Additionally, Mr Reeves' mother never mentioned such use to him, having overlooked the land between 1987 and 2014.



14.45. Mr Reeves additionally considers the central area of the land, i.e. the former pond, to be highway and therefore incapable of being registered as a TVG. The matter of the extent of highway has been examined and considered at length by an Officer of the Rights of Way and Countryside Team in a full report dated 1<sup>st</sup> February 2019 and attached at **Appendix 18**.

14.46. The Officers report found that the land had never been recorded as maintainable highway and considered the Inclosure Award documents in detail:

*“2.1. It is clear that from at least 1929 the area of land being queried has not been recorded as HMPE (Highway Maintainable at the Public Expense) by the highway authority.”*

*“5.1. The plot of land numbers 143 and the pond (i.e. the land excluded from the highway record) were clearly created at Inclosure and related to the nearby dwelling house (which may or may not still exist). The area of land was created out of what was possibly historic highway but the effect of the inclosure award (as enabled by the Act of Parliament) was to extinguish existing highways and to create new ones. We can see good examples of this in the top left hand corner of the extracts above. Here, old highways have ceased to exist and new ones have been formed to allow for the new division of the land. The road in the village is not different to this and the new highway, no 128, was created as the new road. The inclosure award did not specifically include the pond or the parcel of land numbered 143, which, on the balance of probability, also included the pond area.*

*5.2. Village ponds are not uncommon features in villages and have historically been used to produce fish, house ducks, soak cartwheels, wash clothes and provide water for animals. The purpose of Lower Stanton St Quintin’s pond is not known. If it was formed in the highway it would have formed an obstruction to the highway and although it remains lawful to drain the highway onto adjoining land it is not lawful to drain adjoining land onto the highway.*

*5.3. Whatever the history of ownership of this land since 1783 it is irrelevant to the matter of whether highway rights were subsequently acquired. It is not possible to acquire highway rights through a pond and since the pond has been filled in (the mid 1960’s) the Council has no evidence to suggest that a highway right to pass and re-pass has ever been acquired by any member of the public either on foot, on horseback, cycle or with a mechanically propelled vehicle. Even in the event that they had been acquired in this way it is even less likely that the way would be maintainable at the public expense.*

*5.4. Officers consider that the extent of highway maintainable at public expense is correctly recorded at this location. Even if the extent of highway had included the pond area the area directly south of the pond, parcel number 143, was clearly allotted to a property distinct from the road.”*

- 14.47. Inclosure was a process by which lands which had previously been communally farmed by the inhabitants of the manor were redistributed amongst people having rights of common. By the 18<sup>th</sup> century new innovations in farming were increasing output, but where communal farming was in place it was difficult to modernise without the agreement of all parties, therefore the larger landowners who wished to increase productivity set about obtaining parliamentary authority to redistribute property rights.
- 14.48. Inclosure Awards provide sound and reliable evidence where they arise from Acts of Parliament. The Acts gave the Inclosure Commissioners the power to change the highway network of the parish and authorised and required the Commissioners to set out highways public and private, within the parish, including the stopping up and alteration of existing roads. Additionally, the public process to be followed was clearly set out within the Act, e.g. notice of the public and private roads to be set out was required and opportunity given for objection to the inclusion or non-inclusion of public and private roads. The Officer has examined the inclosure award in detail and concludes that the application land was not awarded as highway in the 1783 Stanton St Quintin Inclosure Award and since that date has never been recorded as highway maintainable at the public expense.
- 14.49. Mr Reeves makes reference to the former pond as part of the highway and suggests that Mrs Creasey’s written evidence that the carts used to go through the pond to swell the spokes of the wheels, is supportive of his conclusion that the pond was not a barrier to traffic and legally a submerged road is still a road. In fact Mrs Creasey’s evidence suggests that the pond was dug out privately by the farmers for the purposes of allowing their cattle

and horses to drink, not in relation to the highway. She does not mention public use of the pond for the purposes of swelling the spokes on the carts and carriages, but only the farmer's use of the pond for this purpose: "*The POND was dug out by the Farmers (maybe JONES') so their Cattle and Horses could drink.*

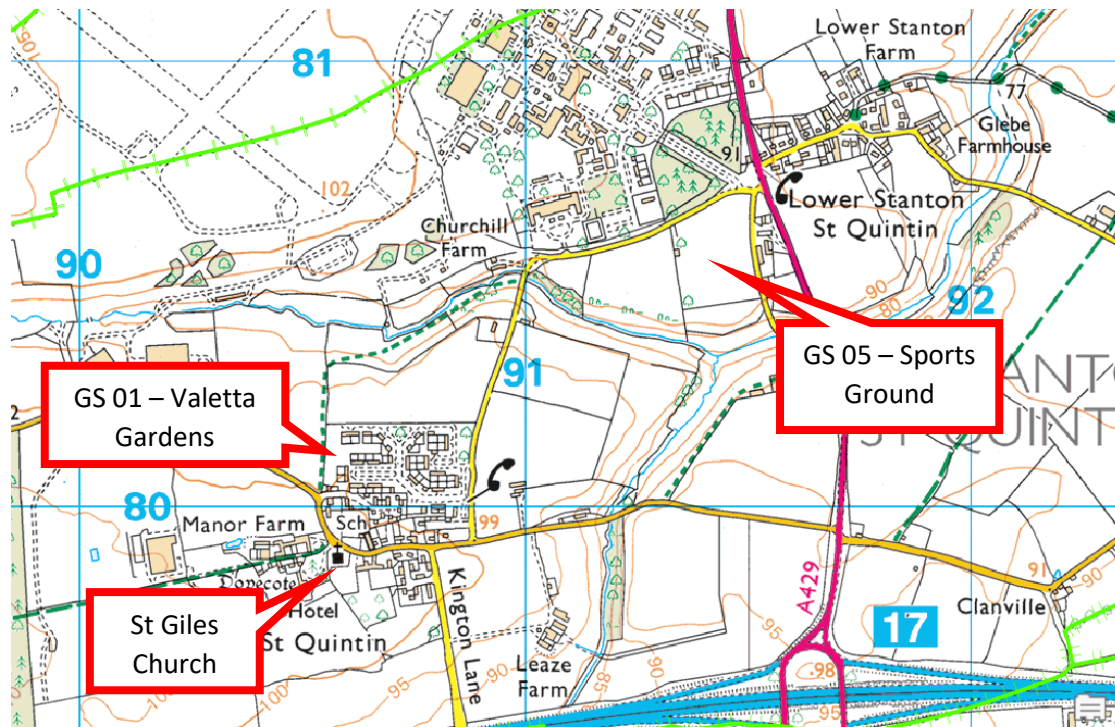
*They also put their Carts through the water to swell the spokes on the wheels, so the metal bands wouldn't fall off."*

- 14.50. Regarding the Finance Act evidence, Mr Reeves claims the application land which is left uncoloured as part of the 1910 Finance Act plan, suggests highway. Whilst we would expect a road which was not subject to taxation to be excluded from the neighbouring hereditaments, the Planning Inspectorate Consistency Guidelines, urge caution when viewing these documents: "...in the case of *Fortune v Wiltshire CC [2012]* in which Lewison J gave careful consideration to the interpretation of routes excluded from adjacent hereditaments. In essence he concluded that the Finance Act records are not definitive; they are "simply one part of the jigsaw puzzle "to be considered along with other relevant material particular to each case." "Documents and plans produced under the Finance Act can provide good evidence regarding the status of a way. In all cases the evidence needs to be considered in relation to the other available evidence to establish its value...It should not be assumed that the existence of public carriageway rights is the only explanation for the exclusion of a route from adjacent hereditaments although this may be a strong possibility, depending on the circumstances. It must be remembered that the production of information on such ways was very much incidental to the main purpose of the legislation." The main purpose of these documents was not to record highways, unlike the inclosure documents, and therefore they must be viewed and weighed against other documentary evidence.

- 14.51. The Highway records themselves show that since 1929 (Local Government Act 1929), when the responsibility for rural roads was transferred from the Rural District Council's (RDC's) to the County Council and the RDC surveyors completed maps showing the extent of highway maintainable at the public expense, from their own knowledge and records, the land in question remains uncoloured is not recorded as highway maintainable at public expense.
- 14.52. The minutes, (as provided in evidence by Mr M Reeves), reflect the view of the County Council that the land is not highway maintainable at the public expense, supporting the highway records above. It is noted that in the minutes of the Parish Council dated 6<sup>th</sup> November 1950, the County Surveyor had written stating that the Roads and Bridges Committee were of the opinion that the matter of cleaning the pond was largely a sanitary one and not the responsibility of the highway authority. The later minutes of the Roads and Bridges Committee regarding the Parish Council request to fill in the pond, support this and consistently refer to no action to be taken by the highway authority, it not being their responsibility. If they considered that the pond formed part of the highway, Officers would expect the minutes to reflect this. The use of material from the Council Housing development, which Mr Reeves suggests to be fly tipping if not on highway land, and later soil covering and seeding and unauthorised parking are perhaps gestures of goodwill rather than an admission that the land is highway maintainable at the public expense. The Parish Council AGR minutes dated 1<sup>st</sup> June 1955 acknowledge that the Calne and Chippenham RDC had no powers to deal with the matter, but *"...the opportunity has been taken, when the housing site was being developed, to use the pond as a site for dumping the surplus material; thus assisting the Parish Council in dealing with the nuisance."*
- 14.53. Mr Reeves suggests that where the land is a highway *"it is Wiltshire Council's duty to protect the public right to use the highway for all the uses of*

*a highway. The public rights for a Village Green are more restrictive than a highway. Therefore Wiltshire Council would be failing in its duty to allow highway to become green as it would not be protecting all the highway rights".* Mr Reeves claims that if the land is highway, there is nothing to prevent people gathering on this land, as highway verge, nor would the objector wish to prevent gathering, which is already lawful and already protected by legislation, therefore, there is no reason for the TVG applications. Officer's do not agree that the central and western sections of the application land are highway and therefore this argument does not follow.

- 14.54. In witness evidence Mr M Smith makes the point that in fact land on the other side of the road from the application land should be included within the application and points out that during the WWII vehicle display 2020, vehicles were also parked on that side of the road. Mrs Creasey also suggests that in fact the green is on the opposite side of the road, however, this land does not form part of the application and there is insufficient evidence of use of that land to include it within any registration by reference to only one event of parking vehicles for the VE day celebrations 2020. There are, to the Officers knowledge, no village amenities located on this land, i.e. benches, notice board etc.
- 14.55. Witnesses make reference to the proposed green being the only suitable place to hold village events and bringing residents together as a focal point of the village. However, Mr and Mrs Reeves points out that there are other green spaces in the village, as identified in the draft neighbourhood design plan, i.e. the sports field (GS05) and land to the rear of Valetta Gardens (GS01) and that historically the annual Stanton St Quintin village fete has been held on the sports field, not the application land. The locations of these alternative green spaces in the parish are recorded on the map below:



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14.56. Referring to the correspondence from Mr M and Mrs K Reeves dated 5<sup>th</sup> January 2021, in considering the matter of the rights of local inhabitants over the application land, Wiltshire Council as the CRA are not concerned with private matters and dispute regarding the access to the private properties and [REDACTED].

**On the land** – The current highway record is not conclusive in law, but it is reasonable for the Council to rely upon these records and the burden of proving otherwise lies with the person questioning its validity. In this case the evidence regarding the highway record has been investigated in detail and the extent of highway maintainable at the public expense is correctly recorded at this location, therefore, the majority of the application land is capable of registration as a TVG, although this is disputed by the objectors. Additionally, the objectors are concerned that if the land is indeed highway, it has wider public rights, therefore if the land was registered as TVG, the Council would fail in its duty to protect and assert all public rights.



At the eastern side there is a section of the application land which is shown in the highway records to be maintainable at the public expense and if the land is successfully registered as town or village green, it is proposed to exclude from the registration that part of the application land which is existing highway.

There are photographs of events taking place on the land, which clearly supports the application land as the location for these events, (please see **Appendix 17**).

**For a period of at least 20 years**

14.57. To satisfy the 20 year user test, application 2018/01 requires a user period April 1998 – April 2018 and application 2019/01 requires a user period April 1999 – April 2019. Mr and Mrs Cullen have known the land for 26 years; Mr Davis since October 1997; H W Jolly for around 30 years; Doreen Pattison 32 years; Graeme Pattison since 1977; Mr and Mrs Seal refer to use as a village green and maintenance by Parish Council for last 50 years but give no dates of their own use/knowledge of the land; Mike Smith since 1997; Cllr A Andrews for 12 years and Mrs Creasy has known the land since childhood. Additionally, the Parish Council minutes refer to this piece of land as “the village green” since at least 1983: Minutes 14<sup>th</sup> April 1983 – the land is referred to as “the village green”, the Parish Council did not own the land, but the Clerk to arrange for the Parish Council to register the village green as common land.

14.58. There is evidence of use as a village green in those dates as seen at **Appendix 14** and summarised below:

<b>Witness</b>	<b>Years land known</b>	<b>How used</b>	<b>Events</b>
2	Since 2009	Meeting place	VE Day 2020
3		Picnic site (with family and others seen)	VE Day 2020 Local free library
4		Fetes, fancy dress competitions, picnics	Church Services
5	26 years		Church Services annually 2001, 2002, 2003, 2005, 2006, 2007 (one or two

			cancelled due to weather but attended 2001 service) National celebrations: Jubilee/Royal weddings/VE day Road closure and party on the Green for William & Kate's wedding April 2011 Queen's Jubilee celebration 2012. May 2018 – Adults and village children planted community garden June 2019 – Book sale Wee Free Library set up 2019
6	26 years		VE Day Church Services Book sales Informal gatherings of locals Little library Benches used daily in summer by residents and others passing through
7	Oct 1997		Royal celebrations VE day (village gathering)
8		Grandchildren play on the green when they visit	A place to sit A place to meet and chat with local community
9			Opportunity to sit for a few minutes Wee Free Library
12	About 30 years		Many events for community (I have thoroughly enjoyed)
13	32 years		Social events (I have helped organise several in last few years) Bunting for national and local events such as a wedding Christmas lights Wee Free Library Picnic bench We involved local children in planting wildflower seeds Open space for children to play
14	1977		Used by villagers as a green since 1977 to my knowledge Events on many occasions Frequently used by people passing through the village
16	Refer to use as a village green and maintenance by Parish Council for		Residents can celebrate notable historical and commemorative events Commemorative tree and

	last 50 years		plaque/picnic bench/library/PC notice board for residents
17	Since 1997		Since 1997 continual use as a green by residents Mature trees/village notice board/2 picnic tables/library all regularly used by residents
18			Focal point at heart of small village Meet on special occasions with neighbours and new arrivals
20			Villagers and visitors can congregate to relax and have community events
21	Last 12 years		Wee Free Library
22			2 Royal weddings and VE day celebrations in last 12 years Church service Social gatherings and informal events

14.59. There are events taking place outside the relevant user periods, e.g. the 2020 VE day celebrations; June 2019 book sale and the “Wee Free Library” opening June 2019, after the applications are made. Mr and Mrs Reeves make the following comments on this: *“Wee Free library – doubly irrelevant since not only was it installed in 2019, outside of the 20yr period in question, it is also not on the claimed land but on highway verge...VE 75 celebration – irrelevant since outside the 20yr period in question and also because the vehicles were parked on the verge opposite the TVG claimed land as the photo in figure 1 shows. This proves the point that highway verge can be used for events...Christmas lights – not a sport or pastime, and only a recent occurrence too so outside the date range. There are 3 small battery power strings up this year, 2 more than the 1 in 2018, the first year they appeared...Picnic table – this was installed without consultation, there is no reference in the parish minutes to this picnic bench and it is in fact on the route the Fire Service suggested they would use to reach our house. This picnic table is recent, not the several years that is claimed, but dates from after the application in 2018. Hence it is irrelevant to proving 20 yrs use, plus*

*as mentioned in the representations it is used primarily by walkers or cyclists passing through, which again does not meet 15(2) which is only interested in use by residents of the neighbourhood the TVG serves, in other words, Stanton St Quintin parish...Other events – various claims have been made about open air church services (when?), Queen’s Jubilee (which?) and Royal Weddings (which?). None of these specify a date or even the year or whose wedding was being celebrated. The only events that are given dated are those after the TVG application was submitted so are outside the 20yrs that are relevant. Likewise the only photos submitted are for events that post date the application so are irrelevant.”*

- 14.60. Officers would certainly agree that details regarding the events claimed to be taking place on the land are vague and many witnesses provide no dates for the events and there is reference to events which we know to have taken place outside the relevant 20 year user period, e.g. the VE day celebrations 2020, which are considered in the next section of the report. Mrs Cullen makes reference to the dates of open-air church services held on the land between 2001 and 2007 (excluding 2004), albeit that one or two were cancelled due to the weather, Mrs Cullen confirms the 2001 service as she herself attended; a party on the Green to celebrate the wedding of Prince William & Catherine Middleton, in April 2011 and the Queen’s Jubilee celebration 2012. Mr and Mrs Reeves refer to a celebration for the Queens 90<sup>th</sup> birthday taking place in April 2016, which they attended. The sowing of wildflowers in May 2018, (possibly an event on the land referred to by Mr Reeves on 19<sup>th</sup> May 2018), can be included where the second application is received April 2019 and given the small area of land, it is likely to have covered that part of the land subject to the second application 2019/01. There is however, little evidence of events taking place on the land in the early part of the user periods 1998 and 1999, other than the 2001 Church Service which is confirmed by Mrs Cullen to have taken place and also evidence within the Parish Council minutes of ball games taking place on the

land in 1990, but prior to the relevant user periods. Despite anecdotal evidence of use as a village green for the last 50 years; since 1977 and since 1997, there is little supporting evidence of actual use at the early part of the user periods.

- 14.61. Wessex Water consider that the 20 year user period required may not be met, as follows: *“Whilst Wessex Water is not the owner of the Land, it does have assets beneath its surface with associated rights of access through the surface of the land. These rights are akin to easements and have, as a result of the exercise of statutory powers, been described as a “statutory easement”. As such, the condition contained within section 15(1) of the Commons Act 2006 as to indulgence “as of right” for the period of time set out may not be met. At any time the indulgence could have been halted by service of the requisite notice under sections 159 and 168 of the Water Industry Act 1991.”*

Wessex Water provide no specific example of an interruption to use of the land by local inhabitants for lawful sports and pastimes, based on their activities, during the relevant user periods 1998-2018 and 1999-2019, however, it is understood that their plant was installed in around 1986, prior to the user periods in question.

- 14.62. Whilst use must be continuous throughout the 20 year period, temporary interruptions in use do not demonstrate a lack of continuity and it is a matter of fact and degree for the decision-maker to determine whether the whole of the land has been available for lawful sports and pastimes throughout the 20 year period. In *Taylor v Betterment Properties (Weymouth) Ltd* [2012] EWCA Civ 250, paragraph 71, Patten L.J said:

*“...there must be a physical ouster of local inhabitants from the land and the disruption must be inconsistent with the continued use of the land as a village green. If the two competing uses can accommodate each other (as they did in Redcar (No 2)) then time does not cease to run. But here the*

*exclusion was complete and the use of the land for the drainage system was not compatible with it remaining in use as a village green. The judge was therefore correct in my view to hold that there had not been twenty years' user of the works site."*

14.63. In the Betterment case, the duration of public exclusion from the land was a period of around 4 months, which was found to be sufficient to stop time running in relation to the use of the land. The Stanton St Quintin case differs where any interruption in use for the installation/maintenance of services, is likely to have been for only a very short period and would not have covered the whole of the application land. In the case of TW Logistics Ltd v Essex County Council [2018] EWCA Civ 2172, which examines the rights of all parties including the landowner, following the registration of land as a TVG, (part of a working port), Lord Sales and Lord Burrows conclude:

*"65. ...Registration of land as a TVG has the effect that the public acquire the general right to use it as such, which means the right to use it for any lawful sport or pastime (whether or not corresponding to the particular recreational uses to which it was put in the 20 year qualifying period, evidence of which gave rise to the right to have it registered as a TVG). However, the exercise of that right is subject to the "give and take" principle so that it is potentially misleading to think that there is a "one size fits all" principle. This means that the public must use their recreational rights in a reasonable manner, having regard to the interests of the landowner (which may, or may not, be commercial) as recognised in the practical arrangements which developed to allow for coexisting use of the land in question during the qualifying period. The standard of reasonableness is determined by what was required of local inhabitants to allow the landowner to carry on its regular activities around which the local inhabitants were accustomed to mould their recreational activities during the qualifying period."*

- 14.64. The objectors too have known the land for the full relevant user periods: J Cowley has known the land since childhood (born 1991); O & J Kelly have known the land since 1987-2010; James Reeves has known the land 1987-2006; Jonathan Reeves visited regularly from 1990-2010; Josephine Reeves has known the land 1988-2014; K Reeves and M Reeves have known the land for over 34 years. The Objectors' visits to a property adjacent to the land were frequent and regular and they certainly would have had views of the land from the property. They claim that in the earlier years of their knowledge of the land that it was untidy and unkempt, with trees, i.e. in a condition which did not lend itself to the exercise of lawful sports and pastimes, which concurs with the lack of evidence of use of the land at the early part of the user periods.
- 14.65. The objectors dispute recreational activities taking place on the land, only Mrs K Reeves and Mr M Reeves confirm their knowledge and attendance at an event, the Queens 90<sup>th</sup> birthday celebrations in June 2016, (within the user periods in question), which was poorly attended (no more than a dozen people), who stood and chatted for an hour or two before drifting off. However, Mrs K Reeves does make reference to *"The real and current usage of this land...People will continue to use this land for walking across, walking their dogs, small gatherings and sitting on benches, as they have done for many years. We are not disputing this..."* and as part of the planning application Mr M Reeves contends *"The most regular use for this verge is by villagers looking at the notice board or people using the one relatively clean bench, often these are cyclists taking a breather, not villagers. Non (sic) of these usages are frequent. The only other use of this verge is people walking across it..."*, which suggests this use throughout their period of knowledge of the land from 1986, when the property adjacent to the land was purchased by Mr Reeves' mother, to their present day ownership of the property.

14.66. Mr Reeves refers to the TVG application and the Parish Council statement that the land has been used as a village green for the past 50 years - they do not say how it has been used as a green and present no evidence of this use. However, as Mr Reeves comments that Mrs Creasey's evidence pre-dates the relevant user period, it also supports the claim made by the Parish Council that the land has been used for the past 50 years. Mr Reeves considers that this would give a user period from 1968-2018 and yet there was no objection to planning application 72QW68 at that time which proposed an access road across the middle of the land and the land was not registered as common land following the Commons Registration Act 1965. These matters are not relevant to the consideration of the use of the land during the relevant user periods 1998-2018 and 1999-2019, on which the present claims are based. Common Land and Town Village Green are subject to different rights, common land subject to the rights of commoners to use or take provisions from the land and TVG's having a right for local inhabitants to recreation over the land.

**For a period of at least 20 years** – There is evidence of events taking place within the relevant user period of 1998-2018 and 1999-2019 and some evidence that the activities of walking across the land, walking dogs, small gatherings and sitting on benches, have taken place for many years. However, there appears to be a gap in the evidence of use for the early part of the user periods in question. Additional evidence on this matter would assist the CRA in making a determination on this point.  
Additionally, Objectors dispute events/activities taking place on the land and those that did take place were poorly attended.

### **Use continuing**

14.67. The application is made under Sections 15(1) and (2) of the Commons Act 2006, with use continuing at the time of application.



- 14.68. The latest organised event on the land appears to be the VE day celebrations in 2020 and Mrs Cullen provides evidence that the book sale to raise funds for the “Wee Free Library” was held in June 2019 and Mr Reeves confirms that the library was not in place on the land until June 2019, both of which occur after the 2019/01 application received by the CRA on 26<sup>th</sup> April 2019. Additionally, Mr M Davis confirms that there is Increasing use, particularly with social distancing and the coming together of families in sensible surroundings to maintain a healthy life balance. The Parish Council presents evidence that the Wee Free Library is still being used and has been particularly popular during lockdown. The parish notice board and benches continue to be present on site and it is assumed that members of the community continue to visit these amenities. The Parish Council also refer to recent works to trees on the site, funded by them.
- 14.69. The objectors refer to events, activities taking place on the land following the TVG application dates which do not support the application. Mr Reeves points to photographs which the Parish Council have submitted showing use of the land dated pre-application, but which are actually taken post-application: *“I would draw your attention to the lie on page 6 (old page 14) where in Cllr Andrews’ email of 23 Nov 2020 14:31 he says “Here are some photos of events held prior events prior to application” (sic) by which it is clear he is claiming the photos below, labelled as taken in 2019, pre-date the TVG application which is dated 20 April 2019”,* (M Reeves e-mail 2<sup>nd</sup> February 2021). These are photographs of the opening of the Wee Free Library in June 2019, which Mr Reeves correctly identifies as post-application. Additionally, Mr Reeves suggests that the application is dated 30<sup>th</sup> April 2018 and therefore the evidence needs to show that sports or pastimes took place on the land over the period 30<sup>th</sup> April 1998 – 30<sup>th</sup> April 2018, however, in this case we are dealing with two applications dated April 2018 and April 2019, so activities may be considered to fall within the 20 year user period, up until April 2019, if they take place on the second area of

application land, which given the small size of the land, is very likely for a gathering or event, or even just walking over the land.

- 14.70. The legal test in this case under Section 15(2) of the Commons Act 2006, is that use is continuing at the time of application, i.e. there being no event to stop/prevent public access by the time of the application and it could therefore be legitimately considered that this use, unfettered may also continue after the application and may be considered as part of the evidence in order to meet this part of the Section 15(2) test. Officers would suggest that where there has been no event to prevent use of the land, such as fencing or signage, it is likely that use will continue after the applications are made and although this use cannot support the 20 year user period, it does support the last requirement of the relevant legal test.

**Use continuing** – The evidence suggests that use of the land is continuing at the time of the applications.

The Objectors dispute that events held on the land post 30<sup>th</sup> April 2018, are admissible as evidence in this case.

### **Comments on other objections**

- 14.71. **Land ownership** - Mr Reeves claims that the Parish Council have made false and repeated claims that they owned the land from 1982 and given this history the TVG application is clearly vexatious, discriminatory and a breach of the Human Rights Act, therefore an unlawful action by the Parish Council. Mr Reeves claims that the Parish Council have deliberately restricted the claim to the green area outside his property, with all the services to his property, whilst leaving a green space for new or re-routed services for the neighbouring property to the west.

14.72. The matter of ownership is not of great concern in this application, it is noted that Stanton St Quintin Parish Council do not own the land and the Officer who previously considered the extent of highway at this location, in her 2019 report considers, (see report at Appendix 18): *“Whatever the history of ownership of this land since 1783 it is irrelevant to the matter of whether highway rights were subsequently acquired.”* Officers would suggest that the same is true in the TVG case. The land in question is not registered and the notices of application were correctly posted on the site and in a local newspaper addressed to all owners and occupiers as the CRA are required to do under statute. No landowner has come forward. It is noted that the Parish Council have taken responsibility for the land and placed local amenities upon the land, perhaps under the false impression that they owned the land, but there has been no objection and no parties with an interest in the land have made themselves known. For the purposes of correctly recording the rights of local inhabitants over the land, it matters not that there is no recorded landowner or that the land is not owned by the Parish Council, if the legal tests as set out at Section 15(2) of the Commons Act 2006 are met in full.

14.73. **Human Rights Act 1998** - Mr Reeves expands on the Human Rights Act 1998 point, with reference to the services to his property which are located in the application land, (i.e. Gigaclear; Wales and West Utilities; Wessex Water and BT Openreach), *“...it is legally impossible occupy [sic] or disturb the soil unless this is for the benefit of the green. The existing services to my house are clearly of no benefit to a green and installing new services would clearly harm the green until the grass recovered. The granting of TVG would thus make my existing services criminal, cutting off my property from the services it has used since 1987. It would also make criminal the installation of any new services such as fibre, or indeed any replacement services for failed cables or pipes.”*

*“It doesn’t take a judge to realise that attempting to cut off the services to someone’s house is an improper action for a council. In fact it is a breach of the Human Rights Act and an obvious one at that.*

*The First Protocol, Article 1 of the Human Rights Act is about protection of rights for property. It states that every “person is entitled to the peaceful enjoyment of his possessions” which includes property. In addition, HRA Article 14, prohibits discrimination, including discrimination due to association with a particular property. Article 8 of the HRA is also applicable. Article 8 includes “respect” for “his home” and “family life”. It forbids interference except in extreme circumstances, such as national security, public safety or the for the [sic] protection of the rights and freedoms of others. And as has already been mentioned the Highways Act s130 already guarantees the public right of use and enjoyment of this verge so there is no need to this TVG application unless the aim is to cut off my services.”*

- 14.74. Mr Reeves is concerned that services provided to his property located beneath the application land will be made criminal if the land is registered as TVG by virtue of the “Victorian Statutes”, i.e. Section 12 of the Inclosure Act 1857 “Protecting from nuisances town and village greens and allotments for exercise and recreation”, which makes it an offence to carry out any act to the injury of the green or to the interruption of the use or enjoyment thereof as a place for exercise and recreation, and Section 29 of the Commons Act 1876, “Amendment of law as to town and village greens”, any encroachment on or inclosure of a green and also any erection thereon or disturbance or interference with, or occupation of the soil thereof, which is made otherwise than with a view to the better enjoyment of the green, is deemed a public nuisance. Mr Reeves is concerned that the services will be removed and this would be an improper action for the Council and a breach of the Human Rights Act under which every *“person is entitled to the peaceful enjoyment of his possessions”* which includes property. In addition, the Human Rights Act Article 14, prohibits discrimination, including discrimination due to

association with a particular property. Article 8 of the Act is also applicable where it includes “respect” for “his home” and “family life”.

- 14.75. If Mr Reeves is correct that the area now being claimed as TVG is in fact highway, it would be possible to lay new services in the highway and carry out works to the existing services present in the highway, with the relevant permissions. However, Wiltshire Council do not agree that all the area claimed as TVG is highway.
- 14.76. Mr Reeves refers to the Victorian Statutes under section 12 of the Inclosure Act 1857 and Section 29 of the Commons Act 1876, under which it becomes an offence to disturb the soil of the green otherwise than with a view to better enjoyment of the land, or to undertake any action which interrupts its use as a place for exercise and recreation. It is not possible to carry out works on a TVG and it is not generally possible to gain consent for works on a TVG under section 38 of the Commons Act 2006, as it would be on common land, the only remedy for works to a TVG is the exchange of land to remove TVG status from the land requiring works. Mr Reeves is understandably concerned that if the land is registered, it will require the removal of the services to his property, located within the land, where it will not be legally possible to carry out works and maintenance which will require disturbance to the soil of the green, not for the benefit of the green. This would he says result in a breach of the Human Rights Act, making the existing services criminal; cutting off his property from the services it has enjoyed since 1987 and making the installation of new services illegal, (services were installed in 1986/7 with the exception of gas which was installed in 2016). Wessex Water share these concerns and the effect of registering the land as a TVG on their ability to meet their statutory duties as the appointed sewerage and water undertaker. Wales and West Utilities have requested that if the land is registered the presence of the gas pipe is recognised to ensure that it is not

damaged or disturbed and that access can be maintained for repair or maintenance.

14.77. Officers consulted with the relevant statutory undertakers, the following replies were received:

**1) Gigaclear Ultrafast Fibre Broadband equipment** – Cllr Adrian Andrews, Stanton St Quintin Parish Council confirms to the CRA (25.08.20): *“This email is to confirm the relocation of the broadband pots. This relocation will make it easier for both properties to connect to Gigaclear, rather than going across the green.”*

As confirmed in Gigaclear e-mail to Cllr Andrews 19.08.20: *“We understand that the application to move turn [sic] the public land in front of these properties into the Village Green is getting closer and as such we have asked our contractor to complete the works on this location inside the next 2-3 weeks, once the appropriate minor works permit has been agreed with the Local Authority. As discussed previously with myself, and our Project Delivery Lead you met on site Scott Jones, they will be taken to the furthest left and right most points of the Green close to the wall at the back. Hopefully this means they will not be visible or disrupt the soon to be Village Green once the reinstatement is completed.”*

**2) Wales and West Utilities** – *“The approximate position of the pipe is shown by a red line on the plan attached, it was laid in 2016. The area of land was found to be unregistered at the time and as it adjoined the public highway it was assumed to be highway verge. Notices were served in relation to work in a highway and the pipe was therefore legally laid. WWU has various rights under legislation related to gas and services, in particular the Gas Act 1986. WWU does not anticipate any issues with the pipe but should access be required for repair or*

*maintenance then WWU needs to make sure that access can be obtained, the area would be reinstated following completion. Should the application for Town or Village Green status be successful then WWU asks that the presence of a gas pipe is recognised to ensure that it is not damaged or disturbed through any activities that may take place on the land in the future.”*

- 3) Wessex Water** – *“Wessex Water would like to register its concerns as to the effect of Land as a town or village green on Wessex Water’s ability to meet its statutory duties as the appointed sewerage and water undertaker for its region, which includes this area of Wiltshire.*

*Our records show an existing foul sewer as well as water meters indicative of the presence of water supply pipes running beneath the Land...*

*Wessex Water enjoys powers conferred by section 159 and 168 of the Water Industry Act 1991 to enter and carry out works in land other than a street, subject to the service of prescribed periods of notice on the owner and occupier of that land. Such works relate to the laying of new pipes and accessories and to inspection, maintenance, adjustment, repair and alteration of existing pipes and accessories.*

*We understand that certain Victorian legislation – namely section 12 of the Inclosure Act 1857 and section 29 of the Commons Act 1876 – is brought into play by virtue of land being registered as a town or village green. These provisions create criminal offences as regards causing injury, interruption of use as a place of recreation or disturbance of soil of town or village greens.*

*Any designation of the Land as a town or village green has the potential to frustrate Wessex Water’s ability to maintain, extend and improve its assets...*

*If future maintenance and repair of Wessex Water’s underground pipes was in any way restricted (e.g. a blockage in a sewer beneath the Land*

*which could not be accessed and cleared), there could be significant impact on the immediate locality.*

*Consequently, Wessex Water is concerned that registration of the Land as a town or village green could have adverse impacts both on its ability to carry out its statutory duties and potentially on the residents of Lower Stanton St Quintin, on visitors to the area and to the wider environment. Whilst Wessex Water is not the owner of the Land, it does have assets beneath its surface with associated rights of access through the surface of the land. These rights are akin to easements and have, as a result of the exercise of statutory powers, been described as a “statutory easement”. As such, the condition contained within section 15(1) of the Commons Act 2006 as to indulgence “as of right” for the period of time set out may not be met. At any time the indulgence could have been halted by service of the requisite notice under sections 159 and 168 of the Water Industry Act 1991. Furthermore, the designation, going forward, as a town or village green seems to be at odds with the notion that Wessex Water enjoys rights of easement over the Land. In submitting these observations, we would like to make it clear that Wessex Water does not object to use of the Land for sports and pastimes. Wessex Water simply wishes to record the need for careful consideration of Wessex Water’s statutory obligations in deciding how to approach the future designation of the Land.”*

- 4) BT Openreach** – Plant at location but no representations made following service of notice of applications 2018/01 and 2019/01.

14.78. Officers find it unlikely that it would be necessary to remove and cut off the services to property if the land was successfully registered as a TVG. There is evidence to suggest the services being present since 1986/87, whilst local inhabitants have been using the land for the purposes of lawful sports and pastimes, the two uses have co-existed and there is no reason to remove



services. However, Mr Reeves is correct that on the face of it there appears to be no legal process under which the statutory undertakers will be able to seek consents to maintain and repair their equipment where it is an offence to disturb the soil other than for the improvement of the green, if the land is registered.

- 14.79. The T W Logistics Supreme Court case, T W Logistics Ltd (Appellant) v Essex County Council and other (Respondents) [2021] UKSC 4, is the first case which examines the scope of the rights of the parties involved, including the landowner, post registration as a TVG and scrutinises the effect that the Victorian statutes and other legislation might have in respect of the landowner. It confirms that the landowner doesn't lose all rights and what wasn't criminal before registration, does not become criminal by virtue of the registration/legislation, as long as the activities which they continue to do are consistent with the activities undertaken before registration.
- 14.80. The case concerned some 200m<sup>2</sup> of concrete, on or close to the waters edge in a working port at Allen's Quay, Mistley, owned by TW Logistics Ltd and registered as a TVG by Essex County Council. The central question of the appeal being whether the registration of the land would have the consequence that the continuation of the landowner's pre-existing commercial activities would be criminalised under the Victorian statutes. As well as Section 15 of the Commons Act 2006; the Victorian statutes and section 34 of the Road Traffic Regulation Act 1988 which made it an offence to drive a vehicle on to or upon common land, moorland or land of any other description not being land forming part of a road without lawful authority, the case also considered section 3(1) of the Health and Safety at Work Act 1974 and regulation 17(2) of the Workplace (Health, Safety and Welfare) Regulations 1992 (SI 1992/3004) as the health and safety legislation, breach of either provision being a criminal offence under section 33 of the 1974 Act. It was held that:

*“65. ...Registration of land as a TVG has the effect that the public acquire the general right to use it as such, which means the right to use it for any lawful sport or pastime (whether or not corresponding to the particular recreational uses to which it was put in the 20-year qualifying period, evidence of which gave rise to the right to have it registered as a TVG). However, the exercise of that right is subject to the “give and take” principle so that it is potentially misleading to think that there is a “one size fits all” principle. This means that the public must use their recreational right in a reasonable manner, having regard to the interests of the landowner (which may, or may not be commercial) as recognised in the practical arrangements which developed to allow for coexisting use of the land in question during the qualifying period. The standard of reasonableness is determined by what was required of local inhabitants to allow the landowner to carry on its regular activities around which the local inhabitants were accustomed to mould their recreational activities during the qualifying period...”*

*80. Interpreting the Victorian statutes with these features of the common law offence in mind, we consider that Lewison LJ was correct to hold that the activities of TWL would not be criminalised by the Victorian statutes where those activities are “warranted by law”. This underlying feature of the Victorian statutes is reflected in the words “without lawful authority” in section 12 of the 1857 Act, which qualify the offence created in so far as it applies in relation to the activity of wilfully leading or driving any cattle or animal on the TVG...*

*81. Interpreting the Victorian statutes in this way leads to a sensible and readily comprehensible result in the present case, which is consistent with the overall legislative scheme in relation to TVG’s. Here, as TWL has the legal right in the period after registration of the Land as a TVG to carry on with what it has been doing previously on the Land, its activities are “warranted by law”. TWL would therefore not be committing an offence under*

*the Victorian statutes in continuing its pre-existing commercial activities. The same is true in relation to the common law offence of public nuisance, which continues to be relevant in this context.*

*82. We also agree with Lewison LJ that, in so far as one is concerned under the Victorian statutes with an interference with the use and enjoyment of the TVG by the public (eg in section 12 of the Inclosure Act 1857: to “do any ... act ...to the interruption of the use or enjoyment thereof as a place of exercise and recreation”), the public’s use and enjoyment of the land is qualified by - or, one might say, the extent of that use or enjoyment is defined by - TWL’s pre-existing activities. Put another way still, the public’s statutory right is only to enjoy the land subject to the continuation of the owner’s pre-existing rights, as exercised to that extent. There is therefore no interference with the relevant use and enjoyment of the land by TWL continuing with its pre-existing activities...*

*87. ...the Victorian statutes do not have the effect of criminalising post-registration activities which TWL carried out on the Land before its registration as a TVG...*

*91 ...TWL’s activities have not been criminalised under the Victorian statutes in respect of their continuation after the registration of the Land as a TVG. Nor has registration had the effect that they are criminalised under any other legislative provision.”*

14.81. Parallels may be drawn in the Stanton St Quintin case and Officers would suggest, in applying the caselaw, that although the statutory undertakers are not landowners, where plant is already present under/in/over/across/along the land, the maintenance of these services is consistent with the presence of the plant prior to registration, this use of the land by the utility companies having co-existed alongside the use of the land by local inhabitants since

1986/87 and 2016 and is therefore not made a criminal offence or a nuisance under the Victorian Statutes. The use of the land by statutory undertakers for carrying on their undertakings, is warranted by law as referred to by Wales and West Utilities (the Gas Act 1986) and Wessex Water (section 159 and 168 of the Water Industry Act 1991) and use by local inhabitants has been shaped around the use by statutory undertakers, through the practice of “give and take” which has taken place and should continue.

14.82. **Trigger event – 2015 planning permission on adjacent site** - Mr Reeves quotes paragraph 1 of Schedule 1A to the Commons Act 2006 which sets out the trigger events, a valid trigger event is:

*“1. An application for planning permission, or permission in principle, in relation to the land which would be determined under section 70 of the 1990 Act is first published in accordance with requirements imposed by a development order by virtue of section 65(1) of that Act”.*

Mr Reeves claims that there is a relevant planning trigger event in place “in relation to the land” given the planning permission granted in 2015 for the remodelling of his property adjacent to the application land and which is currently underway: planning application no.15/08031/FUL – ■■■ Lower Stanton St Quintin – Conversion of bungalow to a house by adding a second storey and new roof, approved with conditions 7<sup>th</sup> October 2015. He claims that the key words here are *“in relation to the land”* and the Royal Wootton Bassett case states that the legislation should be read literally which implies a looser connection and the presence of the services under the application land is the link which makes the planning permission for the remodelling of ■■■ Lower Stanton St Quintin, a planning permission “in relation to the land”, as the development needs this land for the services.

14.83. The corresponding terminating events are as follows:

*“(a) The application is withdrawn.*

*(b) A decision to decline to determine the application is made under section 70A of the 1990 Act.*

*(c) In circumstances where planning permission or permission in principle is refused, all means of challenging the refusal in legal proceedings in the United Kingdom are exhausted and the decision is upheld.*

*(d) In circumstances where planning permission is granted, the period within which the development to which the permission related must be begun expires without the development having been begun.”*

None of the above apply to the 2015 planning application, so if it were a valid planning trigger event, there is no corresponding terminating event to revive the right to apply the register the land as TVG.

14.84. Officers do not consider that the planning application, still being undertaken on adjoining land, not on the application land itself, is a relevant planning trigger event and has not been identified by the Planning Authorities as such in the trigger event consultations. Even if this were related to the utilities located in the application land for the property subject of the planning application, most of the utilities pre-date the 2015 planning application, being present since 1986/87, with the exception of gas installed in 2016. However, if it were resolved to hold a public inquiry into the evidence, this legal point could be directed to the Inspector residing over the inquiry for a recommendation on this matter.

## **15. Overview and Scrutiny Engagement**

15.1. Overview and Scrutiny Engagement is not required in this case. The Council as the Registration Authority must follow the statutory procedures which are set out under “The Commons (Registration of Town or Village Greens)

(Interim Arrangements) (England) Regulations 2007 (2007 SI no.457)” and Defra Guidance, (see **Appendix 5**).

**16. Safeguarding Considerations**

16.1. Considerations relating to safeguarding anyone affected by the registration of the land as a town or village green under Section 15(1) and (2) of the Commons Act 2006, are not considerations permitted under the Act. The determination of the applications must be based upon the relevant evidence alone.

**17. Public Health Implications**

17.1. Considerations relating to the public health implications of the registration of the land as a town or village green under Sections 15(1) and (2) of the Commons Act 2006, are not considerations permitted within the Act. The determination of the applications must be based upon the relevant evidence alone.

**18. Corporate Procurement Implications**

18.1. Where land is registered as a Town or Village Green, there are a number of opportunities for expenditure to occur and these are considered at part 22 of this report.

**19. Environmental and Climate Change Impact of the Proposal**

19.1 Considerations relating to the environmental or climate change impact of the registration of the land as a town or village green under Sections 15(1) and (2) of the Commons Act 2006, are not considerations permitted within the

Act. The determination of the applications must be based upon the relevant evidence alone.

## **20. Equalities Impact of the Proposal**

- 20.1. Considerations relating to the equalities impact of the registration of the land as a town or village green under Sections 15(1) and (2) of the Commons Act 2006, are not considerations permitted within the Act. The determination of the applications must be based upon the relevant evidence alone.

## **21. Risk Assessment**

- 21.1. Wiltshire Council has duty, at common law, to process applications made under Section 15(1) of the Commons Act 2006 to register land as a town or village green, in a fair and reasonable manner, as set out in the case of R (on the application of Whitmey) v Commons Commissioners [2004] EWCA Civ 951, where Arden LJ at paragraphs 28 and 29, held that:

*“28...the registration authority is not empowered by statute to hold a hearing and make findings which are binding on the parties by a judicial process. There is no power to take evidence on oath or to require the disclosure of documents or to make orders as to costs (as the Commons Commissioners are able to do: section 17(4) of the 1965 Act). However, the registration authority must act reasonably. It also has power under section 111 of the Local Government Act 1972 to do acts which are calculated to facilitate, or are incidental or conducive, as to the discharge of their functions. This power would cover the institution of an inquiry in an appropriate case.*

*29. In order to act reasonably, the registration authority must bear in mind that its decision carries legal consequences. If it accepts the application, amendment of the register may have a significant effect on the owner of the*

*land or indeed any person who might be held to have caused damage to a green and thus to have incurred a penalty under section 12 of the Inclosure Act 1857). (There may be other similar provisions imposing liability to offences or penalties). Likewise, if it wrongly rejects the application, the rights of the applicant will not receive the protection intended by Parliament. In cases where it is clear to the registration authority that the application or any objection to it has no substance, the course it should take will be plain. If however, that is not the case, the authority may well properly decide, pursuant to its powers under section 111 of the 1972 Act, to hold an inquiry...”*

At paragraph 66 Waller L J agreed:

*“66. I make these points because the registration authority has to consider both the interest of the landowner and the possible interest of the local inhabitants. That means that there should not be any presumption in favour of registration or any presumption against registration. It will mean that, in any case where there is a serious dispute, a registration authority will invariably need to appoint an independent expert to hold a public inquiry, and find the requisite facts, in order to obtain the proper advice before registration.”*

- 21.2. If the Council fails to pursue its duty it is liable to complaints being submitted through the Council’s complaints procedure, potentially leading to complaints to the Local Government Ombudsman. Ultimately, a request for judicial review could be made with significant costs against the Council if it is found to have acted unlawfully.
  
- 21.3. In the High Court decision in the case of *Somerford Parish Council v Cheshire East Borough Council (1) and Richborough Estates (2) [2016] EWHC 619 (Admin)*, the High Court quashed the local Borough Council’s decision not to register land as a new town or village green on the basis of



procedural error. The case highlights a number of practical points to note regarding privilege, equity and the importance of the Public Inquiry in determining an application to register land as a town or village green. The court's decision also reinforces the findings in the Whitmey case, (see paragraph 21.1) and the need for Registration Authorities to hold a non-statutory Public Inquiry where there are sufficient disputes over factual issues.

## **22. Financial Implications**

- 22.1. Presently there is no mechanism by which a CRA may charge the applicant for processing an application to register land as a town or village green and all costs are borne by the Council.
- 22.2. It is possible for the CRA to hold a non-statutory public inquiry into the evidence, appointing an independent Inspector to produce a report and recommendation to the determining authority. There is no clear guidance available to authorities regarding when it is appropriate to hold an inquiry, however, it is the authority's duty, at common law, to determine the application in a fair and reasonable manner and its decision is open to legal challenge, therefore a public inquiry should be held in cases where there is serious dispute of fact, or the matter is of great local interest. The responsibilities of the council in this regard were recognised by the justices in the Court of Appeal in the case of R (on the application of Whitmey) v The Commons Commissioners [2004] EWCA Civ. 951, see paragraph 21.1. above. Even where a non-statutory public inquiry is held, there is no obligation placed upon the authority to follow the recommendation made.
- 22.3. The cost of a 3 or 4 day non-statutory public inquiry is estimated to be in the region of £12,000 - £15,000 plus VAT. In the Stanton St Quintin case it is considered that appointing an independent Inspector to hold a non-statutory

public inquiry in order to hear from the witnesses and consider the evidence, producing a recommendation to the CRA, would assist the Council, as the CRA, in its determination of the applications.

### **23. Legal Implications**

- 23.1. If the land is successfully registered as a TVG, the landowner is able to challenge the CRA's decision by appeal to the High Court under Section 14(1)(b) of the Commons Registration Act 1965, which applies where Section (1) of the Commons Act 2006 is not yet in place, i.e. outside the pilot areas (Wiltshire is not a pilot area). Importantly an appeal under Section 14(1)(b) of the 1965 Act is not just an appeal, but enables the High Court to hold a complete re-hearing of the application and the facts of law. There is no time limit in bringing these proceedings following the registration of the land, it may be years after the decision and could lead to the de-registration of the land.
- 23.2. Alternatively, where the CRA determines not to register the land as a town or village green, there is no right of appeal for the applicant, however, the decision of the Council may be challenged through judicial review, for which permission of the court is required and application must be made within three months of the decision. Likewise, judicial review proceedings are also open to a landowner where the land is registered as a town or village green.

### **24. Options Considered**

- 24.1. The options available to Wiltshire Council as the CRA, are as follows:
- (i) Based on the available evidence, to register the land as a TVG where it is considered that the legal tests for the registration, as set out under

Sections 15(1) and (2) of the Commons Act 2006, have been met in full over the whole of the application land, or

- (ii) Based on the available evidence, to register the land as a TVG in part, where it is considered that the legal tests for the registration of the land, as set out under Sections 15(1) and (2) of the Commons Act 2006, have been met in full over only part of the application land, or
- (iii) Based on the available evidence, to refuse the applications where it is considered that the legal tests for the registration of the land as a TVG, as set out under Sections 15(1) and (2) of the Commons Act 2006, have not been met in full, or
- (iv) Where, after consideration of the available evidence, it has not been possible for the CRA to determine the application, to hold a non-statutory public inquiry, appointing an independent Inspector to preside over the inquiry and examine the evidence, including the oral evidence of witnesses, in order to provide a report and recommendation to assist to Council, as the CRA, in its determination of the application.

## **25. Reason for Proposal**

25.1. In the Stanton St Quintin case, the evidence of whether a significant number of inhabitants of any locality, or of any neighbourhood within a locality, have indulged as of right in lawful sports and pastimes on the land for a period of least 20 years, with use continuing at the time of application, is in dispute.

Matters of particular conflict within the evidence include:

- (i) use by a significant number of the inhabitants of any locality, or of any neighbourhood within a locality,
- (ii) user as of right,

(iii) the exercise of lawful sports and pastimes on the land for a period of at least 20 years.

25.2. Additionally, the Objectors raise the following legal points:

(1) Is the land subject to a planning trigger event which would extinguish the right to apply to register the land as a TVG?

(a) by virtue of planning permission granted for the re-development of ■ Lower Stanton St Quintin (15/08031/FUL - 2015) and the required services present being “in relation to” the application land, and/or

(b) the Planning Inspectorate trigger event consultation reply dated 17<sup>th</sup> May 2019, regarding a development plan.

(2) The effect of registration of the land as a TVG upon existing services for the neighbouring property, located in/on the land.

25.3. It is possible to seek a legal opinion regarding these points before proceeding to a non-statutory public inquiry at a cost to the CRA, however, where the evidence regarding use of the land by local inhabitants for local sports and pastimes for a period of 20 years or more, as of right, is disputed, it may be preferable to proceed to hold a non-statutory public inquiry and seek the Inspector’s opinion on these legal points.

25.4. It is the duty of the CRA, at common law, to determine the applications in a fair and reasonable manner. The CRA has received objections to the registration of the land as a TVG which have not been resolved. A non-statutory public inquiry is therefore considered necessary in this case because the factual evidence is strongly disputed. It is open to the CRA to appoint an independent Inspector to preside over the inquiry and produce a report with recommendations to the determining authority. Although it is open to the CRA to later reject the Inspector’s report and recommendation, it can only lawfully do so if the CRA finds that the Inspector has made a

significant error of fact or law. If the Inspector's recommendation is rejected, the CRA must give legally valid reasons, supported by evidence of the error of fact or law, otherwise the CRA's decision would be open to legal challenge.

## **26. Proposal**

26.1. As there is a significant dispute regarding the evidence and the legal points raised by the Objectors regarding the planning trigger events and the presence of services within the application land, to propose that an independent Inspector be appointed on behalf of the CRA to preside over a non-statutory public inquiry at which the evidence of all parties will be heard and tested through cross-examination and to address the legal points raised by the parties, in order that a recommendation can be made on the applications to the CRA, to assist the CRA in its determination of the applications to register land off Seagry Road, Lower Stanton St Quintin, as a TVG, as soon as is reasonably practicable.

Janice Green - Senior Definitive Map Officer, Wiltshire Council

Date of Report: 25<sup>th</sup> May 2022

### **Appendices:**

**Appendix 1** - Location Plan

**Appendix 2** – Application Plans

**Appendix 3** – Photographs of Application Land

**Appendix 4** – Aerial Photographs

**Appendix 5** – Commons Act 2006 – Section 15

The Commons (Registration of Town or Village Greens) (Interim Arrangements) (England) Regulations 2007

Commons Act 2006 – Sections 15(1) and (2) – Applications to Register Land as a Town or Village Green – Land off Seagry Road, Lower Stanton St Quintin

DEFRA Guidance to Commons Registration Authorities in England on  
Sections 15A to 15C of the Commons Act 2006 – December 2016

**Appendix 6** – Objections (8)

**Appendix 7** – Other Representations (23)

**Appendix 8** – Supplementary Information provided by Mr Reeves for Planning  
Application no.18/01108/FUL (Extract) and Objections from Mr M  
Reeves prior to Service of Form 45

**Appendix 9** – Applicants Revised Comments on the Objections

**Appendix 10** – Objectors Comments on Representations

**Appendix 11** – Applicants Additional Evidence (April 2021)

**Appendix 12** – Trigger/Terminating Event Consultation Replies

**Appendix 13** – Documents Relied Upon

**Appendix 14** – Summary of Witness Evidence

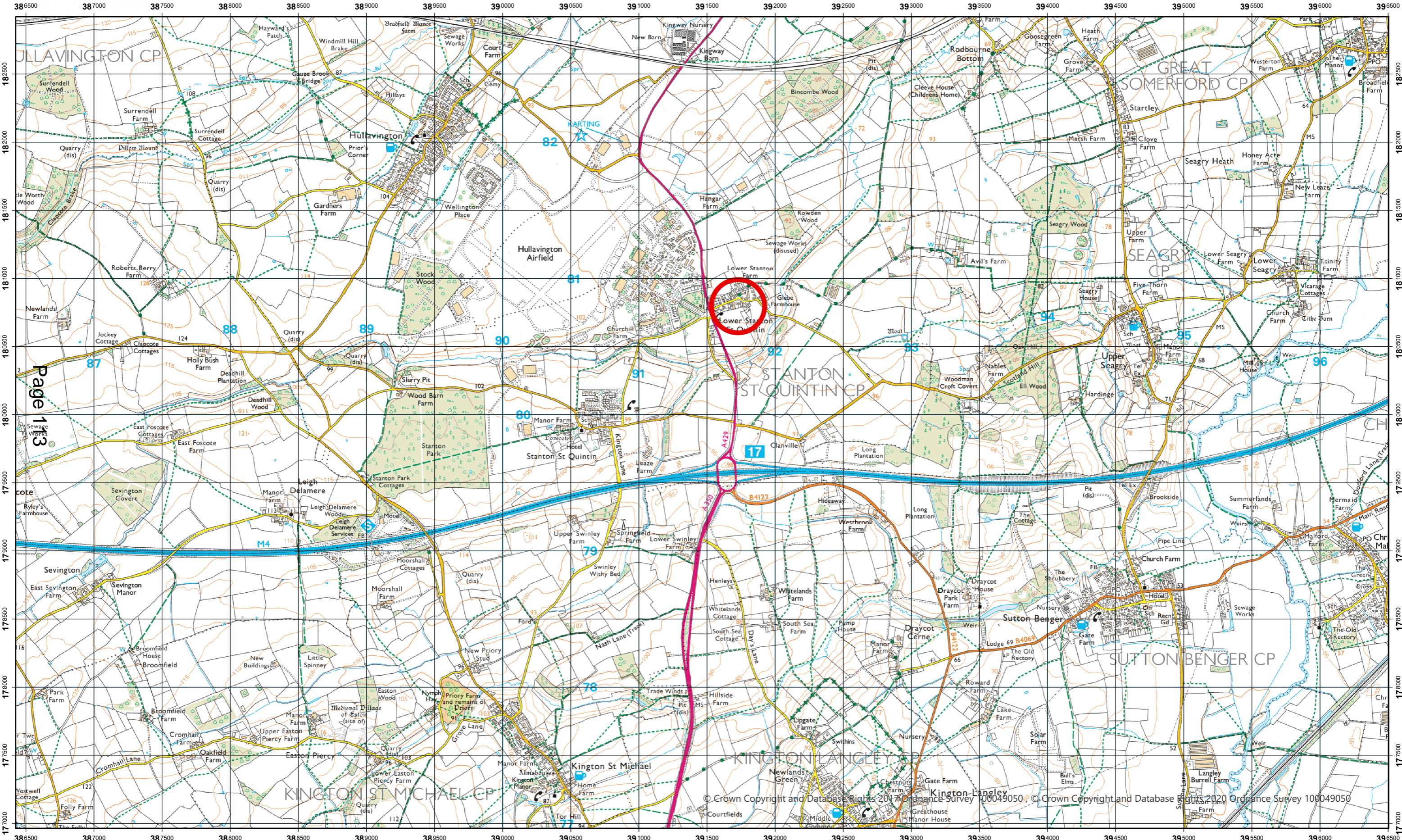
**Appendix 15** – Summary of Objectors Evidence

**Appendix 16** – Witness Evidence Map

**Appendix 17** – Photographs of Events on the Land

**Appendix 18** – Officers Report Regarding Extent of Highway - 2019





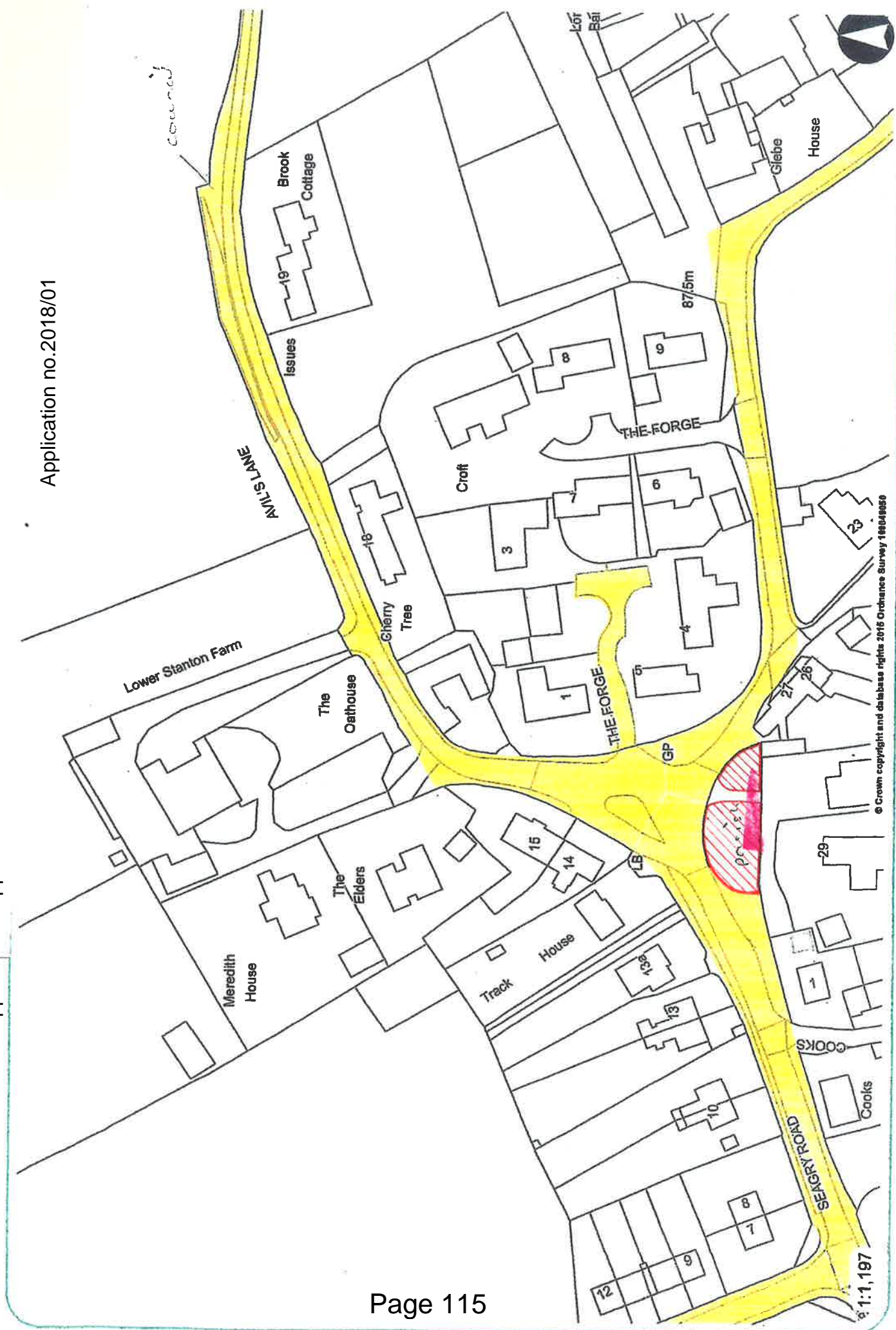
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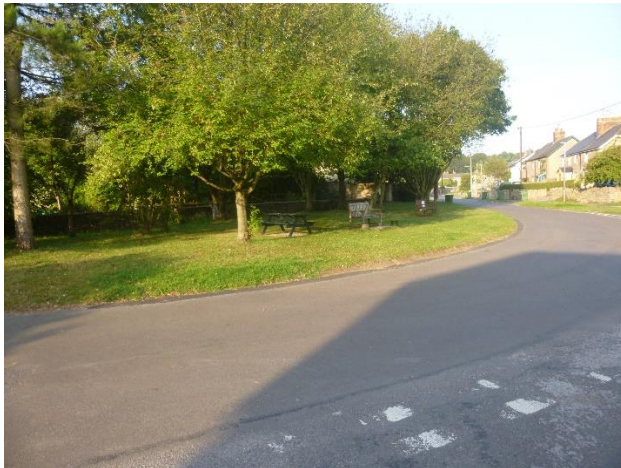




**Common Act 2006 – Sections 15(1) and (2)**

**Applications to Register Land as Town or Village Green – Land off Seagry Road, Lower Stanton St Quintin**

**Appendix 3 – Photographs of Application Land**



The application land viewed looking south from Seagry Road



The application land looking east



The “Wee Free Library” is located at the eastern end of the land



The application land looking east



The application land looking east





Stanton St Quintin Parish Council notice board is located on the central part of the land adjacent to Seagry Road



There are 2 memorial benches located on the land, a memorial tree, a table with benches as well as the lending library and the parish notice board

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**Commons Act 2006 – Sections 15(1) and (2)**

**Application to Register Land as Town or Village Green – Land off Seagry Road, Lower Stanton St Quintin**

**Appendix 5 – Commons Act 2006 – Section 15**

**15. Registration of greens**

- (1) *Any person may apply to the commons registration authority to register land to which this Part applies as a town or village green in a case where subsection (2), (3) or (4) applies.*
- (2) *This subsection applies where-*
- (a) *a significant number of the inhabitants of any locality, or of any neighbourhood within a locality, have indulged as of right in lawful sports and pastimes on the land for a period of at least 20 years; and*
  - (b) *they continue to do so at the time of application.*
- (3) *This subsection applies where-*
- (a) *a significant number of the inhabitants of any locality, or of any neighbourhood within a locality, indulged as of right in lawful sports and pastime on the land for a period of at least 20 years;*
  - (b) *they ceased to do so before the time of the application but after the commencement of this section; and*
  - (c) *the application is made within the relevant period.*
- (3A) *In subsection (3), “the relevant period” means-*
- (a) *in the case of an application relating to land in England, the period of one year beginning with the cessation mentioned in subsection (3)(b);*
  - (b) *in the case of an application relating to land in Wales, the period of two years beginning with that cessation.*
- (4) *This subsection applies (subject to subsection (5)) where-*
- (a) *a significant number of the inhabitants of any locality, or of any neighbourhood within a locality, indulged as of right in lawful sports and pastimes on the land for a period of at least 20 years;*

- (b) the ceased to do so before the commencement of this section; and*
  - (c) the application is made within the period of five years beginning with the cessation referred to in paragraph (b).*
- (5) Subsection (4) does not apply in relation to any land where-*
  - (a) planning permission was granted before 23<sup>rd</sup> June 2006 in respect of the land;*
  - (b) construction works were commenced before that date in accordance with that planning permission on the land or any other land in respect of which the permission was granted; and*
  - (c) the land-*
    - (i) has by reason of any works carried out in accordance with that planning permission become permanently unusable by members of the public for the purposes of lawful sports and pastimes; or*
    - (ii) will by reason of any works proposed to be carried out in accordance with that planning permission become permanently unusable by members of the public for those purposes.*
- (6) In determining the period of 20 years referred to in subsections (2)(a), (3)(a) and (4)(a), there is to be disregarded any period during which access to the land was prohibited to members of the public by reason of any enactment.*
- (7) For the purposes of subsection (2)(b) in a case where the condition in subsection (2)(a) is satisfied-*
  - (a) where persons indulge as of right in lawful sports and pastimes immediately before access to the land is prohibited as specified in subsection (6), those persons are to be regarded as continuing so to indulge; and*
  - (b) where permission is granted in respect of use of the land for the purposes of lawful sports and pastimes, the permission is to be disregarded in determining whether persons continue to indulge in lawful sports and pastimes on the land “as of right”.*
- (8) The owner of any land may apply to the commons registration authority to register the land as a town or village green.*
- (9) An application under subsection (8) may only be made with the consent of any relevant leaseholder of, and the proprietor or any relevant charge over, the land.*

(10) *In subsection (9)-*

*“relevant charge” means-*

(a) *in relation to land which is registered in the register of title, a registered charge within the meaning of the Land Registration Act 2002 (c. 9);*

(b) *in relation to land which is not so registered-*

*(i) a charge registered under the Land Charges Act 1972 (c. 61); or*

*(ii) a legal mortgage, within the meaning of the Law of Property Act 1925 (c. 20), which is not registered under the Land Charges Act 1972;*

*“relevant leaseholder” means a leaseholder under a lease for a term of more than seven years from the date on which the lease was granted.*



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STATUTORY INSTRUMENTS

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**2007 No. 457**

**COMMONS, ENGLAND**

**The Commons (Registration of Town or Village Greens)  
(Interim Arrangements) (England) Regulations 2007**

<i>Made</i>	- - - -	<i>17th February 2007</i>
<i>Laid before Parliament</i>		<i>26th February 2007</i>
<i>Coming into force</i>	- -	<i>6th April 2007</i>

The Secretary of State, in exercise of the powers conferred upon him by section 24(1) and (4) and section 59(1) of the Commons Act 2006<sup>(1)</sup>, makes the following Regulations—

**Citation, commencement and application**

1.—(1) These Regulations may be cited as the Commons (Registration of Town or Village Greens) (Interim Arrangements) (England) Regulations 2007 and shall come into force on 6th April 2007.

(2) These Regulations apply to England.

**Scope and Interpretation**

2.—(1) These Regulations apply to applications made to a registration authority under section 15(1) or (8) of the 2006 Act to register land as a town or village green.

(2) In these Regulations—

“the 2006 Act” means the Commons Act 2006;

“concerned authority”, in relation to an application to a registration authority, means a local authority (other than the registration authority) in whose area any part of the land affected by the application lies and “local authority” means a county council, a district council, a London borough council or a parish council;

“form 44” and “form 45” mean the forms so numbered in the Schedule to these Regulations, or those forms with any variations that the circumstances may require;

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(1) 2006 c.26.

“the General Regulations” means the Commons Registration (General) Regulations 1966(2), and “General Regulation” followed by a number means the regulation so numbered in the General Regulations;

“registration authority” means a commons registration authority.

(3) Any requirement that a registration authority must send anything to “the applicant” shall, where a solicitor has been instructed for the purposes of an application, be deemed to be satisfied by sending it to the solicitor, or, where two or more persons have jointly made an application and no solicitor has been instructed, to that one of them whose name appears first in the application form.

(4) A requirement upon a registration authority to stamp any document is a requirement to cause an impression of its official stamp as described in General Regulation 3 to be affixed to it, which must bear the date mentioned in the requirement or (where no date is mentioned) the date when it was affixed.

### **Application to register land as a town or village green**

**3.—**(1) An application for the registration of land as a town or village green must be made in accordance with these Regulations.

(2) An application must—

- (a) be made in form 44;
- (b) be signed by every applicant who is an individual, and by the secretary or some other duly authorised officer of every applicant which is a body corporate or unincorporate;
- (c) be accompanied by, or by a copy or sufficient abstract of, every document relating to the matter which the applicant has in his possession or under his control, or to which he has a right to production;
- (d) be supported—
  - (i) by a statutory declaration as set out in form 44, with such adaptations as the case may require; and
  - (ii) by such further evidence as, at any time before finally disposing of the application, the registration authority may reasonably require.

(3) A statutory declaration in support of an application must be made by—

- (a) the applicant, or one of the applicants if there is more than one;
- (b) the person who signed the application on behalf of an applicant which is a body corporate or unincorporate; or
- (c) a solicitor acting on behalf of the applicant.

### **Procedure on receipt of applications**

**4.—**(1) On receiving an application, the registration authority must—

- (a) allot a distinguishing number to the application and mark it with that number; and
- (b) stamp the application form indicating the date when it was received.

(2) The registration authority must send the applicant a receipt for his application containing a statement of the number allotted to it, and Form 6, if used for that purpose, shall be sufficient.

(3) In this regulation, “Form 6” means the form so numbered in the General Regulations.

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(2) S.I. 1966/1471 as amended by S.I. 1968/658, 1968/989, 1969/1843, 1982/210, 1989/2167, 1990/311, 1994/2567 and 2003/2260 and modified by S.I. 1991/2684.

### **Procedure in relation to applications to which section 15(1) of the 2006 Act applies**

5.—(1) Where an application is made under section 15(1) of the 2006 Act to register land as a town or village green, the registration authority must, subject to paragraph (4), on receipt of an application—

- (a) send by post a notice in form 45 to every person (other than the applicant) whom the registration authority has reason to believe (whether from information supplied by the applicant or otherwise) to be an owner, lessee, tenant or occupier of any part of the land affected by the application, or to be likely to wish to object to the application;
- (b) publish in the concerned area, and display, the notice described in sub#paragraph (a), and send the notice and a copy of the application to every concerned authority; and
- (c) affix the notice to some conspicuous object on any part of the land which is open, unenclosed and unoccupied, unless it appears to the registration authority that such a course would not be reasonably practicable.

(2) The date to be inserted in a notice under paragraph (1)(a) by which statements in objection to an application must be submitted to the registration authority must be such as to allow an interval of not less than six weeks from the latest of the following—

- (a) the date on which the notice may reasonably be expected to be delivered in the ordinary course of post to the persons to whom it is sent under paragraph (1)(a); or
- (b) the date on which the notice is published and displayed by the registration authority.

(3) Every concerned authority receiving under this regulation a notice and a copy of an application must—

- (a) immediately display copies of the notice; and
- (b) keep the copy of the application available for public inspection at all reasonable times until informed by the registration authority of the disposal of the application.

(4) Where an application appears to the registration authority after preliminary consideration not to be duly made, the authority may reject it without complying with paragraph (1), but where it appears to the authority that any action by the applicant might put the application in order, the authority must not reject the application under this paragraph without first giving the applicant a reasonable opportunity of taking that action.

(5) In this regulation, “concerned area” means an area including the area of every concerned authority.

(6) A requirement upon a registration authority to publish a notice in any area is a requirement to cause the document to be published in such one or more newspapers circulating in that area as appears to the authority sufficient to secure adequate publicity for it.

(7) A requirement to display a notice or copies thereof is a requirement to treat it, for the purposes of section 232 of the Local Government Act 1972(3) (public notices), as if it were a public notice within the meaning of that section.

### **Consideration of objections**

6.—(1) Where an application is made under section 15(1) of the 2006 Act to register land as a town or village green, as soon as possible after the date by which statements in objection to an application have been required to be submitted, the registration authority must proceed to the further consideration of the application, and the consideration of statements (if any) in objection to that application, in accordance with the following provisions of this regulation.

(2) The registration authority—

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(3) 1972 c.70.



- (a) must consider every written statement in objection to an application which it receives before the date on which it proceeds to the further consideration of the application under paragraph (1); and
  - (b) may consider any such statement which it receives on or after that date and before the authority finally disposes of the application.
- (3) The registration authority must send the applicant a copy of every statement which it is required under paragraph (2) to consider, and of every statement which it is permitted to consider and intends to consider.
- (4) The registration authority must not reject the application without giving the applicant a reasonable opportunity of dealing with—
- (a) the matters contained in any statement of which copies are sent to him under paragraph (3); and
  - (b) any other matter in relation to the application which appears to the authority to afford possible grounds for rejecting the application.

#### **Procedure in relation to applications to which section 15(8) of the 2006 Act applies**

7. Where an application is made under section 15(8) of the 2006 Act to register land as a town or village green, the registration authority must grant it provided it is satisfied that—
- (a) the applicant is the owner of the land; and
  - (b) any consents which are required by section 15(9) of the 2006 Act have been obtained.

#### **Method of registration**

8.—(1) Where the registration authority grants an application, it must make the necessary registration, following as closely as possible Model Entry No. 4 with such variations and adaptations as the circumstances may require, but with the substitution, for the words “(Registration provisional.)”, of the words “(Registration under section 15 of the Commons Act 2006.)”.

(2) The provisions of paragraphs (2) to (6) of General Regulation 10 apply to registrations under these Regulations as they apply to registrations made pursuant to the General Regulations with the following modifications—

- (a) in paragraph (2), after the words “Form 2, and”, insert “, to the extent required,”; and
- (b) in paragraph (5), the words “for the Register of Common Land shall bear the prefix CL, and every such number” shall not apply.

(3) The provisions of regulation 9 of the Commons Registration (Objections and Maps) Regulations 1968(4) (changes as to provisional register maps) apply for the purposes of section 15 of the 2006 Act as they apply for the purposes of section 4 of the Commons Registration Act 1965(5) with the following modifications—

- (a) paragraphs (1), (2) and (3) shall not apply;
- (b) “new map” means any map taken into use for the purpose of this regulation;
- (c) in paragraph (4) for the words “six inches to one mile”, substitute “1:2,500”.

(4) Each new map taken into use must be stamped by, and signed on behalf of, the registration authority, and shall then form part of the register.

(5) Where the land which is the subject of an application is already registered as common land in the register of common land, the registration authority must, in addition—

(4) [S.I. 1968/989](#) as amended by [S.I 1969/1843](#), [1970/384](#) and [1990/311](#) .

(5) [1965 c.64](#).

- (a) where rights of common are entered in that register, make a corresponding entry in the register of town or village greens; and
  - (b) modify the entry in the register of common land so that the land which is the subject of the application ceases to be registered as common land.
- (6) Where a registration authority has made a registration under this regulation, it must file the application form and any plan and return all other documents which accompanied the application to the applicant.
- (7) In this regulation—
- (a) “Model Entry No. 4” means the specimen entry so numbered in Part I of Schedule 2 to the General Regulations; and
  - (b) “register of common land” and “register of town or village greens” refer to the registers maintained by a registration authority pursuant to section 3 of the 1965 Act<sup>(6)</sup>.

### **Information about disposal of applications, and procedure on rejection**

9.—(1) When the registration authority has disposed of an application and, if it has granted the application, has made the necessary registration, it must give written notice of the fact to—

- (a) every concerned authority,
- (b) the applicant, and
- (c) every person whose address is known to the registration authority and who objected to the application.

(2) Such notice must include, where the registration authority has granted the application, details of the registration, and, where it has rejected the application, the reasons for the rejection.

(3) A person must be taken to have objected to an application for the purposes of paragraph (1) if he submitted a statement in objection to the application which the registration authority was required to consider under paragraph (2) of regulation 6 or which it did consider under that paragraph.

(4) Where the registration authority has rejected an application, it must return the application form and all accompanying documents to the applicant.

### **Land descriptions**

10.—(1) This Regulation applies to the description of any land which is the subject of an application for registration as a town or village green.

- (2) Land must be described for the purposes of any application—
  - (a) by an Ordnance map accompanying the application and referred to in that application; or
  - (b) in the case of land already registered as common land, if the application relates to the whole of the land in a register unit, by a reference to that register unit.
- (3) Any Ordnance map accompanying an application must—
  - (a) be on a scale of not less than 1:2,500;
  - (b) show the land to be described by means of distinctive colouring; and
  - (c) be marked as an exhibit to the statutory declaration in support of the application.
- (4) In this regulation, “register unit” has the same meaning as in the General Regulations.

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(6) By article 4 of the [Commons Act 2006 \(Commencement No. 2, Transitional Provisions and Savings\) \(England\) Order 2007/456](#), a green complying with the criteria for registration under section 15 of the 2006 Act is to be entered in the register maintained by a registration authority pursuant to the 1965 Act.

17th February 2007

*Barry Gardiner*  
Parliamentary Under Secretary of State  
Department for Environment, Food and Rural  
Affairs

SCHEDULE

Regulation 2(1)

Forms

<b>FORM 44</b>	
<b>Commons Act 2006: Section 15</b>	
<b>Application for the registration of land as a Town or Village Green</b>	
<p>Official stamp of registration authority indicating valid date of receipt:</p> <div style="border: 1px solid black; height: 80px; width: 100%;"></div>	<p>Application number: <input style="width: 100%;" type="text"/></p> <p>Register unit No(s): <input style="width: 100%;" type="text"/></p> <p>VG number allocated at registration:</p> <div style="border: 1px solid black; height: 40px; width: 100%;"></div> <p><small>(CRA to complete only if application is successful)</small></p>
<p><b>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:</b></p> <ul style="list-style-type: none"><li>• All applicants should complete questions 1-6 and 10-11.</li><li>• Applicants applying for registration under section 15(1) of the 2006 Act should, in addition, complete questions 7-8 as appropriate. 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.</li><li>• Applicants applying for voluntary registration under section 15(8) should, in addition, complete question 9.</li></ul>	
<p><b>Note 1</b> <i>Insert name of registration authority.</i></p>	<p><b>1. Registration Authority</b></p> <p>To the</p> <div style="border: 1px solid black; height: 60px; width: 100%;"></div>

<p><b>Note 2</b> 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.</p>	<p><b>2. Name and address of the applicant</b></p>
<p>If question 3 is not completed all correspondence and notices will be sent to the first named applicant.</p>	<p>Name: <input type="text"/></p>
	<p>Full postal address: <input type="text"/>  <input type="text"/> Postcode</p>
	<p>Telephone number: <input type="text"/> (incl. national dialling code)</p>
	<p>Fax number: <input type="text"/> (incl. national dialling code)</p>
	<p>E-mail address: <input type="text"/></p>
<p><b>Note 3</b> 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.</p>	<p><b>3. Name and address of solicitor, if any</b></p>
	<p>Name: <input type="text"/></p>
	<p>Firm: <input type="text"/></p>
	<p>Full postal address: <input type="text"/>  <input type="text"/> Post code</p>
	<p>Telephone number: <input type="text"/> (incl. national dialling code)</p>
	<p>Fax number: <input type="text"/> (incl. national dialling code)</p>
	<p>E-mail address: <input type="text"/></p>

<p><b>Note 4</b> <i>For further advice on the criteria and qualifying dates for registration please see section 4 of the Guidance Notes.</i></p>	<p><b>4. Basis of application for registration and qualifying criteria</b></p>
	<p>If you are the landowner and are seeking voluntarily to register your land please tick this box and move to question 5.</p>
	<p>Application made under <b>section 15(8)</b>: <input type="checkbox"/></p>
	<p>If the application is made under <b>section 15(1)</b> of the Act, please <b>tick one</b> of the following boxes to indicate which particular subsection and qualifying criterion applies to the case.</p>
	<p><b>Section 15(2)</b> applies: <input type="checkbox"/></p>
<p><i>* 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.</i></p>	<p><b>Section 15(3)</b> applies: <input type="checkbox"/></p>
	<p><b>Section 15(4)</b> applies: <input type="checkbox"/></p>
	<p>If <b>section 15(3) or (4)</b> applies please indicate the date on which you consider that use as of right ended.</p>
	<div style="border: 1px solid black; height: 35px;"></div>
	<p>If <b>section 15(6)*</b> applies please indicate the period of statutory closure (if any) which needs to be disregarded.</p>
	<div style="border: 1px solid black; height: 64px;"></div>

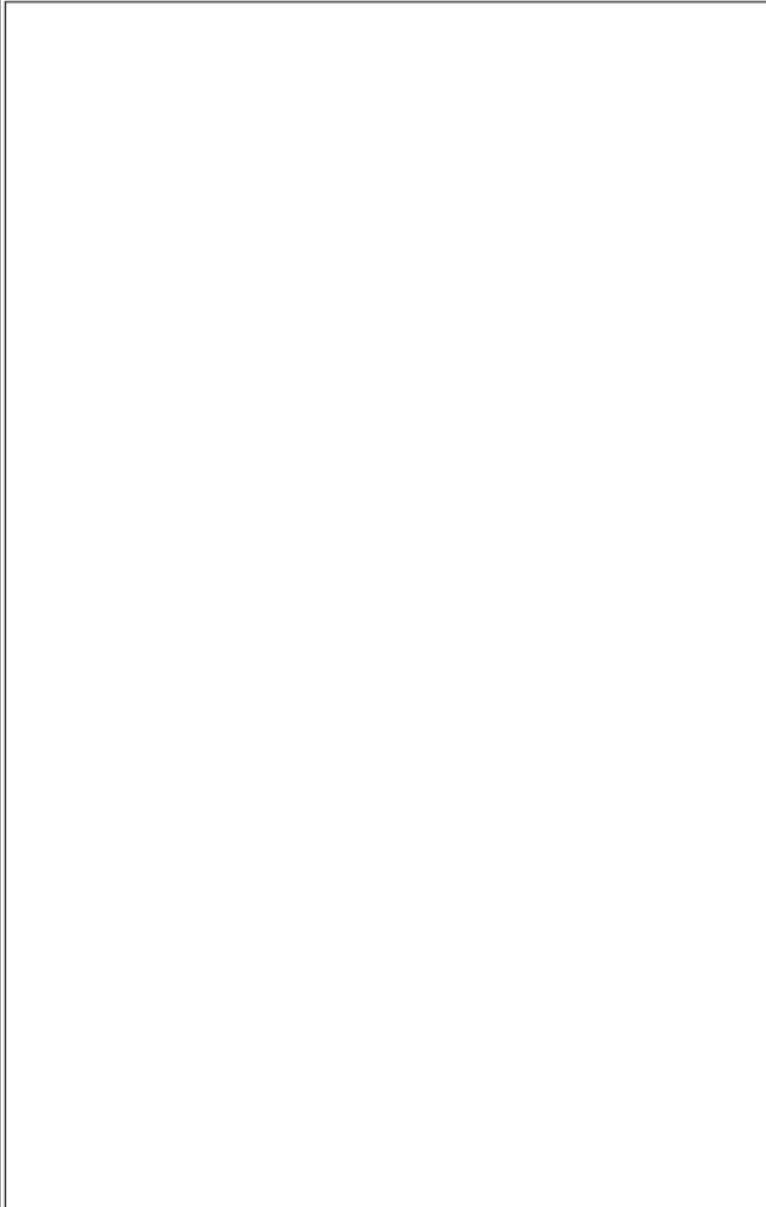
<p><b>Note 5</b> <i>The accompanying map must be at a scale of at least 1:2,500 and show the land by distinctive colouring to enable it to be clearly identified.</i></p> <p><i>* Only complete if the land is already registered as common land.</i></p> <p><b>Note 6</b> <i>It may be possible to indicate 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.</i></p>	<p><b>5. Description and particulars of the area of land in respect of which application for registration is made</b></p> <p>Name by which usually known:</p> <div style="border: 1px solid black; height: 40px; width: 100%;"></div> <p>Location:</p> <div style="border: 1px solid black; height: 40px; width: 100%;"></div> <p>Shown in colour on the map which is marked and attached to the statutory declaration.</p> <p>Common land register unit number (if relevant) * <input style="width: 100px;" type="text"/></p>
	<p><b>6. Locality or neighbourhood within a locality in respect of which the application is made</b></p> <p>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:</p> <div style="border: 1px solid black; height: 100px; width: 100%;"></div> <p>Tick here if map attached: <input type="checkbox"/></p>

**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).*





<p><b>Note 8</b> Please use a separate sheet if necessary.</p>	<p><b>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</b></p>
<p>Where relevant include reference to title numbers in the register of title held by the Land Registry.</p> <p>If no one has been identified in this section you should write "none"</p> <p>This information is not needed if a landowner is applying to register the land as a green under section 15(8).</p>	<div style="border: 1px solid black; height: 135px;"></div>
<p><b>Note 9</b> List all such declarations that accompany the application. If none is required, write "none".</p> <p>This information is not needed if an application is being made to register the land as a green under section 15(1).</p>	<p><b>9. Voluntary registration – declarations of consent from 'relevant leaseholder', and of the proprietor of any 'relevant charge' over the land</b></p>
<p><b>Note 10</b> List all supporting documents and maps accompanying the application. If none, write "none"</p> <p>Please use a separate sheet if necessary.</p>	<div style="border: 1px solid black; height: 125px;"></div>
	<p><b>10. Supporting documentation</b></p>
	<div style="border: 1px solid black; height: 150px;"></div>

<p><b>Note 11</b> <i>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.</i></p> <p><b>Note 12</b> <i>The application must be signed by each individual applicant, or by the authorised officer of an applicant which is a body corporate or unincorporate.</i></p>	<p><b>11. Any other information relating to the application</b></p> <div style="border: 1px solid black; height: 200px; width: 100%;"></div> <p>Date: <input style="width: 100%;" type="text"/></p> <p>Signatures: <div style="border: 1px solid black; height: 60px; width: 100%;"></div></p>
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**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.*

<sup>1</sup> *Insert full name (and address if not given in the application form).*

I.....,<sup>1</sup> solemnly and sincerely declare as follows:—

<sup>2</sup> *Delete and adapt as necessary.*

1.<sup>2</sup> I am ((the person (one of the persons) who (has) (have) signed the foregoing application)) ((the solicitor to (the applicant) (<sup>3</sup> one of the applicants)).

<sup>3</sup> *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.

<sup>4</sup> *Complete only in the case of voluntary registration (strike through if this is not relevant)*

4.<sup>4</sup> 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/*

*Continued*

been received and are exhibited with this declaration; or  
(iii) where no such consents are required, a declaration to that effect.

And I make this solemn declaration, conscientiously believing the  
same to be true, and by virtue of the Statutory Declarations Act 1835.

Declared by the said )  
 )  
 )  
 )  
 at )  
 ) *Signature of Declarant*  
 )  
 )  
 this day of )

Before me \*

Signature:

Address:

Qualification:

---

**\* The statutory declaration must be made before a justice of the peace, practising solicitor, commissioner for oaths or notary public.**

**Signature of the statutory declaration is a sworn statement of truth in presenting the application and accompanying evidence.**

**REMINDER TO OFFICER TAKING DECLARATION:**

*Please initial all alterations and mark any map as an exhibit*

**FORM 45**

**COMMONS ACT 2006 — SECTION 15(1)**

**Notice of an application for the registration of land as a Town or Village Green**

To every reputed owner, lessee, tenant or occupier of any part of the land described below, and to all others whom it may concern.

Application has been made to the *(name and address of the registration authority)* by *(name and address of applicant)* under section 15(1) of the Commons Act 2006 and in accordance with the Commons (Registration of Town or Village Greens) (Interim Arrangements) (England) Regulations 2007. The application seeks the inclusion in the register of town and village greens of the land described in the Schedule below which is claimed to have qualified for registration as a town or village green on *(period given in question 4 of Form 44)* by virtue of *(summary of case given in question 7 of Form 44)*.

The application, which includes a plan of the land proposed for registration may be inspected at the following office ..... between the hours of .....*(address and timings where and when application papers are available)*. Copies of the documents may also be inspected at the following local authority offices *(insert details of concerned local authorities if any)*.

If the registration authority is satisfied that the land described below qualifies for registration as a town or village green, it will so register the land.

Any person wishing to object to the registration of the land as a town or village green should send a statement of the facts on which the objection is based to *(name and address of registration authority)* on or before *(insert date — not less than 6 weeks from the later of the date the notice is published and displayed or the date on which it is delivered pursuant to regulation 5(2))*. Any representations that are to be taken into account by the Authority in reaching a decision on the application cannot be treated as confidential and will be copied to the applicant for comment and may be disclosed to other interested parties.

Dated

Signed (signature on behalf of the registration authority)

**Schedule**

Description of the land claimed to have qualified for registration as a town or village green

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## EXPLANATORY NOTE

*(This note is not part of the Regulations)*

Section 15 of the Commons Act 2006 (“the 2006 Act”) provides a revised basis for seeking registration of land as a town or village green.

Part I of the 2006 Act has only been partially brought into force. In particular sections 1–3 are not yet in force. Until that happens, new greens cannot be entered into the register of town or village greens to be maintained pursuant to the 2006 Act. Until that time, these Regulations enable registration authorities to register land, which meets the criteria for registration set out in section 15(1) or 15(8) of the 2006 Act, in the register of town or village greens maintained pursuant to the Commons Registration Act 1965.

These regulations—

- specify the procedure for applying to register land as a town or village green (*r.3*);
- specify the procedure for dealing with applications for registration (*rr.4–7*); and
- specify the manner of registration of land as a town or village green following the granting of an application (*r.8*).

These regulations replace the relevant provisions in the Commons Registration (New Land) Regulations 1969 ([SI 1969/1843](#)) for the registration of new town or village greens under the Commons Registration Act 1965. However, the 1969 regulations remain in force to enable the registration of new greens and new common land for the purposes specified in the savings contained in article 4(3) of the Commons Act 2006 (Commencement No. 2, Transitional Provisions and Savings)(England) Order 2007 ([SI 2007/456](#)).

A full regulatory impact assessment has not been produced for this instrument as no impact on the private or voluntary sector is foreseen.



Department  
for Environment  
Food & Rural Affairs

# Guidance to Commons Registration Authorities in England on Sections 15A to 15C of the Commons Act 2006

**Sections 15A and 15B: landowner statements  
and registers (including statements and  
declarations under section 31(6) of the  
Highways Act 1980)**

**Section 15C: exclusion of the right to apply  
under section 15(1) to register new town or  
village greens**

**December 2016**



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PB 13886  
[www.gov.uk/defra](http://www.gov.uk/defra)

## **Version 7**

Version 6 was amended to reflect changes made by the Commons (Registration of Town or Village Greens) and Dedicated Highways (Landowner Statements and Declarations) (England) (Amendment) Regulations 2016. These regulations removed the requirement to post notices on land where a statement and map has been deposited, or a declaration lodged, under section 31(6) of the Highways Act 1980 in respect of that land.

Version 5 was amended to take account of the amended list of trigger and terminating events introduced by the Commons (Town and Village Greens) (Trigger and Terminating Events) Order 2014. Paragraph 6 now also refers to the Guidance for the completion of form CA16.

Version 4 was amended at paragraph 24 to qualify the statement that whilst it is possible to make a single application to deposit a highways statement, lodge a highways declaration and deposit a landowner statement, in relation to the former two, these can only be done in relation to different areas of land.

Version 3 was amended to make clear Defra's view that for a declaration to be effective as evidence against presumed dedication it must be lodged after the deposit of a statement, not at the same time.

Version 2 was amended to remove references to Annexes B and C, which featured in the interim guidance but were removed; and to make clear that the notice of application should be accompanied by a map of the land.

Version 1 was amended to correct paragraph 27 which incorrectly stated that, in relation to the increase of the 10 year period for highways declarations to 20 years, it applied retrospectively. This is not the case: the 20 year period only applies to applications submitted on or after 1 October 2013



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# Introduction

1. This guidance is for commons registration authorities in England. Chapter 1 should also be read by appropriate councils<sup>1</sup> who maintain the registers held under section 31A of the 1980 Act. Separate guidance is available to applicants on the [www.gov.uk](http://www.gov.uk) website. Please see:
  - Guidance for the completion of form CA16 (the application form for depositing landowner statements and highways statements, and for lodging highways declarations);
  - Guidance to applicants in the pioneer areas and 2014 areas (if the land is in Devon, Kent (but not including unitary authorities in these first two counties), Cornwall, Hertfordshire, Herefordshire, Lancashire (but not Blackpool), Cumbria, North Yorkshire and Blackburn with Darwen); or
  - Guidance notes for the completion of an application to register land as a town or village green.
2. This guidance is not an authoritative statement of the law, which is ultimately a matter for the courts.
3. In July 2011 the Government published a consultation on the registration of new town and village greens (“greens”) due to increasing concerns about the impact of such applications on the planning system. The Government places great importance on the planning system to support efficiency, effectiveness and growth. This is partly why the Government committed to delivering the *Penfold review*<sup>2</sup> recommendation to reduce the impact of the greens registration system on the planning system. The Penfold review looked into whether non-planning consents discourage or delay investment in development projects.
4. Government announced in October 2012 that the law on the registration of new greens under the Commons Act 2006 (“the 2006 Act”) would be amended in England only through the Growth and Infrastructure Bill, which was introduced to Parliament on 18 October 2012. On 25 April 2013 the Bill received Royal Assent and consequently became the Growth and Infrastructure Act 2013 (“the 2013 Act”). The changes apply to England only, so the law in Wales is unchanged.
5. Section 14 of the 2013 Act amended section 15(3) of the 2006 Act to reduce the period of grace following the cessation of at least 20 years’ use as of right from two

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<sup>1</sup> “Appropriate council” is defined in section 31(7) of the Highways Act 1980 and “commons registration authorities” is defined in section 4 of the Commons Act 2006. In practice, the appropriate council and commons registration authority will be the same body.

<sup>2</sup> The Penfold review was published on 18 July 2012: [www.gov.uk/government/publications/penfold-review-of-non-planning-consents](http://www.gov.uk/government/publications/penfold-review-of-non-planning-consents)

years to one year<sup>3</sup>. This came into force on 1 October 2013. Applications submitted after this date which relate to land on which recreational use as of right ceased any more than one year previous to cessation of such use must therefore fail because the one year deadline has been exceeded.

6. Section 15 of the 2013 Act inserts sections 15A and 15B into the 2006 Act to introduce, respectively, landowner statements which bring to an end any period of recreational use 'as of right' over land, and the registers in which they are to be recorded. Section 13 of the 2013 Act amended the form and procedure in England for depositing statements and declarations under section 31(6) of the Highways Act 1980 ("the 1980 Act") in order to align it with landowner statements. Sections 15 and 13, and the regulations which prescribe the rules for such applications, came into force on 1 October 2013 and are explained in Chapter 1.
7. Section 16 of the 2013 Act inserted section 15C and Schedule 1A into the Commons 2006 Act to exclude the right to apply under section 15(1) of the 2006 Act to register land as a green when a 'trigger event' has occurred in relation to that land. This came into force on 25 April 2013. Further trigger events were added in February 2014. These are explained in Chapter 2.

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<sup>3</sup> Section 14 of the 2013 Act amended section 15(3) of the 2006 Act to reduce the period of grace where recreational use as of right has ceased before an application is made. The amendment took effect on 1 October 2013 by virtue of the Growth and Infrastructure Act 2013 (Commencement No. 2 and Transitional and Saving Provisions) Order 2013 (SI 2013/1488).

# Chapter 1: Landowner Statements and Highways Statements and Declarations

## What has changed?

8. Section 15 of the 2013 Act amends the law on registering greens by inserting sections 15A and 15B into the 2006 Act<sup>4</sup>. Section 15A allows a landowner<sup>5</sup> to deposit a landowner statement accompanied by a map which brings to an end any period of recreational use ‘as of right’ over the land to which the statement and map relate. Section 15B of the 2006 Act makes provision for the public registers in which information relating to landowner statements are to be recorded.
9. Section 13 of the 2013 Act amends the form and procedure in England for depositing statements and declarations under section 31(6) of the 1980 Act in order to align it with the new mechanism for depositing landowner statements. The regime in section 31(6) of the 1980 Act provides a means for a landowner to counter deemed dedication (under section 31(1) of that Act) of ways over its land as highways (see paragraph 17). In this Chapter a statement deposited under section 31(6) is referred to as a ‘highways statement’ and a declaration lodged under that provision is referred to as a ‘highways declaration’.
10. The Commons (Registration of Town or Village Greens) and Dedicated Highways (Landowner Statements and Declarations) (England) Regulations 2013<sup>6</sup> (“the 2013 Regulations”) prescribe the form and process for the depositing of, and recording of information relating to, landowner statements, highways statements and highways declarations. Such deposits are submitted to the “appropriate authority”, a term which amalgamates the separate definitions of the appropriate council for highways purposes and the commons registration authority for greens purposes, which generally are the same local authority. The 2013 Regulations also provide for:
  - a prescribed application form which allows landowners to submit to the authority a single application for both highways and greens purposes<sup>7</sup> ;
  - a power for the authority to set a reasonable application fee;

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<sup>4</sup> Section 15 was commenced on 25 June 2013 for the limited purpose of making regulations (see the Growth and Infrastructure Act 2013 (Commencement No. 2 and Transitional and Saving Provisions) Order 2013, SI 2013/1488, article 4(b)). Section 15 was brought into effect for all remaining purposes on 1st October 2013 by the Growth and Infrastructure Act 2013 (Commencement No. 3 and Savings) Order 2013, SI 2013/1766, article 3(b)

<sup>5</sup> “Owner” is defined in section 61(3)(a) of the 2006 Act.

<sup>6</sup> SI 2013/1774.

<sup>7</sup> Regulation 2(2)(a) of the 2013 Regulations requires that an application to deposit a highways statement, highways declaration or green landowner statement on or after 1st October 2013 be in the prescribed form or in a form substantially to the same effect, with such insertions or omissions as re necessary in any particular case.

- when a landowner statement is treated as having been deposited with the authority;
- the service of notice by the authority of an application to deposit a highways statement, highways declaration and landowner statement;
- the information relating to a landowner statement which must be recorded in the public register required to be maintained under section 15B(1) of the 2006 Act, the manner of keeping such a register and the circumstances in which entries may be removed from the register; and
- where an authority wishes to record such prescribed information in the existing register maintained for highways purposes under section 31A of the 1980 Act (permitted by section 15B(3) of the 2006 Act), the creation of a new part of the existing register for that purpose.

11. Sections 13 and 15 of the 2013 Act and the 2013 Regulations came into force on 1 October 2013.

12. The Commons (Registration of Town or Village Greens) and Dedicated Highways (Landowner Statements and Declarations) (England) (Amendment) Regulations 2016 (the 2016 Regulations) remove the requirement to post notices on land where a statement and map has been deposited, or a declaration lodged, under section 31(6) of the Highways Act 1980 in respect of that land.

## What is a landowner statement?

13. A landowner statement is different to a highways statement or highways declaration deposited under the 1980 Act. A landowner statement applies specifically to greens and comprises:

- a statement which brings to an end any period of recreational use as of right over the land to which the statement applies; and
- a map which shows the land to which the statement applies.

14. One key component of the criteria for registering new greens under section 15(1) of the 2006 Act is that the land has been used 'as of right', which means without permission, without force and without secrecy, for at least 20 years. The effect of depositing a landowner statement is to interrupt any such period of use of the land shown in the map and described in the statement.

15. Section 15A(2) of the 2006 Act provides that the deposit of a landowner statement does not prevent a new period of use commencing. Therefore if recreational use 'as of right' of the land were to continue then a new 20 year period of requisite user could begin to accrue. However, if a landowner statement is deposited within 20 years of the previous deposit, then it will again prevent any recreational users of the land reaching

the 20 years' use required by the greens registration criteria (i.e. because the clock is stopped once more before it reaches 20 years).

16. For land which has been subject to recreational use as of right for 20 years or more before a landowner statement is deposited, the deposit of such a statement would trigger the one year period of grace allowed for greens applications which rely on the qualifying criteria provided by section 15(3) of the 2006 Act, i.e. where use of the land as of right has ceased.

## What changes have been made to statements and declarations under the 1980 Act?

17. The regime for depositing highways statements and highways declarations continues and any previous deposits remain valid. However, section 13 of the 2013 Act amends section 31 of the 1980 Act in order to align the form and procedure for making such deposits with that for depositing landowner statements.
18. Under section 31(6) of the 1980 Act, landowners<sup>8</sup> can deposit a statement and map acknowledging which ways across their land (if any) which they admit to having been dedicated<sup>9</sup> as highways. Landowners may then, within 20 years<sup>10</sup> of the deposit of the statement and map (and within subsequent periods of 20 years<sup>11</sup> from each previous deposit), lodge a formal declaration to the effect that no additional way (other than any specifically indicated in the declaration) over the land delineated on the map has been dedicated as a highway since the date of the initial or previous (as the case may be) deposit. In the absence of proof of a contrary intention, a declaration will be sufficient evidence to negative the intention of the owner or his successors in title to dedicate any such additional way as a highway.
19. In Defra's view, for a declaration to be effective as evidence against presumed dedication, the lodging must be a separate event, *after* the deposit of the statement (i.e. not at the same time), but no more than 20 years later.
20. The appropriate council, which is the top-tier local authority for the area (e.g. county council or London borough), records information relating to highways statements and highways declarations in a public register kept under section 31A of the 1980 Act and

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<sup>8</sup> "Owner" is defined in section 31(7) of the 1980 Act as "a person who is for the time being entitled to dispose of the fee simple in the land."

<sup>9</sup> In Defra's view, reference to "dedicated" here means dedicated by the landowner (or his/her predecessors), not highways created through other means, e.g. under statute

<sup>10</sup> This period was extended to 20 years in relation to land in England by virtue of section 13(2) of the 2013 Act and section 31(6A)(c) of the 1980 Act (as inserted by section 13(3) of the 2013 Act. Section 13 was commenced on 25 June 2013 for the limited purpose of making regulations (see SI 2013/1488, article 4(a)) and was brought into effect for all remaining purposes on 1st October 2013 (see SI 2013/1766, article 3(a) and the savings provision in article 4).

<sup>11</sup> Ibid.

the Dedicated Highways (Registers under Section 31A of the Highways Act 1980) (England) Regulations 2007<sup>12</sup> (“the 2007 Regulations”). The 2013 Regulations amend the 2007 Regulations to allow for paper registers kept under section 31A to be held and inspected at a specified office (or if none is specified, the principal office) of the appropriate council, as well as consequential amendments arising from changes made by section 13 of the 2013 Act<sup>13</sup>.

21. There was previously no prescribed form for depositing highways statements and highways declarations were required to be in the form of a statutory declaration. The 2013 Regulations prescribe an application form which allows a landowner to make any or all of the following in relation to his land: a highways statement, highways declaration, and landowner statement. The 2013 Regulations also impose notice requirements on the appropriate authority, as well as permitting the authority to specify a reasonable application fee if it so decides. The form requires the applicant to sign a statement of truth. The statement of truth places on the applicant the burden of ensuring that the information in the application is correct. Any incorrect facts could invalidate the effect of the application. Furthermore the authority has the power to remove entries which contain a material error – see paragraph 53.
22. The application form in the 2013 Regulations only applies to applications made on or after 1 October 2013. The new procedure does not apply to any statement or declaration made before that date.

## Who is affected by the change?

23. Landowners, authorities and recreational users of land will be directly affected.
24. Landowners who wish to prevent the deemed dedication of any new highways over their land or prevent any part of it being registered as a green may want to submit a highways statement followed by a highways declaration and a landowner statement. They can now do any or all at the same time through the combined application form, provided the highways statement is deposited in relation to land which is different to that for which the highways declaration is lodged. For example, the highways statement is deposited in relation to Land A, the highways declaration is lodged in relation to Land B and the landowner statement is deposited in relation to both Land A and B.
25. Authorities are responsible for processing and publishing notices under the 2013 Regulations, as well as recording information relating to highways statements, highways declarations and landowner statements in the public registers.

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<sup>12</sup> SI 2007/2334

<sup>13</sup> Regulation 8 of the 2013 Regulations amends the 2007 Regulation to remove references to statutory declarations and to extend the period in which highways declarations can be made following the deposit of an initial statement and map or the deposit of a previous declaration.



26. Authorities which have straddling agreements with Commons Registration Authorities in Wales could be further affected. Section 15A(8) of the 2006 Act provides that any such straddling agreements, whether made under the Commons Registration Act 1965 or the 2006 Act (i.e. an Authority in Wales is responsible for land in England), will be disregarded if they would have the effect of requiring a landowner statement to be deposited with an Authority in Wales. In such a case an application would need to be made in respect of the English land to the relevant authority in England.
27. Recreational users of land will be affected by the deposition of landowner statements because it will bring an end to any period during which they have used the land as of right. Similarly, the deposition of either a highways statement or declaration will negative presumed dedication of the land as a highway. The notice requirements placed on authorities will ensure that users are notified of any deposition in relation to the land they use. When a landowner statement is deposited in relation to land which has been used as of right for recreation for at least 20 years, it would trigger the one-year period of grace allowed under section 15(3) of the 2006 Act.

## The registers

### The 1980 Act register

28. The keeping of the register held under section 31A of the 1980 Act remains subject to the rules prescribed in the 2007 Regulations, except that the expiry of the 10 year period mentioned in the register has been amended to refer to the expiry of a 20 year period<sup>14</sup>. Please remember this only applies to applications submitted after 1 October 2013 and declarations submitted before 1 October remain subject to the 10 years<sup>15</sup>. The register can now be held at either any specified office of the authority or at its principal office. This flexibility allows for both the highways and landowner statements registers to be kept at the same office.

### The landowner statements register

29. You may use the 1980 Act register to record landowner statements but must create a new part of the register for that purpose.
30. The register must contain an index of its contents, and provide the job title and contact details (phone and email) of the person in the authority to whom enquiries can be made. The register should be held in such a way as to enable copies of any information held in it to be taken by or for any person who requests a copy in person at

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<sup>14</sup> Regulation 8(5) of the 2013 Regulations amends the references to a 10 year period in regulation 3(3)(c) and 3(5) of the 2007 Regulations to ones of 20 years.

<sup>15</sup> This is provided by a saving in article 4 of Growth and Infrastructure Act 2013 (Commencement Order No. 3 and Savings) Order 2013 (SI 2013/1766).

the relevant office of the authority. The web version must have a search facility that, as a minimum, allows postcode and keyword searches.

31. The register is to be held in both electronic and paper form. The paper copy must be kept at the relevant office of the commons registration authority, the address of which should be specified on the authority's website, or if no office is specified it shall be the authority's principal office. People who cannot access the authority's website can find out the address of the relevant office by telephoning the authority. The register should be available for inspection during normal office hours. The electronic copy should be published on the authority's website or a website maintained by the authority.
32. The register must contain:
- a copy of the statement;
  - a copy of the map and any legend which accompanies or forms part of the map;
  - the name and address (incl. postcode) of the person who made the statement;
  - the date on which the authority received the application to deposit the statement and map; and
  - details of the land on the map (including the Ordnance Survey grid reference of a point within each parcel); the name of the parish, ward or district; the address of buildings on the land which have a postcode; the name of the nearest town or city.
33. The details to be recorded in the register for landowner statements are almost the same as those for the register for highways statements and declarations. The difference is that the highways register, with respect to highways declarations (not highways statements), records the date on which the 20 year period elapses and a unique reference number allotted by the authority to the declaration.

## The application procedure

34. There are four steps to the procedure: initial check, acknowledgement of the application, serving notice of the application and recording it in the register. Each stage is explained below.

### Initial check

35. On receipt of an application, you will need to check whether the application form is:
- in the form prescribed by Schedule 1 to the 2013 Regulations, or in a form substantially to the same effect with such insertions or omissions as are necessary in any particular case<sup>16</sup>;

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<sup>16</sup> See Regulation 2(2)(a) of the 2013 Regulations.

- signed by every owner (or by their duly authorised representative) of the land to which the application relates;
- accompanied by an Ordnance map at a scale not less than 1:10,560 (except where the application refers to a map which accompanied a previously deposited statement or declaration with the authority – see paragraph 40); and
- accompanied by the correct fee (if any).

36. Parts A and F of the application form must be completed by all applicants. Parts B to E are discretionary and allow for variation to account for the unique set of facts associated with each application. Parts B, C or D should be deleted where not applicable. Part B is to be completed where the application relates to a highways statement. Part C is to be completed where the application relates to a highways declaration and Part D is to be completed where the application relates to a landowner statement. Part E allows for additional information to be provided which is relevant to the application.
37. For applications which seek simultaneously to deposit a highways statement and lodge a highways declaration in relation to the same land, you should advise the applicant that for the application to be effective the declaration must be lodged separately, after the deposit of a statement, at any time within 20 years from the time of the deposit of the statement.
38. The application must be signed by the applicant (person A). This can be the landowner or a duly authorised representative of the owner. Where there are multiple owners, each owner must complete paragraphs 2 and 3 of Part A and complete and sign the application in Part F or a duly authorised representative (or representatives) may complete the form on behalf of all of the owners. Paragraph 3 of Part A to the prescribed form should explain in what capacity the applicant is applying e.g. landowner, managing agent, trustee. If the owner is a body corporate or an unincorporated association, the application must be signed by the secretary or another duly authorised officer.
39. Where the applicant is unable to read or write, the application must be supported by a certificate made by an authorised person<sup>17</sup> who must certify that the application and, in particular, the statement of truth in Part F has been read to person A who appeared to understand the statement and the consequences of making a false one as well as understanding and approving the content of the application as accurate; and that person A signed or made their mark in the presence of the authorised person.
40. The Ordnance Survey map, besides, being at the scale above, must show the boundary of the relevant land in coloured edging. The exception here is where the application refers to a map previously deposited with the authority in relation to a

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<sup>17</sup> An authorised person means a “conveyancer” as defined in rule 217(A) of the Land Registration Rules 2003.

highways statement or declaration (it does not matter if the map was deposited before 1 October 2013) or a landowner statement. If the application relates to multiple parcels of land, such parcels should be identified on the map by coloured edging and clearly described in paragraph 4 of Part A of the statement. A number of contiguous fields may be treated as one parcel of land, even if separated by physical boundaries such as roads or hedgerows.

41. The application must also be accompanied by the correct fee (if any has been specified). See paragraph 54 for further advice.
42. The statement of truth in the application form, which the applicant must sign, places on the applicant the onus of getting the facts correct. If the statement or map in question contains a material error, then it could invalidate the application, in whole or in part, and any entry made in reliance on it might be removed by the authority (see paragraph 53).
43. An application is to be treated as having been deposited with the authority when it has been duly made (see paragraph 35). An application can be delivered to the authority by hand at an office of the authority, or by post. Where an application is sent by any means that do not guarantee delivery, the application will not be deemed to have been made if it is proved that the authority did not receive it.

### **Acknowledgement of the application**

44. Provided all of the above has been adhered to, you should as soon as practicable send an acknowledgement of receipt to the applicant. Where it has not been adhered to then the application is not duly made and the authority is under no obligation either to acknowledge the “application” or process it further.

### **Serving notice of the application**

45. You should, as soon as reasonably practicable after receiving a duly made application, publicise notice of receipt of the application in accordance with regulation 4(1)(b), (2) and (3) of the 2013 Regulations (as amended by the 2016 Regulations). The form of the notice is prescribed in Schedule 2 to the 2013 Regulations<sup>18</sup>. The notice provides key information relating to the authority and the application itself, including a map and textual description of the land. Where the application relates to more than one parcel, each separate parcel should be described. The date the application was given to the authority must also be inserted in the notice.
46. The notice of application must be publicised through the following ways:

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<sup>18</sup> Regulation 4(3) of the 2013 Regulations provides that the notice must be in the prescribed form or in a form substantially to the same effect with such insertions or omissions as are necessary in any particular case.

- publication on the authority’s website;
- email a copy to any person who has provided an email address for the purpose of being notified (of all deposits); and
- in respect of a landowner statement, so as to bring it to the attention of users of the land, post a copy of the notice at or near at least one obvious entry point to the land for at least 60 days.<sup>19</sup>

47. There is no specified length of time for which the notice should be retained on the authority’s website. However, you should consider whether to keep it there for the same 60 day duration as the site notice.

48. You should maintain a single distribution list of email addresses of persons who wish to be notified by email of deposits of highways statements, highways declarations and landowner statements. When supplying an email address, the person opts in to receive notice of all deposits received by the authority.

49. In respect of landowner statements, the site notice is to be posted at “at least one obvious place of entry” to the land to which the application relates, or where there are no such places, at least one conspicuous place on the boundary of the land. You will need to consider how many site notices are required in each individual case in order to bring the application to the attention of users of the land. This is likely to depend on how many parcels of land the application relates to and how such land is accessed. For example, where an application relates to two contiguous parcels of land (parcels A and B) and parcel B can only be accessed via one entry point to parcel A, an authority may consider it sufficient for one notice to be placed at the obvious place of entry to parcel A. Remember to include a copy of the map of the land.

50. The site notice is required to be present for not less than 60 days. However, where the notice is removed, obscured or defaced (through no fault of the authority) before the 60 days have elapsed, the authority will be treated as having complied with the requirement.

## **Recording the application in the register**

51. You are advised to record each duly made application in the relevant register (paper and website versions) as soon as practicable after receipt of it. You need to record:
- a copy of the statement;
  - a copy of the map of the land and any legend which accompanies or forms part of the map;
  - the name and address (incl. postcode) of the person who made the statement;
  - the date on which the authority received the statement and map;

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<sup>19</sup> The 2016 Regulations removed the requirement for notices to be posted on the land in respect of highways statements or declarations.

- details of the land on the map, including the Ordnance Survey grid reference of a point within each parcel; the name of the parish, ward or district; the address of buildings on the land which have a postcode; the name of the nearest town or city;
- (for highways declarations only) the date on which the 20 year period elapses; and
- (for highways declarations only) a unique reference number allotted to the declaration.

52. Regarding the mapping of land, there are no requirements relating to the colours of the boundary of the land and the authority is advised to continue with existing practice.

## Removing an entry from the register

53. You have the power to remove an entry, or any part of an entry, which contains a material error in the map or statement in question, but must give the landowner at 12 least 28 days' notice before doing so. For example, if an authority receives an application which purports to deposit a highways declaration for parcels A, B and a landowner statement for parcel C, but at the time of the application the applicant was in process of buying parcel C and did not yet own it, then the statement for parcel C would in Defra's view be invalid and you could remove this part of the entry.

## Fees

54. Applications must be accompanied by the appropriate fee<sup>20</sup>, if any is specified by the authority. The 2013 Regulations do not provide any fee amounts: instead the authority has the power to set fees. A fee specified by the authority must be reasonable for the application of that type. The power allows different fees for different types of application. The following are examples of why the authority may wish to consider setting different fees for different purposes:

- applications which relate to **either** highways deposits (highways statements or highways declarations) or the deposit of a green landowner statement; or
- applications which relate to deposits under **both** highways and greens regimes.

55. The authority is advised to keep fees under review to ensure that amounts are commensurate with the authority's costs.

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<sup>20</sup> Regulation 2(2)(d) provides that an application must be accompanied by such reasonable fee (if any) specified by the appropriate authority for an application of that type.

## Where can the application form be found?

56. The form is prescribed in Schedule 1 to the 2013 Regulations. A copy of the Regulations can be found at the [www.legislation.gov.uk](http://www.legislation.gov.uk) website (search SI 2013/1774).

## Chapter 2: Exclusion of the right to apply under section 15(1) of the 2006 Act

57. Unless stated otherwise all references in this chapter to ‘application’, ‘the right to apply’, and ‘exclusion’ should be taken to mean (respectively) an application under section 15(1) of the 2006 Act to register land as a green, the right to apply for the same and exclusion of the right to apply for the same.

### What has changed?

58. Section 16 of the 2013 Act amended the law on registering new greens by inserting a new section 15C and Schedule 1A into the 2006 Act.

59. Section 15C(1) of the 2006 Act excludes the right to apply when a prescribed event, known as a ‘trigger event’, has occurred within the planning system in relation to that land.

60. At any time when the right to apply is excluded in respect of land, a commons registration authority cannot accept any application to register that land as a green. The right to apply remains excluded until and if a corresponding ‘terminating event’ occurs in respect of the land.

61. The trigger and terminating events are set out in Schedule 1A to the 2006 Act, which is inserted by section 16 of, and Schedule 4 to, the 2013 Act. The list of trigger and terminating events was amended on 11 February 2014 by the Commons (Town and Village Greens) (Trigger and Terminating Events) Order 2014 (SI 2014/257).

62. A copy of the legislation can be found at [www.legislation.gov.uk](http://www.legislation.gov.uk).

### What is a trigger event?

63. Trigger events are events related to the development of land which occur within the planning system. Where any such event has occurred in relation to land, the right to make an application for registration of that land as a town or village green is excluded.

64. The full list of trigger events is set out in the first column in Schedule 1A to the 2006 Act. Some examples of trigger events include:

- the first publication of an application for planning permission for the land, which will include circumstances where planning permission is subsequently granted;



- the publication by the local planning authority of a draft local plan or neighbourhood plan<sup>21</sup> proposal which identifies the land for potential development;
- the adoption or making by the local planning authority of a local plan or neighbourhood plan which identifies the land for potential development;
- a proposed application for development consent under the Nationally Significant Infrastructure project regime is first publicised by the applicant;
- an application for development consent under the Nationally Significant Infrastructure project regime which has been accepted by the Secretary of State (in practice the Planning Inspectorate) is first publicised by the applicant;
- a draft local development order or neighbourhood development order first published for consultation; and
- the publication of a notice of application for deemed planning permission in respect of Transport and Works Act 1992 orders.

65. There are fourteen trigger events in Schedule 1A (as amended by the 2014 Order), each of which relates to a specific planning mechanism. For each trigger event, there are a number of corresponding terminating events – explained below - also specified in Schedule 1A. The local planning authority or authorities and the Planning Inspectorate, as appropriate, will have information as to whether a trigger event or terminating event has occurred in relation to the land.

66. Note that there are no trigger events in relation to permitted development rights. Therefore the exclusion will not apply to land on which permitted development has taken place, unless a trigger event has occurred in relation to that land for another reason.

67. If a trigger event has occurred on land then the right to apply to register it as a green is excluded. Therefore a commons registration authority cannot accept any application to register that land as a town or village green. This rule applies even where a trigger event occurred prior to the commencement of section 15C.

68. The legislation allows new trigger events to be added through secondary legislation, as well as existing trigger events to be amended or omitted.

## What is a terminating event?

69. Every trigger event has corresponding “terminating events”. Where the right to apply has been excluded because a trigger event has occurred, if one of the corresponding terminating events occurs this will mean that the right to apply again becomes exercisable. From that point it will be possible to apply to register land as a town or

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<sup>21</sup> Schedule 1A to the 2006 Act refers to a ‘development plan document’ and ‘neighbourhood development plan’ but they are generally referred to as ‘local plans’ or ‘neighbourhood plans’.

village green. As with trigger events, this rule applies even where a terminating event occurred prior to the commencement of section 15C. Note the position may be more complex where more than one trigger event has occurred in relation to the land (see paragraph 101).

70. Terminating events are set out in the second column of Schedule 1A to the 2006 Act (as amended by the 2014 Order). For example, the corresponding terminating events for the publication of an application for planning permission in relation to land are: (a) withdrawal of the planning application; (b) a decision to decline to determine the planning application is made under section 70A of the Town and Country Planning Act 1990; (c) where permission is refused, all means of challenging the refusal in the UK are exhausted and the decision to refuse planning permission is upheld (or the time limit for an appeal expires without such an appeal being made); and (d) where the planning application is granted, the period within which the development to which that permission relates expires without the development having been begun.
71. The legislation allows new terminating events to be added through secondary legislation, as well as existing terminating events to be amended or omitted.

## Who is affected by the change?

72. Both commons registration authorities and prospective applicants are directly affected. The key question for both parties is whether the right to apply has been excluded in relation to the relevant land.
73. Commons registration authorities cannot consider an application where the right to apply has been excluded for that land. Therefore the commons registration authority will need to determine whether the right to apply has been excluded or not, even where an applicant is not aware of any exclusion.
74. Where the commons registration authority knows that an application is imminent, but that the right to apply has been excluded in respect of that land, it may wish to advise the would-be applicant that the right to apply has been excluded. It will need to be certain that the right is not exercisable if it elects to do this, but this could prevent wasted effort on the part of the applicant.
75. There will be cases where would-be applicants may not be aware of the exclusion and submit an application without prior discussion with the commons registration 16 authority. Even so, if the right has been excluded for that land then the commons registration authority must refuse to consider the application.
76. When determining whether an application under section 15(1) may be made within the period of grace allowed by section 15(3)(c), i.e. where recreational use of the land as of right has ceased, any period during which the right to apply is excluded is to be disregarded. In other words, any period of grace would pause when a trigger event

occurs, and if a corresponding terminating event subsequently occurred, then the period of grace would start running from where it left off.

77. For example, a trigger event occurs in relation to land at a time when six months of the grace period remains. If a corresponding terminating event occurs on that land, then the period during which the right to apply was excluded will be disregarded and there would be a further six months during which an application for registration of land as a green could be made.
78. To a lesser extent local planning authorities and the Planning Inspectorate are also affected by the legislative change, because as overseers of the planning system, they will hold information on whether a trigger or terminating event has occurred in relation to land. The commons registration authority relies on local planning authorities and the Planning Inspectorate providing confirmation of whether trigger or terminating events have occurred in relation to land.

## How will I (the commons registration officer<sup>22</sup>) know if the right to apply is excluded?

79. On receipt of an application, you will need to write to:
- each local planning authority for the land to which the application relates; and
  - the Planning Inspectorate,
- for written confirmation of whether any trigger or terminating events have occurred in relation to the land, and the details of any such events. They will need to know what land is affected so you will need to provide them with a copy of a map of the land. Those confirmations will enable you to decide whether the right to apply under section 15(1) of the 2006 Act has been excluded.
80. An example letter is provided at Annex A, which given the technical complexity of trigger and terminating events, and that such events are overseen by planning authorities and the Planning Inspectorate you are strongly advised to use. The example letter takes account of the additional trigger and terminating events which were inserted by the 2014 Order.
81. The local planning authority will be able to advise on the trigger and terminating events added by the 2014 Order.
82. If a trigger event has occurred but a corresponding terminating event has not, then the right to apply is excluded, in which case you must refuse to accept an application.

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<sup>22</sup> In the remainder of this Chapter, references to 'I' and 'you' mean the relevant commons registration officer or person carrying out that function.

83. It must be stressed that although a trigger event may have occurred in relation to land, a corresponding terminating event also could have occurred, meaning that the right to apply is again exercisable. If confirmation of whether a corresponding terminating event has occurred is not sought then you cannot know for certain that the right to apply is excluded. Note the position may be complex where more than one trigger event has occurred in relation to the land (see paragraph 101).
84. Each relevant local planning authority and the Planning Inspectorate will need to know the exact location and extent of the land, so a copy of the application map should be enclosed with your letter. If a relevant trigger event and/or a corresponding terminating event has occurred, the letter asks them to return your map (or provide their own) and clearly show the land on which the event(s) occurred. This will be important in cases where only part of the land in question is subject to a trigger or terminating event, or where a mixture of scenarios apply to different portions of the land, e.g. a trigger event applies to a small portion of the land but the remainder is not subject to a trigger event.
85. If confirmation is received from a local planning authority or the Planning Inspectorate that a trigger event has occurred (but no corresponding terminating event has occurred) in relation to the land, the right to apply is excluded and the applicant should be informed that the application cannot be accepted unless and until a corresponding terminating event occurs.
86. You can consider an application as normal where either:
- a) no trigger event has occurred; or
  - b) a trigger event has occurred but a corresponding terminating event has also occurred in relation to the land, which has therefore caused the exclusion of the right to apply to lift.

## **Don't I need to formally accept an application before checking whether the right to apply is excluded?**

87. No, you are advised to seek confirmation on whether the right to apply is excluded in relation to the land prior to formally accepting or acknowledging receipt of an application. This is because if the right is excluded then the application should not be accepted, and this extends to written confirmation of receipt of the application.
88. The rationale for this approach is to avoid time and money being spent advertising and making representations in relation to an application where it subsequently turns out there was no right to apply.
89. However, as a matter of courtesy, you may wish to call the applicant to confirm physical receipt of the documents. In doing so, you should make it clear that this does not constitute formal acceptance or acknowledgement that the application is valid. You can explain that advice from each local planning authority and the Planning

Inspectorate is needed before your authority can reach a view on whether or not to accept the application.

## Which is the relevant planning authority?

90. You will need to contact each local planning authority which has responsibility for the land in question, and also the Planning Inspectorate. There could be more than one local planning authority which exercises functions in relation to the land in question. The basic position is as follows:
- within Greater London the London borough council will be the local planning authority;
  - in metropolitan areas outside London the local planning authority will be the metropolitan district council;
  - in non-metropolitan areas, the local planning authority functions will be shared by the district council and county council or held by a unitary authority; and
  - certain other bodies, for example National Park authorities, the Broads Authority, and Mayoral Development Corporations will also exercise local planning authority functions in respect of land in their areas.
91. In areas where there are more than one local planning authorities with responsibility for the land (e.g. county and district councils), you will need to contact each of these, plus the Planning Inspectorate.
92. If the land in question crosses the boundary of several planning authorities then, as they will each be responsible for their portion of the land, each should be contacted to confirm whether a trigger event or corresponding terminating event has occurred in relation to its portion.
93. Where responsibility for town and village green registration and planning functions are housed in the same authority, in unitary authorities for example, you are still advised to seek written confirmation as to whether trigger or terminating events have occurred from your planning department. In such cases, you will still need to write to any other local planning authority with responsibility for part of the land, and to the Planning Inspectorate.
94. The Planning Inspectorate has responsibilities for certain trigger events. For example this is the case where planning permission has been refused by the local planning authority, but the matter is referred on appeal to the Planning Inspectorate. The Planning Inspectorate also deals with applications for development consent under the Nationally Significant Infrastructure project regime on behalf of the Secretary of State. This is why the Planning Inspectorate must always be contacted when determining whether a trigger or terminating event has occurred.
95. The Planning Inspectorate can be contacted at:

The Planning Inspectorate  
Customer Support Team  
Room 3/13 Kite Wing  
Temple Quay House  
2 The Square  
Temple Quay  
Bristol  
BS1 6PN

Email: [enquiries@pins.gsi.gov.uk](mailto:enquiries@pins.gsi.gov.uk)

Telephone: 0303 444 500

## **What if the exclusion applies to only part of the land?**

96. For the portion of land not subject to the exclusion, the application should proceed as usual. This is consistent with how commons registration authorities already deal with applications which can only be approved in part. But for the portion of land on which the right to apply has been excluded then the applicant should be informed that that portion of the land cannot be considered for registration as a new green.

## **What happens where no trigger event has occurred on the land?**

97. The application should proceed to determination as normal.

## **What happens where an application is submitted just before a trigger event occurs?**

98. If the application is made before the trigger event has occurred then it should be considered in the usual way.

## **What happens where the period of grace commenced before both a trigger event and its corresponding terminating event occurred?**

99. The trigger event causes the period of grace to pause. But when the terminating event occurs and the right to apply is again exercisable then the period of grace picks up where it left off. See the example at paragraph 77.

## **What happens where a trigger event and its corresponding terminating event has occurred on the land?**

100. Then the right to apply is again exercisable and the commons registration authority can accept an application for consideration as normal. Note this assumes that only one trigger event has taken place in relation to the land.

## **What happens where more than one trigger event has occurred on the land?**

101. Where more than one trigger event has occurred, the right to apply will be excluded if and until a corresponding terminating event has occurred in relation to each trigger event.

## **What happens where a trigger event occurred on land prior to the commencement of the new legislation?**

102. The right to apply is excluded in relation to that land. It does not matter how long ago a trigger event occurred prior to the commencement of section 15C – if no corresponding terminating event has occurred in respect of land since that trigger event, then the right to apply for registration of a green is not exercisable.

## **What happens where a local plan was adopted in, say 2009, which has identified the land in question for development?**

103. The adoption of that local plan would constitute a trigger event and the right to apply would be excluded unless and until a corresponding terminating event occurs. Where, for example, that plan has been revoked or a policy identifying land for development has been superseded, then either of these would be a terminating event and the right to apply would no longer be excluded.

## **What happens where a corresponding terminating event occurred on land prior to the commencement of the new legislation?**

104. Then the exclusion does not apply as the occurrence of the corresponding terminating event causes the exclusion to lift (assuming no other trigger event has occurred), and an application can be submitted as normal.

## **What if I receive an application under section 15(8) of the 2006 Act?**

105. The change in the law does not affect such applications, so the application should be considered as normal.



# Annex A: Template letter to local planning authorities and the Planning Inspectorate seeking their confirmation of trigger and terminating events

I write on behalf of [insert name of commons registration authority] which has received an [enquiry or application under section 15(1) of the Commons Act 2006 to register] land at [insert description of land] as a town or village green. I enclose a map of the relevant land.

Due to an amendment of the legislation on greens registration under the Commons Act 2006 by the Growth and Infrastructure Act 2013, the right to apply for the registration of a green is excluded if any one of a number of prescribed planning-related events (“trigger events”) has occurred in relation to the land. The right to apply becomes exercisable again only if a corresponding terminating event has occurred in relation to that land.

The trigger and terminating events are set out in Schedule 1A to the 2006 Act (as inserted by Schedule 4 to the 2013 Act). A copy can be read here:

[www.legislation.gov.uk/ukpga/2013/27/schedule/4/enacted](http://www.legislation.gov.uk/ukpga/2013/27/schedule/4/enacted). The list of trigger and terminating events was extended by the Commons (Town and Village Greens) (Trigger and Terminating Events) Order 2014. A copy can be read here: [www.legislation.gov.uk/uksi/2014/257/contents/made](http://www.legislation.gov.uk/uksi/2014/257/contents/made).

Please could you read through the trigger and terminating events and tick one of the three boxes below which describes the situation and set out in detail any relevant information in the box further below, and return the completed form and any relevant maps to me at the postal or email address above.

If a relevant trigger event and/or corresponding terminating event has occurred, please clearly mark on the map provided (or your own), the extent of the land on which the event took place. Where more than one trigger event has occurred, please confirm whether a corresponding terminating event has occurred in respect of each trigger event. Please note that where a trigger event or terminating event occurred prior 25 April 2013, it is still considered a valid event. For example, if a local plan (i.e. a development plan document) adopted in 2008 identifies the land in question for development, then that is a valid trigger event. In cases where a trigger event has occurred in relation to part, but not all, of the land, the first and second boxes should be ticked and the detail explained in the box. The map should clearly indicate the areas which are and are not subject to the trigger event.

Your answer will determine whether or not my authority can accept an application for registration of a green. This decision could be the subject of legal action, so I must stress the need for you to be certain about the information included in your return.

A copy of this letter has also been sent to [insert names of planning authority or authorities] and the Planning Inspectorate. Please notify me if you aware that any other

authority has responsibility for development control or plan-making functions in respect of the land to which this application relates.

Could you please reply to the address above by **[insert date two weeks from the date of the letter]**.

I confirm that <u>no trigger or terminating event has occurred</u> on the land	
I confirm that <u>a trigger event has occurred, but no corresponding terminating event has occurred</u> on the land	
I confirm that <u>a trigger event has occurred but a corresponding terminating event has also occurred</u> on the land	
Further information (Please use this box to explain the type and date of the trigger or terminating events.)	
Details of officer completing this form Name: Address: Email: Phone:	

Appendix 6 - Objections

Mrs Jennifer Cowley  
[REDACTED] North Meadow Road  
Cricklade  
Wiltshire  
SN6 6 [REDACTED]  
22 September '20

Janice Green  
Senior Definitive Map Officer

Ref: JG/PC/212 2018/01

I am writing to officially oppose the application of a village green in Lower Stanton St Quintin, as per the reference above.

The application makes claim that the land has been used "as a village green for the past 50 years by local residences." It is my knowledge that this claim is entirely false.

I have personal knowledge of this land. My grandmother, Ivy Dargie, resided at [REDACTED] Lower Stanton St Quintin until she died 31 Dec 2014, at which point my parents, Malcolm and Julie (Kathryn) Reeves owned it. I was born in 1991 and have visited that house all through my childhood, at various times over the year - New Year's Day, Easter Sunday, birthdays, weekends, and very regularly during the summer as she had a swimming pool that we would use. I also remember often playing in the front driveway area, which directly looked onto this area of land. I would visit at various times of day - lunchtimes on the weekend, after school.

evenings, etc. I also sometimes had sleepovers there. I continued to visit the house after my nana died, and my parents began renovated it, up to 2018 (date of TVG application) and beyond. I still regularly visit.

At no point since 1991 (or, as early as I can realistically remember!) has that land ever been used to host village green events - no fetes, no fayres, no recreational events, nothing. As a child, I used to love going to village fetes and often my nana would be the one to take me. If there had been fetes held directly outside her front garden, I would have known and attended.

I used to enjoy talking to my nana about her social life - her involvement with bowles, or her whist drives. If there had been any events held on this land, she absolutely would have mentioned it.

At no point, throughout my childhood and up to point of TVG application, do I recall seeing any events or recreational activities advertised.

All I have ever seen happen on that land is the odd person walk over it on a dog walk or gentle stroll.

My knowledge of this land and the way it has (and has not) been used is both first hand, from direct experience, and second hand, from ~~over~~ conversations with the primary owner of [REDACTED]



Therefore, I am objecting to the application it become a village green on the basis the application has made false claims about its past usage.

I believe that the facts stated in this letter are true.

Additionally, ~~I am considered~~ I was employed by South Western Ambulance Service NHS Foundation Trust as a paramedic, from July 2015 to August 2020 (have just resigned due to having children to take care of). I therefore am expected, as a professional, to act with integrity and honesty, values which I have upheld during the account laid out in this letter. (My registration number is [REDACTED] and can be checked out [www.hcpc-uk.org](http://www.hcpc-uk.org)).

Sincerely,

Jennifer Cowley  
[REDACTED]

22.09.20

DATE 21 September, 2020

Janice Green  
Senior Definitive Map Officer  
Rights of Way & Countryside Team  
Communities & Neighbourhood Services  
County Hall  
Bythesea Road  
Trowbridge  
Wiltshire  
BA14 8JN

█ Siskin Road  
Offerton  
Stockport  
Cheshire  
SK2 5█

### OBJECTION

Your Refs: 2018/01, 2019/01

Dear Ms Green,

It has come to our attention that Stanton St. Quintin Parish Council are claiming that the land in front of █ Lower Stanton St. Quintin has been used as a village green for years. To our knowledge this claim is not true and it would be wrong to let this application go on based on this false statement.

My husband, my children and I regularly stayed with the owner of █ Lower Stanton St. Quintin at various times of the year during the period 1987 to 2010. My mother and father also visited at other times as did two of my brothers. At no time during these visits, which were often for a week at a time, did any of us ever witness anyone using this area of land for 'sports or pastimes'. In the earlier years the grass was always long and overgrown, so that the one bench which was there at the time could not be used and this was something I remember us commenting on.

As we enjoyed visiting other village fetes in the area we would certainly have been aware of any events happening directly in front of the house. It was a rough area of long grass with many trees which grew thickly over the years and never an open space which invited anyone to use it for 'sports or pastimes'.

Yours sincerely

█

Olwyn, and John Kelly

Received 23/09/2020

## OBJECTION

Ref: 2018/01, 2019/01 (TVG applications)

20 September 2020

██████████ Trewarden Avenue  
Iver  
SLO ██████████

This letter regards the proposal to register the verge in front of 29A Lower Stanton St. Quinton as a village green.

It is my understanding that the parish council have asserted that this land has been used as a green for the past 50 years. According to the Commons Act 15(2), this means:

*a significant number of the inhabitants of any locality, or of any neighbourhood within a locality, have indulged as of right in lawful sports and pastimes on the land*

My late grandmother moved into ██████████ in 1987 when I was very young. Until 2006, when I moved away from the area, I visited her often; for Sunday roasts, barbecues, birthdays, and to swim in her pool during the summer. My brother and I would sometimes bike over and stay the weekend.

In all that time, I have not one recollection of the verge in front of her house ever being used for sports, pastimes or events of any sort. Nor did my grandmother ever mention to me any activity taking place on the verge outside her house, even in passing.

Moreover, it makes no sense to me that anyone could use the land for this purpose; it is far too narrow for athletic activities, it is cluttered with trees, and the land slopes toward the road, making ball games impractical even if there were space for them. At least while I was growing up, the grass was often left to grow long and unkempt.

The claim that this space has been a vibrant village green for years is not credible.

I believe that the facts stated in this letter are true.

Sincerely,

████████████████████  
James Reeves

**Jonathan Reeves**

██████████ Trewarden Avenue  
Ivel, SL0 0██████████

20th September 2020

**Janice Green**

Senior Definitive Map Officer  
Rights of Way and Countryside Team  
Communities and Neighbourhood Services  
County Hall  
Bythesea Road  
Trowbridge  
Wiltshire  
BA14 8JN

Dear Ms. Green,

It has come to my attention that there is a motion to register a section of land in the village of Stanton St. Quintin as a village green. I feel that I must object due to the claim being made that for the past twenty years it has been used for recreation and sports, a claim I know to be false.

The adjacent property was, since my very early childhood, the home of my paternal grandmother (whom we called Nana) and since it was a short distance from our home, we made many trips to visit her by car and, when I was older, by bicycle. During my youth she had a swimming pool on the property, and frequently during the summer months we would spend hours there to cool off and have fun. There were also regular visits at other times of the year, such as a regular Easter egg hunt, birthday parties, and more.

At no point during any of these trips and visits did I ever notice the area of land being used for sports or recreation. In fact I was more aware of how empty it always was whenever I was visiting. If the land had been in regular use, some sort of event or gathering would have surely attracted my attention during one of these occasions. I even had several overnight stays in a room with a window facing the ground, and cannot recall ever seeing anything happening.



These regular visits lasted from before 1990 to 2010, when I moved away from the area. But even after that time I kept in contact with Nana and she never once remarked about the land in question being used for any sort of group activity, which would have been a noteworthy event. My family who stayed in the area also continued making regular visits, and none of them ever mentioned it either.

Sincerely,



**Jonathan Reeves**

██████████ Cowley Way  
Sutton Benger  
Chippenham  
Wiltshire  
SN15 4██████████

21 September 2020

**Janice Green**

Senior Definitive Map Officer  
Rights of Way & Countryside Team  
Communities and Neighbourhood Services  
County Hall  
Bythesea Road  
Trowbridge  
Wiltshire  
BA14 8JN

Dear Ms Green,

I am writing to object to the application to register the land adjacent to Seagry Road, Lower Stanton St Quintin as a Town or Village Green (Reference no. 2018/01), as the claims made in the application relating to the Commons Act 2006 Section 15(2) are false.

My grandmother lived at ██████████ Lower Stanton St Quintin, the property adjacent to the land in question, and I visited regularly throughout my childhood for Sunday lunch, sleepovers, and to use her pool. As an adult, I continued to visit her frequently, covering a total period of time 1988-2014. During this time, and in the years since then, I have never seen this land used for any events, sports, or activities. Given that I visited so frequently on weekends and during the school holidays, when events are most likely to have taken place, it would be impossible not to have noticed anything going on.

Furthermore, my grandmother never mentioned any events or activities that took place on this land. I went to many fêtes and social events in my own village (and several of the surrounding villages) when I was younger, some of which my grandmother drove me to, so if there had been anything going on right outside her house it seems odd that she would never have even mentioned it.

In thirty years I have never seen a single board or poster advertising events held on this land, and yet I see these frequently for events held in my own village, as well as in the villages I drive through on my way to work, as they are always placed somewhere obvious to draw attention.

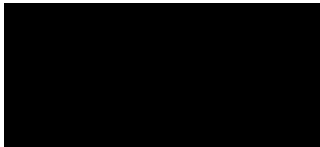
As a child I used to walk along the wall at the front of my grandmother's property, and I remember it was impossible to do this without jumping down several times along the way as the trees on the land were so low and overgrown that their branches stuck out over the wall. This also made it impossible to play on that patch of land, as the trees prevented any sports or games that involved running around. Additionally, the grass was weedy and overgrown. My grandmother's garden was

full of flower beds and only had a small lawn, so if the land in question had been suitable for games then I would definitely have made use of such a convenient space to play with my friends, siblings, or children from the village. However, that area of land was always deserted, with no one making use of the space.

Google Street View provides two snapshots of the land in question, one dated May 2009, and the other dated October 2011. In it one can clearly see the abundance of trees on such a small patch of land, with their low branches. The May 2009 view of this grass verge also shows that there was only one bench and a notice board at that time, and the grass is so long that it would prevent ball games, for example.

I believe that the facts stated in this letter are true.

Yours sincerely,

A solid black rectangular box used to redact the signature of Josephine Reeves.

21 September 2020

Josephine Reeves

Lower Stanton St. Quintin  
Chippenham  
Wiltshire  
SN14 6

23 September, 2020

Janice Green  
Senior Definitive Map Officer  
Rights of Way & Countryside Team  
Communities & Neighbourhood Services  
County Hall  
Bythesea Road  
Trowbridge  
Wiltshire  
BA14 8JN

## OPEN LETTER

### Application to Register Town or Village Green in Lower Stanton

## OBJECTION

Your Refs: 2018/01, 2019/01

Dear Ms Green,

Having read the application to make the grass verge which fronts my property into a village green on the basis that it is in constant use by the whole of Stanton Parish for sports and pastimes I wish to object in the strongest terms.

I have known this piece of land for over 34 years since my mother-in-law purchased the building plot which is now Lower Stanton St. Quintin. It has not been used for regular sports and pastimes and anyone claiming this is not telling the truth. Up until fairly recently the grass was not even mown regularly and looked very neglected. When we took possession of in 2015, no one was able to use the older bench because of the state it was in and the other one was also very neglected (I have photos). A memorial carton of flowers stood rotting for the best part of a year, on one bench, before I tidied it away.

There may have been the odd time when a village gathering has occurred but given my extensive knowledge of this land they would be very rare for me to have not seen or heard about them. Support of the Queen's 90<sup>th</sup> gathering witnessed by me in June 2016 was sparse. This was attended by no more than a dozen people, 2 of whom were myself and my husband as we happened to be passing. It was no more than a few people standing around and chatting for an hour or 2 before drifting off. By contrast, just opposite on the Forge at least one private party was in full swing. Significantly none of the main people now pushing this application bothered to attend.

No other event was held until 19 May 2018, after this application was submitted. What appears to be a protest event was held, directly in front of our house and only in front of our house where certain members of the village (who are now pushing for this "Village Green" congregated near our front wall after we arrived at our house that day, and then sat on our wall and even encouraged children to climb all over it. After we had finished what we had called in for and left, these people stopped sitting on our wall and drifted back to centre of party, away from our wall. All of this behaviour was captured by my CCTV and I retain these files as evidence.

The behaviour I describe above raises questions as to what might happen if the application is approved which will encourage those with a personal agenda for further harassment. The parish council is proposing to put in posts (and it may not stop at posts), without consultation with the Fire Service even though they know that the Fire Service say that their access route to my property is via this verge. And since the Fire Service's visit the parish council have already "allowed" the installation of a picnic bench in the Fire Service's route.

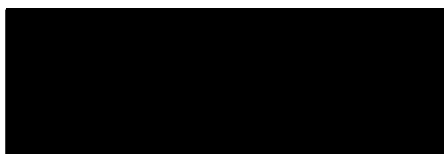
The grass verge has, as you well know, been claimed by the parish council who continue to allow people to think that this is true by 'giving permission' for things to happen on this land – planting of trees, installation of benches etc. This has led some people in the village to be very proprietorial about this land. However, as you are also well aware of, this area consists of highway land and waste land (or as we claim also highway) and has services running under it and above it – services which are for my property. Your failure to have even consulted with the service providers suggests you are being negligent in the least, and your failure to have rejected this application which clearly goes against the Planning Inspectorate's findings must raise the question why?

In conclusion, I think that the verge should stay as a verge and that Wiltshire Council should start to take full responsibility for the areas of highway, which includes the maintenance of those very large trees which are currently overhanging my front drive, and the removal of the concrete step at the entrance to my driveway which was unlawfully installed on highway land and restricts my access. Again both of these are issues Wiltshire Council have been repeatedly told about.

The real current usage of this land is not under threat. People will continue to use this land for walking across, walking their dogs, small gatherings and sitting on the benches, as they have done for many years. We are not disputing this and planning laws have been proven to protect this. The issue is the threat of a change to a Village Green which affects us and only us to the greatest degree and no other person in this village.

I believe the facts stated in this letter of objection are true.

Signed:

A solid black rectangular box redacting the signature of Kathryn Reeves.

Kathryn Reeves

Dated: 23<sup>rd</sup> September 2020

23 September, 2020

Janice Green  
Senior Definitive Map Officer  
Rights of Way & Countryside Team  
Communities & Neighbourhood Services  
County Hall  
Bythesea Road  
Trowbridge  
Wiltshire  
BA14 8JN

[ By recorded delivery ]

## OPEN LETTER

### Application to Register Town or Village Green in Lower Stanton

## OBJECTION

Your Refs: 2018/01, 2019/01

Dear Ms Green,

Please find below my objections to this application and the facts underpinning these objections, each listed below under separate headings.

However, first I want to point out that the rights and freedom of others are not affected by whether this land is TVG or not. It is my opinion that all the land is legally highway verge as I have stated previously and as I will show in this objection. There is nothing to prevent people gathering on highway verge, nor would I wish there to be.

The right to use the highway for any use is enshrined in the Highway Act 1980 where s130 (1) says

*It is the duty of the highway authority to assert and protect the rights of the public to the use and enjoyment of any highway for which they are the highway authority, including any roadside waste which forms part of it.*

There is no restriction on the type of use or enjoyment, so on highway verge you can picnic or hold fetes or hold book sales. The only limitation imposed by the Highway Act is that you cannot obstruct the rights of others. The law takes a common sense approach to this and if you can go around then it is not an obstruction. If the fete or book sale is on the verge then clearly this restriction would not apply.

Gathering on this land is therefore lawful and already protected by legislation. Thus there is no reason for this TVG application.

## Summary

As this objection is long and detailed I will start with a summary of the subsequent sections, what they prove and what that means.

**Vexatious** : details the bias in the parish council's application, how it does not claim all the grass but just the land under which my services run.

**Highway Land** : details how part of the claimed land is admitted highway and why this automatically means a claim based on Commons Act 15(2) must legally fail.

**Central Area (All)** : gives the documented history of the central area, the only part not admitted to be highway, and shows how all the long history repeatedly and strongly shows that the central area is also highway and therefore 15(2) also legally fails for this part too.

**Highway Act** : shows how the central area falls in to the category of waste land which forms part of the highway and that thus the Highway Act also applies to the central area, even ignoring the history and that therefore again 15(2) legally fails.

**Evidence** : covers the meagre evidence provided with the application and shows that this in no way supports a claim based on 15(2) but instead supports the claim that central area is highway. Facts which directly contradict this evidence are also presented. Additionally the author's personal 34yrs knowledge of this land is presented which again does not support a claim via 15(2).

**Royal Wootton Bassett** : covers the similarities and difference between this application and the one for Royal Wootton Bassett which was ultimately disallowed by the court and this confirmed by the appeal court. Discusses how this precedent applies to this application.

**Planning Inspectorate Reply** : covers Defra guidance including the requirement for confirmation from the Planning Inspectorate that a Commons Act 15C exclusion does not apply. Covers the Planning Inspectorate statement that a 15C exclusion does apply in fact and what Defra guidance says should have then happened.

**Commons Acts and Services** : covers the Planning Inspectorate guidance for works on town and village greens, what the law says and why this makes utility services using this land, drains, water, electric, etc. criminal if TVG is granted.

**Human Rights Act** : covers how the HRA interacts with services becoming criminal. Covers how the HRA interacts with the Commons Act and the duties of councils.

### 1. Vexatious

Stanton St. Quintin parish council claimed to own the whole of this land, including all the highway grass verge to the west and to the east, right up until 2016 when they finally had to admit that this claim was false. The claim seems to originate in 1982 following the first, outline planning application for [REDACTED] by an ex parish councillor, 82.1461.OL. A previous planning application in 1972, 72QW68, put an access right across the middle of this land and there is no record of any objections to this, either before or after this application was passed. It is strange then that just 10yrs later that, as recorded in the planning meeting minutes, the parish council claimed that they owned the land and said they wouldn't allow access across it. Similarly it is strange that no councillor noticed that the accounts didn't list the land as an asset nor did they notice that the accounts showed no wayleave income from the telephone poles on the land.

My late mother who bought this plot in 1986 and the Heredges who sold it both suffered significant losses due to the documented false claim of 1982 which the parish council repeated in 1986. All the criteria necessary for a case of fraud in 1986 are present, false representation of the facts and a loss to the victim(s).

Even as late as 2016 the parish council was still claiming all the land as theirs and a parish councillor even claimed that my boundary wall was a "village" wall. When the parish council informed me that I would need to apply for a wayleave to bring gas across "their" land, no councillor asked why there were no wayleaves for my existing services. It was these two obvious discrepancies, assets and income, that made me to ask the parish council for some proof of ownership. This led to their admission that their claim was false, some 30yrs too late. Given this history this TVG application is clearly vexatious. The parish council having lied about owning the land for over 30yrs now seems to believe that this has given a moral right to the land. The TVG application is discriminatory, a clear breach of the Human Rights Act, and thus an unlawful action by the parish council.

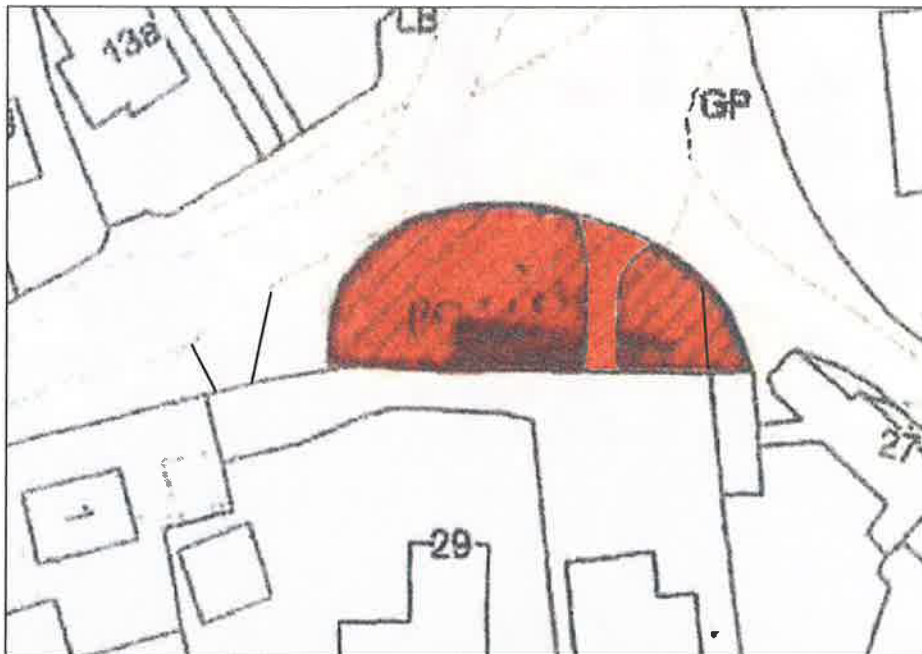


Figure 1 – TVG combined claimed land

The total land claimed for village green is shown in the figure above with the edges of the driveways marked with black lines. From this picture it can be seen that the claim is strangely not for all of the grassed area. The parish council has restricted their claim to just all the land directly in front of my property, [REDACTED] plus extended this to the west to as far as the drains which serve [REDACTED] plus extended this to the east to claim part of the driveway of 27 (Pond Cottage). In other words all the land with services for [REDACTED] or the potential to route services to [REDACTED] while conveniently leaving a green space for new or rerouted services for 29. This is clear evidence of bias and thus a breach of the code of conduct for councillors.



## 2. Highway Land

The land claimed in application 2018/01 includes land admitted to be highway by Wiltshire Council as the Highway Authority.

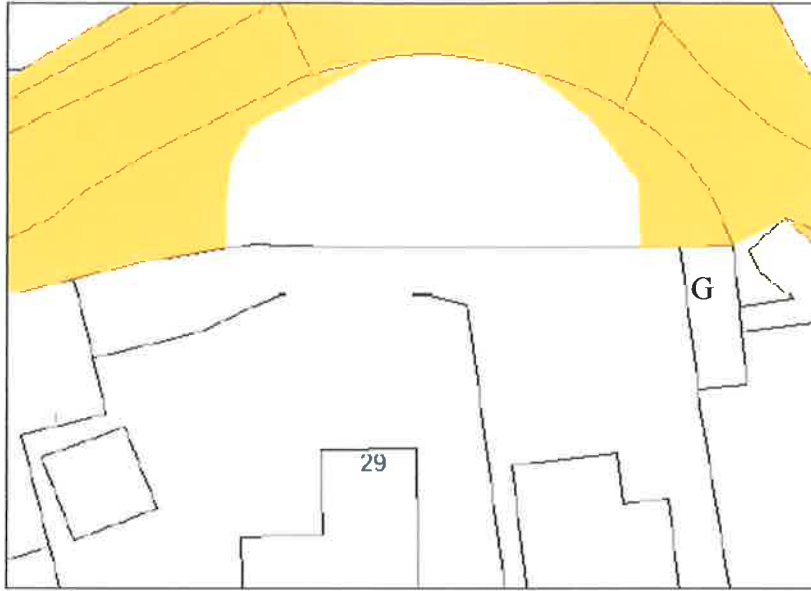


Figure 2 - Highway Map 9/3/2018

The basis of the application 2018/01 (and 2019/01) is Commons Act 15(2) which says:

*(2) This subsection applies where -*

*(a) a significant number of the inhabitants of any locality, or of any neighbourhood within a locality, have indulged as of right in lawful sports and pastimes on the land for a period of at least 20 years; and*

*(b) they continue to do so at the time of the application.*

The “as of right” fails for highway since any use is “as a right”, given by the Highway Act (“as of right” means using land as though you had a right to do so but in fact didn’t).

The far east side of the claimed land is currently the driveway of 27, Pond Cottage, and has been that for as long as I can remember and I know this land from 1986/7. The small rectangular building marked G is the garage and workshop of 27, Pond Cottage.

From my recollection there is usually always a car parked in front of the garage of 27 so I struggle with the concept that this driveway has been used for sports and pastime for the 20yrs up to 2018, the date the TVG claim was made, and also that this activity continues. I have not seen any evidence of such activity either in recent years when I have been regularly working on the remodelling of [REDACTED] or at any time in the 34 yrs I have regularly visited [REDACTED]. Nor did I hear any mention of such activity from my late mother who resided at [REDACTED] overlooking this land from 1987 to 2014. I’m sure that events in front of her house would have warranted a mention, especially sports or pastimes on someone’s driveway which is hardly the usual run of the mill activity you see.

The Highway Act 1980 s130 (1) says:

*It is the duty of the highway authority to assert and protect the rights of the public to the use and enjoyment of any highway for which they are the highway authority, including any roadside waste which forms part of it.*

Hence it is Wiltshire Council's duty to protect the public right to use the highway for all the uses of a highway. The public rights for a Village Green are more restrictive than a highway. Therefore Wiltshire Council would be failing in its duty to allow highway to become green as it would not be protecting all the highway rights.

### 3. Central Area (1719 to 1834)

Wiltshire Council do not admit that the central part of the land, a former pond is highway. One reason given is that this is because a pond is a barrier to traffic. However, with the TVG application and presented as evidence is an oral history of this pond by a long term resident of Lower Stanton St. Quintin. This oral history states that carts used to go through the pond to swell the spokes of their wheels (see evidence section, Ms Creasey's statement). This contradicts Wiltshire Council's claim that the pond was a barrier to traffic. Clearly it wasn't. Legally a submerged road is still a road, an obvious example of which would be a ford.

I am informed by a fellow of the Institute of Public Rights of Way and Access Management of over 30 years experience and a former president of IPROW that it is common for ponds to be dug in roads, to provide water for animals and for swelling the spokes of wagon wheels, in fact, exactly as the oral history describes.

Wiltshire Council's other argument is that the former pond was land gifted to a property in the village from the highway before Inclosure. Sections of old maps explaining why this argument is invalid too are shown below with the area under discussion bracketed by A and B, the same 2 points on all 3 maps.

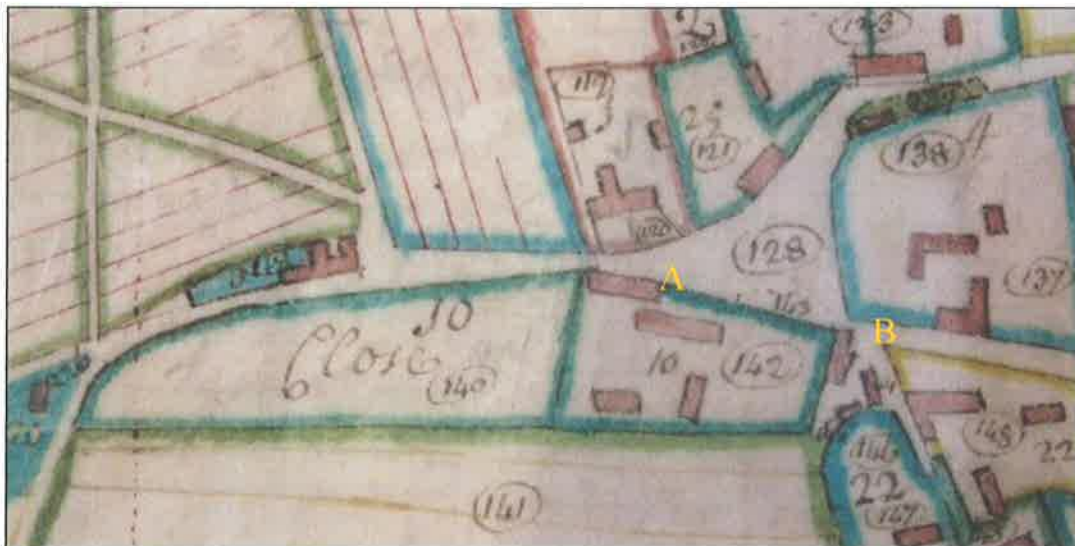


Figure 3 – Lower Stanton St. Quintin Map 1719

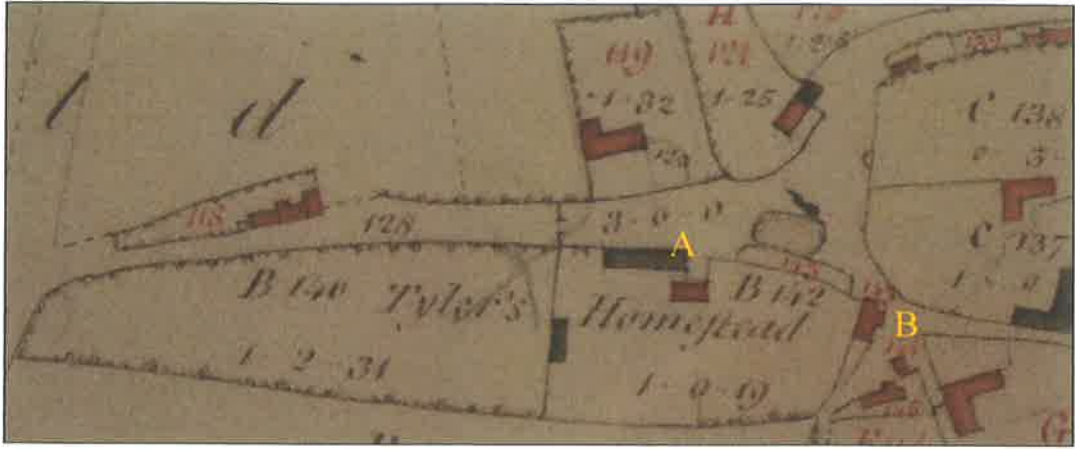


Figure 4 – Lower Stanton St. Quintin Map 1783

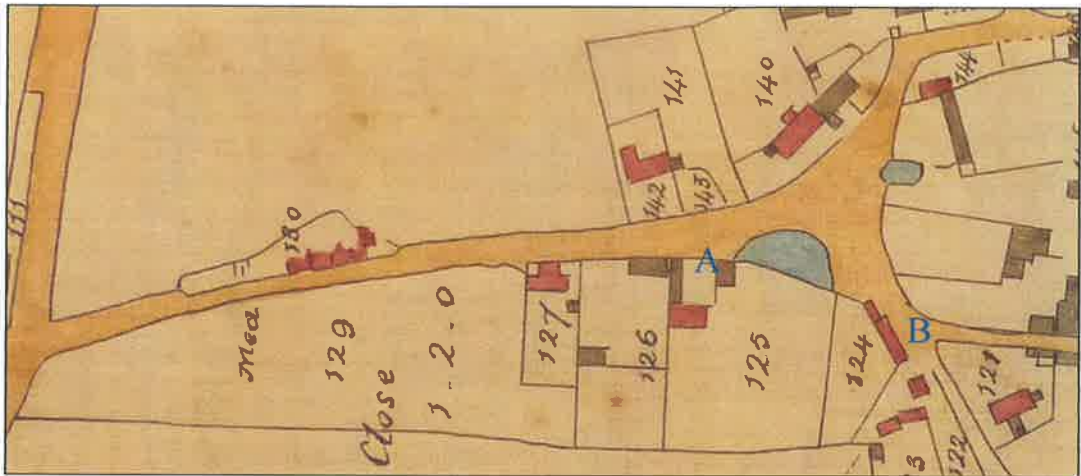


Figure 5 – Lower Stanton St. Quintin Map 1834

The 1783 map is part of the inclosure award map. This map shows an area of land numbered 143 which is linked to building numbered 143 (near B). This area seems to have been sketched in with dashed lines on the 1719 map too. Wiltshire Council claim 143 also includes the pond but there is no evidence to support that, the numbering 143 is only next to the building and in the area of land. There is no 143 next to the pond or in the pond, nor has the 143 of the land been marked over both the land and the pond which also would have allowed a larger text size too. Nor is the dashed area on the 1719 big enough to include the pond.

In addition if one compares the Seagry Road on the 1834 map to the 1783 map the 1834 looks narrower with the south edge moved north. Plus in the map of 1719 the house at B has no rear garden, then in the 1783 map it acquires a small rear garden and plot 143, and then in the map of 1834 it has a very large rear garden. I believe the logical explanation is that 143 was gifted to the house at B so it could be swapped for land to the rear taken from plot 142, and plot 142 acquired most of the 143 land. This suggestion is shown on the map below and is a better fit to the changed boundaries.

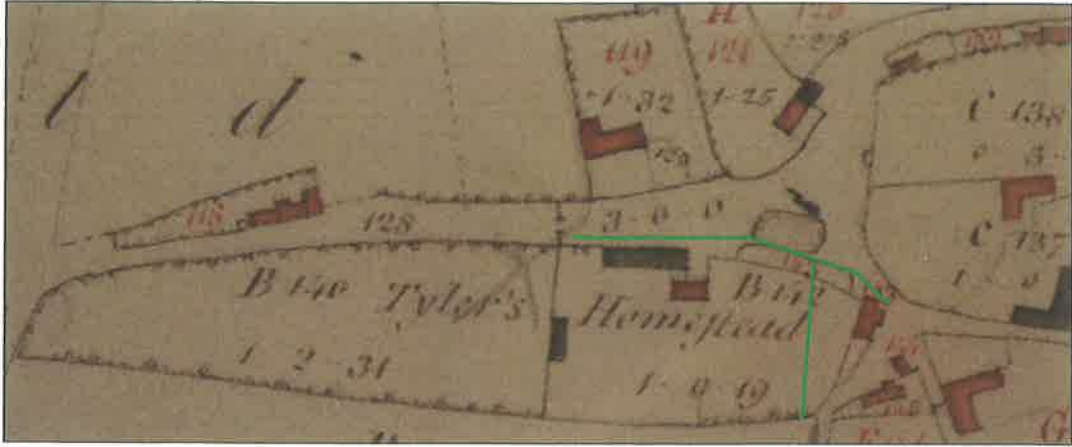


Figure 6 – Lower Stanton St. Quintin Map 1783 with land swap

#### 4. Central Area (1834)

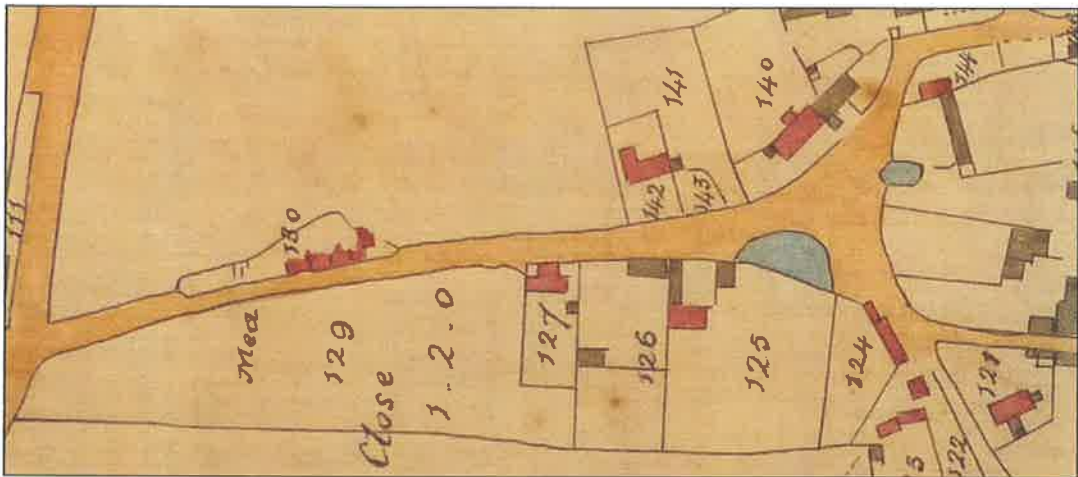


Figure 7 – Lower Stanton St. Quintin Map 1834

Together with the 1834 map is a survey which listed the measured area of all the plots and also of the road. The 1834 map has all areas numbered, even the road although since the map reproduced above is just a small part then not all of the plot numbers are visible.



*Survey of the Parish of Stanton St Quintin  
in the County of Wilt 1834*

No.	Tenant's Name	Name of Fields	Culture	Measure		
<i>The Cart of Rudner</i>						
1	In hand	Stanton Wood	Wood	250	1	57
2	James Munday	Wood Lane	Meadow	18	1	8
121	John Miles — one Cottage	Two Cottages and Garden		0	0	31
	In hand					
122	Joseph Alsop — (Seyhold)	Cottage and Garden		0	0	16
123	Late W <sup>m</sup> Miles — (Seyhold)	Two Cottages & Garden		0	0	28
124	James Woodman — (Seyhold)	Three Cottages & Garden		0	0	28
125	Robert Jones	Cottage Garden & Buildings		0	2	23
126	John Miles	Garden & Buildings		0	1	19
127	Robert Jones — (Seyhold)	Cottage & Garden		0	0	24
128	John Miles	Cook's Lane	Arable	0	0	0

Figure 8 – Stanton St. Quintin 1834 Survey Extracts

Since the pond has no number of its own, then logically the pond must belong to either the road or plot 125 as these are the only areas which adjoin it. Calculating the area of the road today is too difficult, however it is possible to test the theory that the pond is part of 125. The screenshot below shows the result of this measurement on Wiltshire Council's online tool.

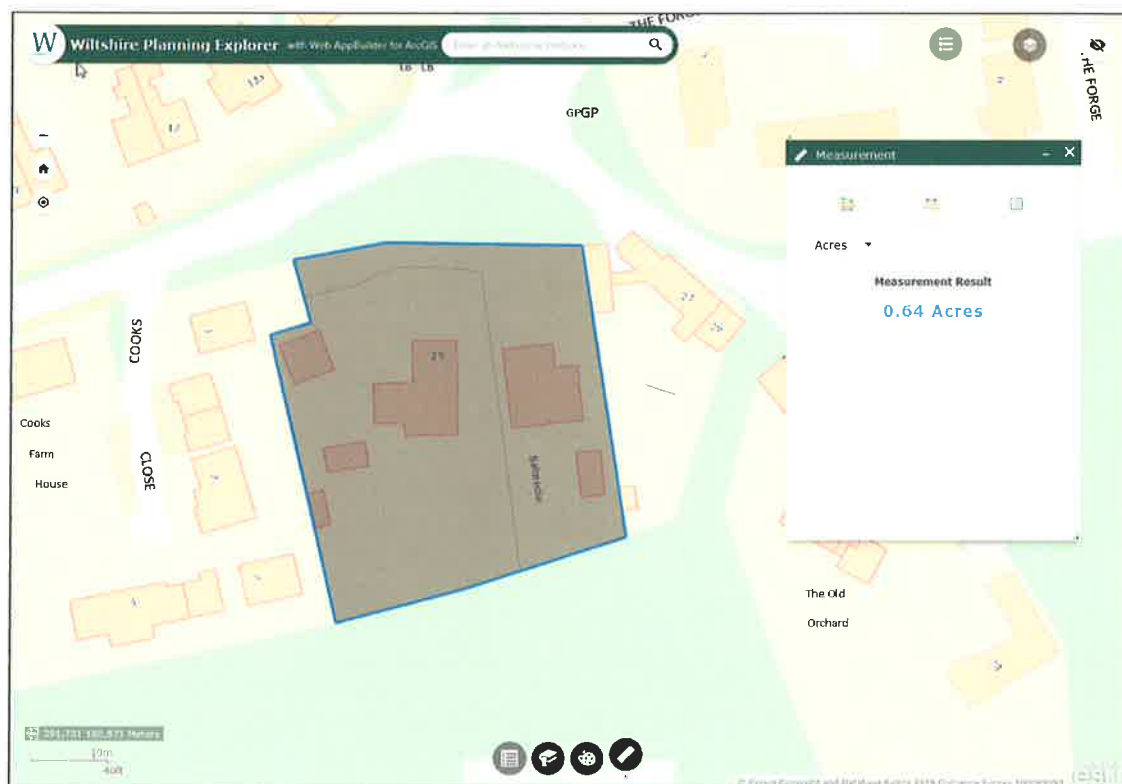


Figure 9 – Modern Measurement of Plot 125 Area

The modern measured area is 0.64 acres. The 1834 recorded size is given as 0, 2, 23 (acres, roods, perches) (see survey extracts above). As there are 4 roods to the acre and 40 perches to a rood this works out as 0.64 acre  $((2+23/40)/4)$ , exactly the same as today. Therefore in 1834 the pond is not part of plot 125.

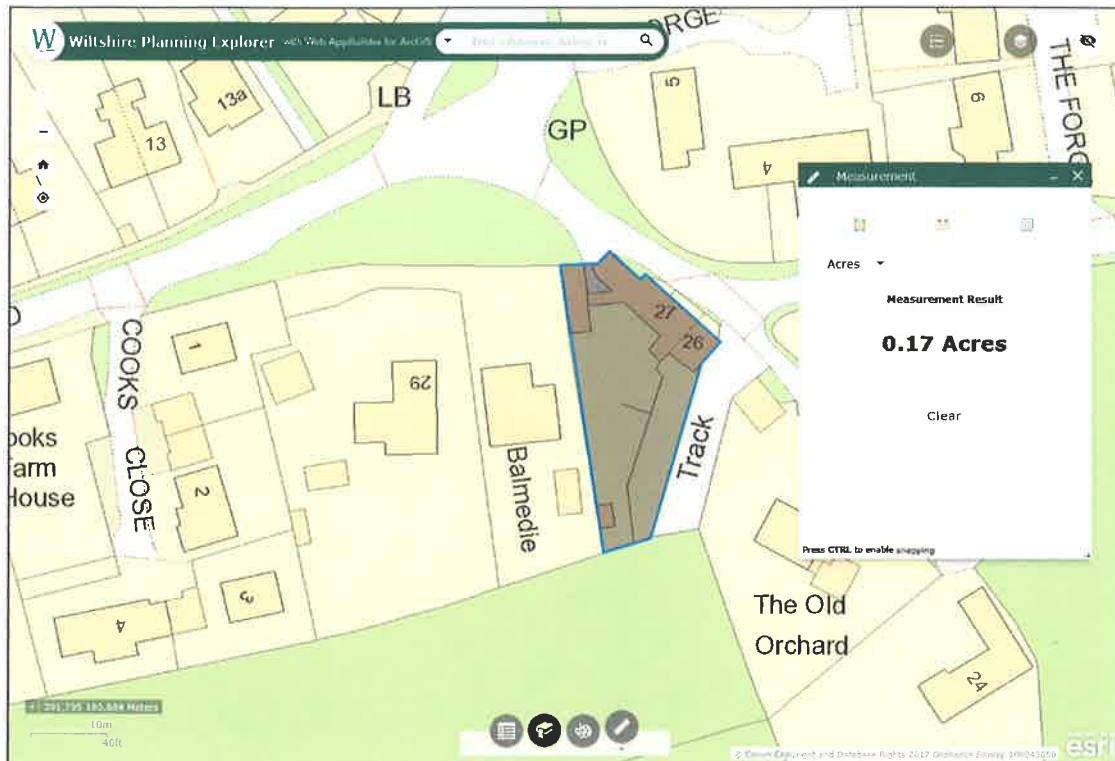


Figure 10 – Modern Measurement of Plot 124 Area

Wiltshire Council have claimed that the pond was part of the gift of land 143 in 1783 which would be plot 124 in the 1834 survey. Since plot 124 does not share a boundary with the pond then this does not seem likely as surely the 1834 map would have marked 124 on the pond to make ownership clear, however it is easy enough to check the area of 124 too. The modern result is shown above. The 1834 survey size is 0, 0, 28 (acres, roods, perches) (see survey extracts above) and there are 160 perches in an acre so this would be 0.175 acre  $(28/160)$ , the same as the modern result.

Therefore by 1834 the pond was not part of plot 124. Either the owners of plot 124 managed to somehow lose this asset in just 51 years, i.e. within a single lifetime, or the pond was never part of 124 and Wiltshire Council's claim it was gifted as part of plot 143 in 1783 is wrong. The only remaining theory is that the pond was part of the road.

## 5. Central Area (1910)

The Finance (109-1910) Act 1910 was made law on 29 April 1910. Section 26 of this act required the Inland Revenue Commissioners to "cause a valuation to be made of all land in the United Kingdom". The Inland Revenue produced maps to this end where colour was used to distinguish areas of land under different ownership. However, although tasked with valuing all land the coloured maps usually left the roads white, i.e. uncoloured. The extract of the map for Lower Stanton St. Quintin is shown below and the roads are uncoloured.



Figure 11 – Inland Revenue Finance Act 1910 Map for Lower Stanton St. Quintin

David Braham Q.C. explains the relevance of these omissions in his article “Uncoloured road on 1910 Finance Act Maps” published in “Rights of Way Law Review” May 2002, page 153 on. The reason for the roads being uncoloured is to be found in “Instruction to Valuers (No.560)” issued by the Chief Valuer on 28 Feb 1911, “By order of the Board”. This direction states:

*“Although the unit of valuation includes half the site of the adjoining roadway the area recorded on the record plan should continue to be exclusive of the site of external roadways and the area included in the Valuation Book should be computed accordingly”.*

Hence where possible roadways were excluded and thus left white. Where it wasn't convenient, e.g. the area had been calculated including the roadway, then the gross area was used and a deduction made for the roadway area. Mr Braham QC also explains that wording in No.560 shows that by roadway the Inland Revenue were referring to highways and not other sorts of roads.

The areas bordering the road in the map above are all coloured showing the survey was completed and thus the uncoloured area is demarking the highway. Except for the central area the rest of the uncoloured roadway is admitted to be highway. The Inland Revenue were tasked with recording all land. This task they simplified by removing roads since these would never be taxable, but they still recorded land that might one day be developed even if it currently had nil value. The only logical conclusion is that the central area pond was also highway. It has been treated the same as the rest of the roadway and left uncoloured. If was different then it would have coloured to show that it was different from the roadway and an explanation included in the survey book, even if the land value was currently nil.



## 6. Central Area (1950s)

The Public Health Act 1936 section 260 had made Parish Councils responsible for ponds and ditches prejudicial to health. The central area pond was a problem for Stanton St. Quintin Parish Council since at this time cows regularly used the road, depositing their dung, which then washed into the pond via the ditch on the south side of Seagry Rd (as marked on the 1910 Finance Act map above). The minutes for 6 Nov 1950 give a cost estimate of £70 for cleaning the pond.

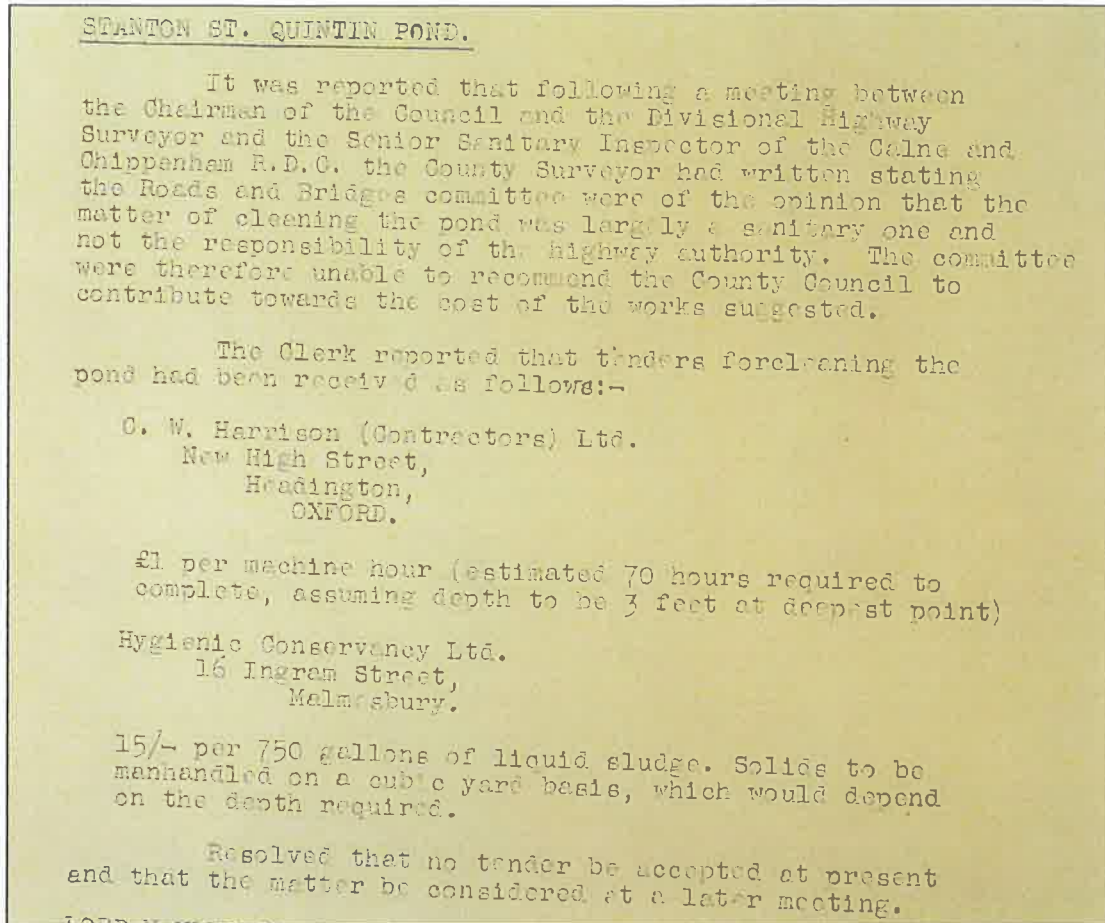


Figure 12 – Extract of Parish Council Minutes for 6 November 1950

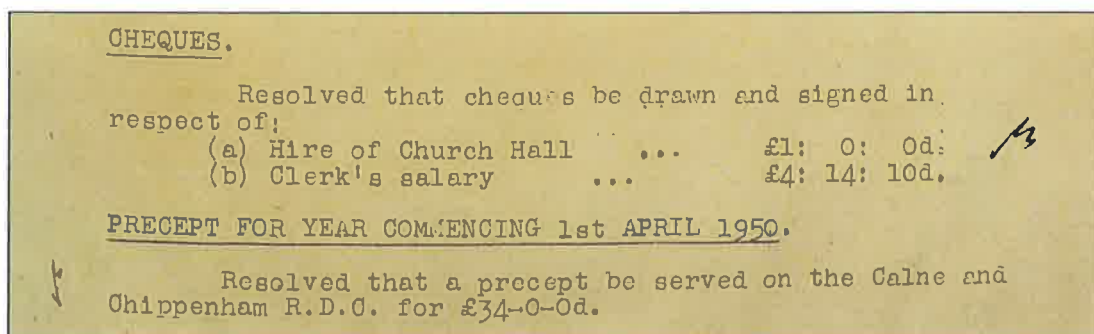


Figure 13 – Extract of Parish Council Minutes for 22 March 1950

Compare this cost with precept which the minutes for 22 Mar 1950 show as £34 per year. Clearly the parish council could not afford this cleaning hence the reason they had approached Wiltshire County Council Roads and Bridges committee on 4 Nov 1949 to request the pond was filled in.



<p>16 <i>Stanton St. Quintin.</i> (i) Calling attention to the need of repairs to the bridge in Avils Lane, Stanton St. Quintin.</p> <p>(ii) Suggesting the filling in of the pond at Lower Stanton St. Quintin and the diversion of road drainage.</p>	<p>That as this complaint refers to a section of fence wall adjoining the bridge which is considered to be the property of the adjoining owner, no action be taken.</p> <p>That no objection be raised to the pond being filled in by the Parish Council provided they meet the cost of diverting the road surface water drain.</p>
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Figure 14 – Extract of Roads and Bridges Committee Minutes for 4 November 1949

And again and again on 1 Sept 1950, 5 Oct 1951, and 7 Mar 1952.

<p>23 <i>Stanton St. Quintin.</i> Requesting a meeting with regard to the filling in of the pond.</p>	<p>That as this is largely a sanitary matter and not the responsibility of the highway authority, no action be taken.</p>
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Figure 15 – Extract of Roads and Bridges Committee Minutes for 1 September 1950

<p>11 <i>Stanton St. Quintin.</i> (i) Asking for consideration to be given to the improvement of 100 yards of narrow road near the entrance to the Air Ministry "C" site.</p> <p>(ii) (Min. 285(23)-1950). Asking if the County Council would reconsider the filling in of the Parish Pond with hardcore.</p>	<p>There are no funds available for an improvement, but the growth on the roadside banks, which overhangs the carriageway, will be cut.</p> <p>That the Committee adhere to their decision that as this is largely a sanitary matter and not the responsibility of the highway authority, no action be taken.</p>
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Figure 16 – Extract of Roads and Bridges Committee Minutes for 5 October 1951

<p>19 <i>Stanton St. Quintin.</i> (Min. 332(11)(ii)-1951). Pointing out that no improvement can be made in the condition of the pond at Stanton St. Quintin until the ditch discharging into it has been cleaned out, which work is considered by the Parish Council to be the responsibility of the County Council.</p>	<p>That as this is not the liability of the County Council, no action be taken.</p>
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Figure 17 – Extract of Roads and Bridges Committee Minutes for 7 March 1952

Each time the parish council got the same answer. The Roads and Bridges committee could not legally spend their roads budget on what was legally the responsibility of the parish council due to the wording of the Public Health Act 1936.

These requests are strong evidence that the pond was highway. Firstly the parish council clearly believed the pond to be highway otherwise why ask the Roads and Bridges committee to fill it in? These request also clearly show that there was no belief in 1950 that the pond was owned by the parish council as they latter claimed from 1982 to 2016. I wouldn't ask highways to fill in my garden pond nor would anybody else. Highways department would only be approached about highway matters not filling in a pond on land owned by someone else.

Secondly, in all the replies from Roads and Bridges committee they never once say the land is not highway. The parish council keeps bothering the Roads and Bridges committee with requests and the easiest way to stop that, if the pond was not highway, would have been to tell the parish council, "the land isn't highway, contact the land owner which isn't us".

Then a way around the problem was found as reported in the parish council AGM minutes of 1 June 1955. Waste material from the new council house build in the village was used to fill in the pond. Win-Win all round. The parish got the pond filled in for free. The council house build got rid of some waste for just the cost of transporting it a few hundred yards down the road. All with no cost to the roads budget.

Pond.

In his letter the Engineer also referred to the difficulty for some years past, in finding a method of dealing with the nuisance caused by the pond in its original condition. Although the Calne and Chippenham R.D.C. had no powers to deal with the matter, the opportunity had been taken, when the housing site was being developed, to use the pond as a site for dumping the surplus material; thus assisting the Parish Council in dealing with the nuisance.

Figure 18 – Extract of Parish Council AGM Minutes for 1 June 1955

This is also strong proof that the pond was highway. Highway can legally be repaired or changed as the highways department sees fit, using any materials as they see fit. Hence with the pond as highway the actions were all legal. If instead the pond is taken not to be highway then it must be somebody else's land. The council house build waste was therefore illegally fly-tipped and the land used as waste dump without the appropriate planning permission. The only logical deduction is that the council acted legally because the land was highway.

More evidence that the land is highway comes in 1965 when the minutes report that the Divisional Surveyor had agreed to cover the land with soil and seed it. This is something that would only be done for highway land otherwise it would be spending highway funds unlawfully. Highways would not come and reseed my lawn, they only repair highway land.

SITE OF FORMER POND

The Divisional Surveyor had agreed to cover the pond site with soil, as and when it became available, and then sow it with grass. Noted.

Figure 19 – Extract of Parish Council Minutes for 17 March 1965

On 28 March 1966 the clerk was instructed to chase the seeding and the Divisional Surveyor's reply recorded in the minutes of 31 May 1966.

FORMER POND SITE

The seeding of this site promised by the Divisional Surveyor had never been carried out and the Clerk was instructed to inquire as to the present position in this matter.

Figure 20 – Extract of Parish Council Minutes for 28 March 1966

MATTERS ARISING FROM PARISH MEETING

(i) Former pond site

The Divisional Surveyor had informed the Clerk that re-seeding of this site would be carried out when conditions were more suitable. In addition he had pointed out that it was being used for unauthorised parking by visitors to the chapel.

Figure 21 – Extract of Parish Council Minutes for 31 May 1966

Note that the Divisional Surveyor's reply also states the land is being used for unauthorised parking. This is claiming control of the land, i.e. that it is highway. If the land was waste land or in private ownership then the Divisional Surveyor would have no say whether parking was allowed or not, that would be up to the owner.

COMMONS REGISTRATION ACT, 1965

The County Council were carrying out preliminary inquiries under the above Act, and had asked if it could have a note of all commons or reputed commons in the Parish. No commons existed in the Parish, and it was

RESOLVED

That the County Council be so informed.

Figure 22 – Extract of Parish Council Minutes for 31 October 1966

And finally, as reported in the minutes for 31 Oct 1966 the parish council reported to the County Council for the Common registration Act 1965 that no commons or reputed commons existed in the parish, which includes the land now claimed by the current parish council to have been used as village green since 1968 (see Evidence, Parish Council's Statement).

## 7. Highway Act

It is a legal presumption that highway runs from boundary to boundary which would make it a presumption that the central area was highway. A legal presumption stands until there is solid evidence to disprove it. Wiltshire Council's only evidence besides that already shown to be false in the previous sections is the 1929 Takeover map which is shown below.

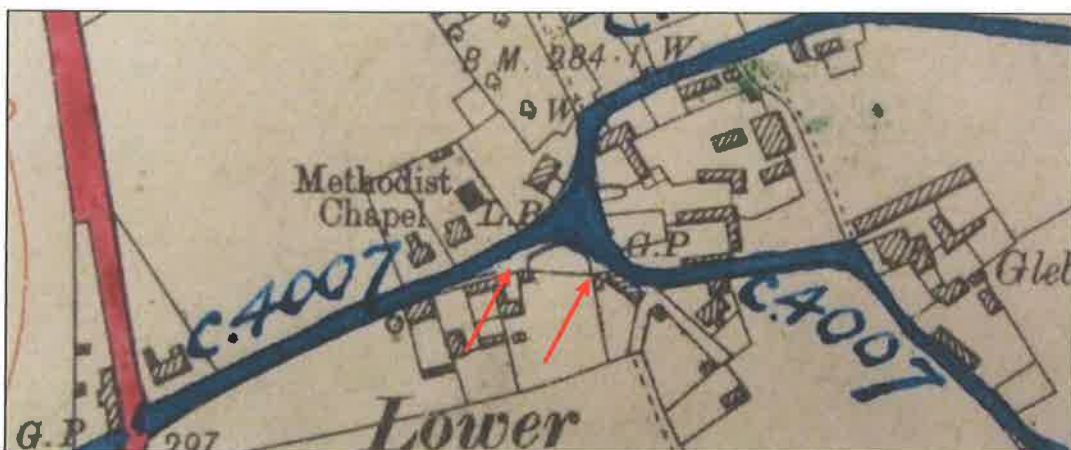


Figure 23 – 1929 Takeover Map



The 1929 Takeover map is claimed to be authoritative but it clearly has errors. It has missing areas, marked by the red arrows, which are now admitted to be highway (see figure 2). Why then should it therefore be authoritative on the pond not being highway if it has made mistakes either side?

If the central pond is not highway then it can only be waste land given that it has no registered owner nor was one listed in the 1834 survey, or in the 1910 Finance Act survey. No owner is after all the definition of waste land.

As mentioned earlier, the Highway Act 1980 s130 (1) says:

*It is the duty of the highway authority to assert and protect the rights of the public to the use and enjoyment of any highway for which they are the highway authority, including any roadside waste which forms part of it.*

The Highway Act then applies to both land admitted to be highway and *any roadside waste which forms part of the highway*. The waste land of the former pond fits the definition of being part of the highway. It is surrounded on 3 sides by land admitted to be highway and on the 4th side the private land boundary follows the same line as for the land admitted to be highway. The waste land is also indistinguishable from the land admitted to be highway. A pedestrian walking on this grass verge would notice no change as he walked from highway verge to waste land and back to highway verge.



Figure 24 - Highway Map 9/3/2018

Since, whatever its status, the central waste land comes under the highway act then it is therefore the Highway Authority's duty to protect the use of this waste land as highway. This is incompatible with allowing it to become a village green which has more restricted public rights. Hence the Highway Authority would be failing in its duty to allow that.

In addition, since the central land has the same rights as the highway land, whatever the status of this section, then it follows that all use of the central land is as a right, given by the highway act, and therefore that the "as of right" legal test of Commons Act 2006 15(2) (a) fails.

## 8. Evidence

Wiltshire comes under The Commons (Registration of Town or Village Greens) (Interim Arrangements) (England) Regulations 2007. Section 3 (d) (ii) says that the TVG application must be supported :

- (ii) *by such further evidence as, at any time before finally disposing of the application, the registration authority may reasonably require.*

The Commons Registration (England) Regulations 2014 which are currently being trialled is more specific and section 9 (a) says

- (a) *include evidence that section 15(2), (3) or (4) of that Act applies to the land in respect of which registration is sought;*

Clearly it is only reasonable that evidence for 15(2) is provided so a court would consider that 2007 3(ii) in effect is the same as 2014 9(a), in other words that the application provide evidence to prove the claim of 15(2). The Commons Act 2006 15(2) requires that:

- (a) *a significant number of the inhabitants of any locality, or of any neighbourhood within a locality, have indulged as of right in lawful sports and pastimes on the land for a period of at least 20 years; and*
- (b) *they continue to do so at the time of the application.*

Hence since the application is dated 30 April 2018 then the evidence needs to prove:

- Sports or pastimes took place on this land
- Over the period 30 April 1998 to 30 April 2018
- By a significant number of inhabitants of Stanton St. Quintin parish
- And that these continue.

In addition, legal precedent has established that such use cannot be trivial so the use has to be fairly regular.

The application has stated that the land is Stanton St. Quintin green rather than just Lower Stanton St. Quintin hence there must be a significant number out of the whole Stanton St. Quintin parish.

All the evidence is within application 2018/01. Application 2019/01 just adds some more land to that claimed by 2018/01 and refers the reader back to 2018/01. The evidence within 2018/01 is in two parts, statements by the parish council and a letter from villager Ms Hilary Creasey. These will be dealt with in the sections below and finally I will include my evidence.

### **Parish Council's Statement**

The parish council's first claim is that this land has been used as village green for the past 50 years but it does not say how it has been used as a green and it presents no evidence of this use. Given the parish council's history with making false statements about this land then they, more than most, need to prove their statements are the truth.

The 50yrs of claimed use would be from 1968 – 2018 yet planning application 72QW68 in 1972 puts an access road right across the middle of this land and there is no record of any objections to this, either before or after this application was passed. And the specification for this road in the plans for 72QW68 was a road over 14ft wide with 20ft splays each side at the junction with Seagry road. A total of over 54ft, so longer than a full sized removals van (45ft). Why were there no objections if the land was in use as a village green?

Also, as mentioned in the section on the Central Area (1950s), at the end of Oct 1966 the parish council reported to the County Council, for the Common registration Act 1965, that there were no commons or reputed commons in the parish. This is at odds with the current parish council's claim that in 1968 the former pond was an established village green.

A significant part of the parish council's statement is about how they maintain the grass and the trees. Again, no evidence is provided to support this claim and I would dispute the claim that they maintained the trees to any standard. I filed a report (#1168579) in 2017 on the dangerous state of the trees on the land which were overhanging the highway at eyelevel to both cyclists and horse riders. I also frequently saw the workers employed to mow the grass ducking under low hanging branches. It was only after I lodged a report with Wiltshire Council in 2017 that there was any pruning of the trees. I also know that the parish council ignored my late mother's requests that the trees overhanging her front garden be pruned. But in any case mowing grass is not sport or pastime, particularly when it is paid work.

Another part of the parish council's statement is about the benches and notice board which again is nothing to do with sports or pastimes so is irrelevant. It is claimed that villagers use these benches but the most frequent use I have observed before Covid was by walkers passing through, utility workers taking their lunch and cyclists taking a break. Again there is no evidence to support this claim to show the frequency of use by villagers. And this is also not a sport or pastime. Also, as the pictures below show, at the end of 2017 these benches were in a very poor state, covered in mould and lichen. You would only use these benches if you had something to sit on or were already in dirty working clothes. These pictures belie the claim that these benches were regularly used in the years leading up to 2018. If they were then the mould and lichen would not have got established.



Figure 25 – Bench 1 - 21 Nov 2017





Figure 26 – Bench 2 - 21 Nov 2017

In fact in the whole page and a half of the parish council's statement there are only two sentences which even address 15(2). I would presume this lack of focus is due to the parish council dismissing the solicitor from whom they took advice initially. The first of these two sentences is that "the land has been used for as a village green for the past 50 years", which is discussed above. The second is the claim at the bottom of the page that the land "has been the site of many community events and celebrations" but again no proof is provided to support this claim, not even a list of these events and celebrations and when they occurred and the number of attendees.

It is also fact that the annual Stanton Village Fete and Novelty Dog Show has never been held on this land, which again belies the parish council's claim, especially as in the application they call this land Stanton St. Quintin Village Green.

### **Ms Hilary Creasey's Statement**

Ms Creasy titles her statement "The Pond Not The Village Green" and states the land claimed for the TVG was never the village green so there is no historic right to this land which is supported by the parish council not claiming the land as common land in 1966.

Ms Creasey's profile on the NextDoor forum states she was born in Stanton in [REDACTED] and has lived there all her life. And from her mentioning in her statement that her parents and grandparents played cards etc. in the reading room (which was near 29's entrance but was demolished well before 1986) then it can be taken that at least 3 generations of her family lived in Stanton too. Ms Creasey's statement is thus in part an oral history of the pond which from the previous section, Central Area (1719 to 1834) certainly exists on the 1834 map and also looks to be on the 1783 map. Hence the pond was dug out at least 186 yrs ago if not 237 yrs ago.

Ms Creasy goes on to say that the pond was dug to provide water for animals and also for carts to regularly drive through in order to swell the spokes of their wooden wheels to stop the metal bands coming off. As mentioned in the section on Central Area (1719 to 1834) an expert has confirmed to me that it is well known among experts in this field that this was a common occurrence. And it was common that these ponds were dug out of the road. They were for the use of everybody so a wide section of the road would be the logical place to take some of the communal land for a communal pond.

Ms Creasy says that carts used drive through the pond for regular preventative maintenance of their wooden wheels. This shows the pond started life as a ford and was therefore part of the highway. This supports the claim in this objection that the central land is legally highway.

Ms Creasey says that when she was a child, after the pond had been filled in, the land was used for fetes etc.. Since Ms Creasey was born in [REDACTED] then this would be in the 1960s, well before the period 1998-2018 required by Commons Act 2006 s15(2).

Ms Creasey says that there were church services and other celebrations but again does not specify what or when. There used to be a chapel opposite this land so it is likely the church services were associated with that. The planning application to demolish this chapel is N/99/03062/OUT which was made in 1999 so it seems unlikely that any church service even falls within the range 1998-2018.

Ms Creasey's penultimate paragraph repeats the statement that this land has benches on it as though there was some threat to remove these benches. It is allowed to have benches on highway verge so where is the threat to these benches?

Ms Creasey's final paragraph is a statement of her opinion that an access from my house, [REDACTED] to the road it would be dangerous. This letter then would seem to be written as an objection to a planning application I made rather than in support of this TVG application.

### **Mr Malcolm Reeves' Statement**

This would seem the logical section to include my statement of the facts but to avoid any doubt my statement is being made as a statement of truth, as is the whole of this letter of objection. The appropriate wording to make this a legal statement of truth will be found at the end just before where the letter is signed.

My late mother bought the building plot next to [REDACTED] and had [REDACTED] built in 1986/87. At the time I had 2 children and my mother was living with us having sold her business in Chepstow after the sudden death of her husband. After my mother moved to her new house she was constant visitor, calling in on her way to or from the shops or from seeing friends she made in cruse (bereavement care) or bowls in Chippenham. Just as one would expect with a grandmother living in near to her grandchildren in Sutton Benger. As a family we would also visit her for Sunday lunch, Easter egg hunts, etc.. We would see my mother at least 3 or 4 times a week, some weeks almost every day with her often staying or coming over for dinner rather than have her needing to cook for one and eat alone.

By Apr 1998 I had 4 children, 6, 9, 12 and 14 and mother's house, [REDACTED] had a swimming pool so as you can imagine we were regular visitors during good weather in order to use the pool. This was during the week after the end of school as well as at weekends. This continued for many years up until the 9 yr old was 18 and went away to university so the 6 year old, now 15, was the only child left. Even then we still used her pool in the school holidays.



At no time when visiting my mother at [REDACTED] have I ever seen anybody using this land for sports or pastimes, nor have I ever seen any events taking place. Nor have I ever seen any boards or flyers or posters advertising events on this land and it is common practice to advertise events. I always see the board set out for Sutton Benger Village Fete, Firework Night, Beer and Sausage Night, etc.. Had there been regular events held on the land, even from 1987, it is impossible that I would not have seen a advert for at least one of these and I should have seen all or nearly all of them.

At no time did my mother tell me about any sports taking place on this land. At no time did my mother tell me about any events taking place on this land which was directly in front of her house. Nor did my mother ever tell me about events planned for this land and yet she did tell me about fetes held in other villages as suggestions for a family outing. We visited all the local fetes. It is inconceivable that she would not have mentioned events taking place or planned to take place in front of her house.

My mother passed away at the end of 2014. In 2015 we regularly visited [REDACTED] for all the usual tasks when someone passes. Then we considered adapting her house for our needs as it had bigger garden, so again we visited to make measurements and consider plans on site, as well as stripping walls and other work. During 2015 we again saw no sign of anyone using the land in front for sports or pastimes, nor did we see any events held on this land, nor did we see any flyers for any events.

In 2016 we started work on remodelling of the house with builders starting work at the end of Feb 2016. The roof and gables were dismantled, new walls built and a new roof installed. This took until middle of Aug 2016. The builders were on site every day, other than some holiday, and I was on site too acting as labourer and project manager. All the work took place on scaffolding with an aerial view of the land claimed for TVG. The scaffolding stayed in place once the builders had finished for the top half to be rendered which took until the end of Aug 2016. It remained up while I and my wife completed the fascias, guttering and while my wife and my daughter painted the top half. The scaffolding came down middle of Sept 2016. Myself and my wife and daughter frequently worked weekends as well as week days.

In the whole of 2016, when for the majority of the time I had an aerial view, I saw nobody undertaking sports or pastimes and just one candidate event on this land at the occasion of the Queen's 90<sup>th</sup> birthday. This was a very small gathering of people who were not attending one of the numerous garden parties taking place. A group of perhaps a dozen people stood around trying to avoid being poked in the eye by the tree branches which at that time were at eye height (they were pruned in 2017 following my report). Nobody sat on the benches as they were covered in lichen etc. as the pictures above attest. One person had brought their own garden chair and another had a shooting stick. Most had brought their own bottle to toast the Queen. There was nothing formally arranged, no cake stalls or beer tent or games of chance, music, etc. as one would find at the typical fete. Nor were there tables and chairs set out as one would expect at a formal get together. The majority of the village was attending private parties and we could hear the music from one of those drifting over. I therefore do not think this meets the requirements for 15(2) and this is the only candidate event I have ever seen or heard about in the whole period up to 2018.

It is also a fact that there is a regular Stanton St. Quintin fete (and dog show) which is held every year (except this year of course, due to Covid). This fete has never been held on this land which also belies the parish council's claim that this land has been used a village green for 50 yrs by the parish of Stanton St. Quintin.

## 9. Royal Wootton Bassett

The application has some similarities to the 2016 TVG application for land adjacent to Vowley View and Highfold in Royal Wootton Bassett. Wiltshire Council granted the TVG and the case went to court where Wiltshire Council lost. Wiltshire Council appealed and lost again and had to pay out £43k in costs (so a cost to the ratepayer of around double that).

The case was brought by the owners of the land, Cooper Estates Strategic Land Ltd, and at the appeal on 8 May 2019 they were represented by Mr Gregory Jones QC and Mr Philip Petchey (instructed by Blake Morgan LLP) [2019 EWCA Civ 840] and the judgement is available at:

<https://www.bailii.org/ew/cases/EWCA/Civ/2019/840.html>

The case hinged on "whether the land had been identified for potential development". Wiltshire Council's QC sought to argue that the judge had a balance to achieve. The appeal judges disagreed and supported the judge's decision in the first case:

*"I do not consider that there is a concept of "balance" to be implied into paragraph 4 or s.15C. These provisions have been overlaid on the scheme of the 2006 Act by the amendments made by the 2013 Act. Parliament undoubtedly intended to make a change in the law. The only balance, if such it is, is the one struck by Parliament through the provisions and seeking to protect future development opportunities against the effect of s.15 applications. If those provisions apply, according to their language and purpose, then the right to apply is excluded. Their extent is defined primarily by the language used, supported by the mischief they sought to address. As a matter of language paragraph 4 applies and in my judgment this is reinforced by the purpose, namely to prevent a s.15 application from hindering potential development of the land."*

My understanding on reading this case on bailii.org is that the judges decided that the provisions in Schedule 1A of the Commons Act were intended by Parliament to be interpreted literally. That the aim of Parliament was to prevent the mischief of s15 and leave the issue of green spaces vs development to the planning process.

The land for this claim is within a draft plan so comes under paragraph 3 of Schedule 1A the same as Royal Wootton Bassett came under paragraph 4 for a full plan. Hence the right to apply is excluded, if you take the words added by Parliament literally which the judges ruled should be the case as that was the intention of Parliament. And I wonder when Parliament ever writes an act that they don't intend to be interpreted literally.

However, it worth highlighting that there are significant differences that make the case for this TVG far weaker. These are:

- Evidence – the Royal Wootton Bassett application actually included evidence intended to satisfy 15(2). The claim was that the land was used yearly, almost without fail, for a picnic for the local residents and this was supported by entries in a diary giving dates. No evidence of use has been supplied with this application.
- Land Status – the Royal Wootton Bassett application was for private land. This application is for waste land and highway land which more problematic for a TVG than private land. Highway land cannot be given away and as has already been mentioned the highway act actually covers waste land next to the road meaning it is all highway land.

- Development Status - the Royal Wootton Bassett application was for land with a potential to be developed. The land claimed for this TVG actually has been developed when you consider development of land is more than just putting a house up. Development includes making roads and laying services. This land has services under it which date back to 1986 and before. The potential for development of this land is a proven fact so there is no doubt that it falls with paragraph 3 of Schedule 1A.

## 10. Planning Inspectorate Reply

Defra has issued "Guidance to Commons Registration Authorities in England on Sections 15A to 15C of the Commons Act 2006", the latest is dated Dec 2016. This can be found at:

<https://www.gov.uk/government/publications/guidance-to-commons-registration-authorities-in-england-sections-15a-to-15c-of-the-commons-act-2006>

Paragraph 79 of this guidance says:

***How will I (the commons registration officer) know if the right to apply is excluded?***

*79. On receipt of an application, you will need to write to:*

- *each local planning authority for the land to which the application relates; and*
- *the Planning Inspectorate,*

*for written confirmation of whether any trigger or terminating events have occurred in relation to the land, and the details of any such events. They will need to know what land is affected so you will need to provide them with a copy of a map of the land. Those confirmations will enable you to decide whether the right to apply under section 15(1) of the 2006 Act has been excluded.*

The Planning Inspectorate was contacted, as per the guidance, and their response in May 2019 was to say that the right to apply had been excluded. In other words the Planning Inspectorate did not confirm that it was in order to proceed with the application but the reverse.

Paragraphs 87 and 88 of the guidance say:

***Don't I need to formally accept an application before checking whether the right to apply is excluded?***

*87. No, you are advised to seek confirmation on whether the right to apply is excluded in relation to the land prior to formally accepting or acknowledging receipt of an application. This is because if the right is excluded then the application should not be accepted, and this extends to written confirmation of receipt of the application.*

*88. The rationale for this approach is to avoid time and money being spent advertising and making representations in relation to an application where it subsequently turns out there was no right to apply.*

Paragraph 79 of the guidance clearly states that the reason for contacting the Planning Inspectorate is for confirmation that it is ok to proceed and accept the application. The Planning Inspectorate did not provide such confirmation, and instead told Wiltshire Council that TVG applications were excluded. Paragraph 87, as I have underlined, states that excluded applications must be rejected immediately. Wiltshire Council is acting in contravention to these guidelines and exceeding its authority in ignoring the Planning Inspectorate's response.

To see how common or not such behaviour was I have made FOI requests to all similar authorities in England, that is to all the Unitary Councils and to all County Councils as Wiltshire Council used to be, but excluding the pioneer authorities and the 2014 Act authorities who operate under different rules and of course Wiltshire since I know Wiltshire Council has ignored the Planning Inspectorate without the need for an FOI request. This was a total of 72 requests. So far 60 (83%) have replied with data on 544 TVG applications. Exactly **zero** of these authorities have ignored a Planning Inspectorate response that an exclusion applies and continued to process an application. Wiltshire Council is clearly acting outside of its lawful authority and its actions are without precedent or any justification.

The raw data behind the above summary can be found on the What Do They Know site at:

<https://www.whatdotheyknow.com/>

Just search for "TVGs processed against Planning Inspectorate opinion" which will return 73 hits as it includes a request to Defra who unfortunately do not collect centralised data on this.

## 11. Commons Acts and Services

The Planning Inspectorate have issued guidance for works on greens. This document is titled "Common Land Guidance Sheet 2b, Works on Town & Village Greens" and can be found here:

<https://www.gov.uk/government/publications/common-land-guidance-sheet-2b-special-consent-provisions-other-than-national-trust>

I also made an FOI request to the Planning Inspectorate about this guidance. This too can be viewed on What Do They Know site here:

[https://www.whatdotheyknow.com/request/validity\\_of\\_common\\_land\\_guidance](https://www.whatdotheyknow.com/request/validity_of_common_land_guidance)

The FOI response included the original 2015 version, published in January 2015, and the 2018 version. Comparison of the two shows that the text is identical and the only changes are to make more of the text hyperlinks to the various acts mentioned in the text. The Planning Inspectorate reply to this FOI is that they have no record of any challenges to their guidance and they make the point that this "*is longstanding guidance*" which is a valid observation given the guidance is nearly 6 yrs old and unquestioned.

In this guidance the first paragraph lists the Acts that apply, section 12 of the Inclosure Act 1857 and section 29 of the Commons Act 1876. The second paragraph explains how works on a green can be authorised via section 38 of the Commons Act 2006 but ends with the statement:

*"consent under section 38 does not authorise works which constitute an offence under sections 12 or 29."*



And it then goes on to say that the only way around this is a land swap to remove TVG status from the land needing the works.

Section 29 of the Commons Act 1876 says:

*“any erection thereon or disturbance or interference with or occupation of the soil thereof which is made otherwise than with a view to the better enjoyment of such town or village green or recreation ground, shall be deemed to be a public nuisance”*

Public Nuisance is a criminal offence and it is legally impossible to give permission to commit a criminal offence which is why the Planning Inspectorate guidance says s38 cannot authorise such works.

Hence it is legally impossible occupy or disturb the soil unless this is for the benefit of the green. The existing services to my house are clearly of no benefit to a green and installing new services would clearly harm the green until the grass recovered. The granting of TVG would thus make my existing services criminal, cutting off my property from the services it has used since 1987. It would also make criminal the installation of any new services such as fibre, or indeed any replacement services for failed cables or pipes.

It is not possible to pick and choose which laws to obey and which to ignore. All laws have to be obeyed which is the point made by the Planning Inspectorate guidance.

Section 29 also excludes *“any erection thereon”* so the telephone poles on this land will become criminal too. This will affect the provision of telephone and internet services to the east end of the village. I would presume that Openreach would need to install another couple of poles at either end of The Forge and reroute the cables around, then rewire all the houses that come directly off these poles.

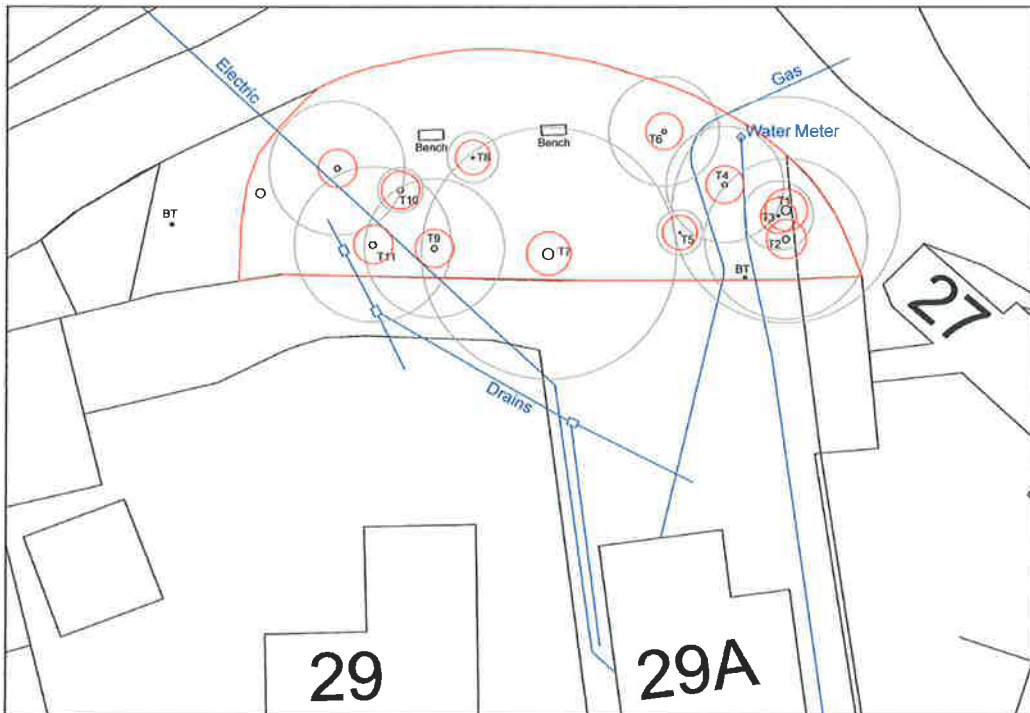


Figure 27 – Services to [redacted] Trees with RPA and TVG Claimed Area

The service routes to [redacted] are shown in the figure above in blue. All the services under this land were installed in 1986/7 or earlier with exception of gas which was installed in 2017. The trees were planted after the older services and without consultation with the utility companies as should have happened. This is why, as the plan above shows, the older services run in straight lines and even under trees.

The results of the survey by SSE on 27 Aug 2020 are shown in the photos below. The feed cable to 29 (not on the plan above) is in the left photo and the feed to [REDACTED] in the right. These photos show these cables are running almost directly under these trees so there can be no doubt that the utilities were not consulted about the positioning of these trees otherwise they would have objected to them blocking the access to their cables or pipes.

The guidance for works around trees defines 2 zones, a Prohibited Zone 1m from the trunk shown in red on the above plan and a Precautionary Zone at 12 x trunk diameter shown in grey. These regions explain the reason for the S shape of the gas pipe run (installed 2017).

The area claimed by the TVG application is outlined in red too. As already mentioned this is not the whole of the grass area but leaves a section unclaimed in front of 29 where pipes and cables could still be able to be run without being criminal. But as the plan shows all the current pipes and cables to [REDACTED] would become criminal and there are no possible areas to left to reroute these or install new services.

And of course the other question the above plan raises is "if the parish council really believed it was their land back in 1986 why didn't they ask for wayleaves for the water pipe and electricity cable?".



Figure 28 – SSE Survey 27 Aug 2020 (29 cable / [REDACTED] Cable)

## 12. Human Rights Act

It doesn't take a judge to realise that attempting to cut off the services to someone's house is an improper action for a council. In fact it is a breach of the Human Rights Act and an obvious one at that.

The First Protocol, Article 1 of the Human Rights Act is about the protection of rights for property. It states that every *"person is entitled to the peaceful enjoyment of his possessions"* which includes property. In addition, HRA Article 14, prohibits discrimination, including discrimination due to association with a particular property. Article 8 of the HRA is also applicable. Article 8 includes *"respect"* for *"his home"* and *"family life"*. It forbids interference except in extreme circumstances, such as national security, public safety or the for the protection of the rights and freedoms of others. And as has already been mentioned the Highway Act s130 already guarantees the public right of use and enjoyment of this verge so there is no need for this TVG application unless the aim is to cut off my services.

HRA in section 6 (1) says:

- 6 (1) It is unlawful for a public authority to act in a way which is incompatible with a Convention right.

Section 6 (2) excuses 6 (1) if the law is such that the public authority has no choice in how to act, but this is the only excuse. Wherever possible any public authority **must** act in accordance with the HRA otherwise it is acting unlawfully as 6 (1) says.

To assist in meeting 6 (1) the HRA in section 3 (1) says:

- 3 (1) So far as it is possible to do so, primary legislation and subordinate legislation must be read and given effect in a way which is compatible with the Convention rights.

In other words, given a choice of interpretations of any act then the public authority must chose the interpretation that is compatible with the HRA rights.

The parish council clearly had the option not to make this TVG application or even to withdraw it when the potential to breach HRA was pointed out to all councillors on 9 Aug 2020. That they chose not to do this makes this a wilful attempt to breach HRA and wilful breach of their code conduct and the 7 Nolan Principles. This TVG application's aim is to disadvantage myself and my family as shown by the land claimed and not claimed and the parish council's previous history of slandering me in their minutes.

Similarly Wiltshire Council had the option to follow the Defra guidance and immediately reject this application. Out of the 60 (83%) of similar councils which replied with details on 544 TVG applications not one council has ignored the Planning Inspectorate saying that TVG applications were excluded. Only Wiltshire Council has done that.

And of course Wiltshire Council was told in court, by 4 judges in total, that the Commons Act 2006, particularly s15C and Schedule 1A, were to be read literally, meaning that this TVG application would be excluded by paragraph 3 of Schedule 1A.

These are not the only reasons as the HRA requires paragraph 1 of Schedule 1A be a valid reason too. Paragraph 1 of Schedule 1A says a trigger event is:

1. *An application for planning permission, or permission 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.*

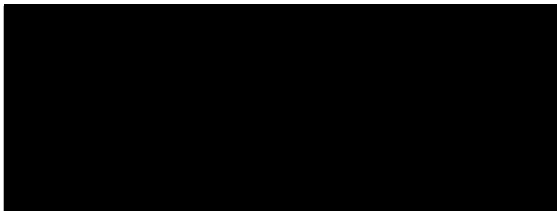
The key words here are "*in relation to the land*". This is not the same as "for the land" which is how the Wales version words this section. In relation to implies a looser link, direct and indirect relationships. The planning permission for the remodelling of [REDACTED] was granted in 2015 and is currently under way so meets all the rest of paragraph 1. There is clearly a relationship between my house and this land since my services come across it. Hence there is clearly a relationship between my planning permission and this land as my development needs this land for the services. As pointed out in a previous section development is more than just building the house, there are roads and services needed too. The land used for those is part of the development even if it is not part of the householder's property.

The whole reason for Parliament to word the act with "*in relation to the land*" rather than a simple "for the land" was to allow this to cover the cases of indirect relationships between planning permissions and other land the development needed to be viable. Plus HRA 3(1) requires that "*in relation to the land*" be interpreted to be compatible with the HRA in other words that that all TVG applications are excluded from this land and the services to my house are not made criminal.

This HRA case has been put previously to Wiltshire Council but never addressed or denied.

I believe the facts stated in this letter of objection are true.

Signed:

A large black rectangular redaction box covering the signature area.

Malcolm Reeves

Dated:

23/9/2020



## Green, Janice

---

**From:** Carole Poletti <Carole.Poletti@wessexwater.co.uk>  
**Sent:** 28 September 2020 08:51  
**To:** Green, Janice  
**Subject:** RE: TVG application Stanton St Quintin  
**Attachments:** 22.9.20 Applications No 2018 01 and 2019 01 WWSL.pdf

**Follow Up Flag:** Follow up  
**Flag Status:** Flagged

Dear Janice,

**Applications to register land as town or village green – land off Seagry Road, Lower Stanton St Quintin**  
**Applications no. 2018/01 and 2019/01**

I hope this finds you well.

Further to your e-mail of 12 August to my colleague, Alison Creighton, and your subsequent telephone call in relation to the above applications, please see attached our response which has gone in the post early last week.

I would be grateful if you could acknowledge receipt.

Many thanks

Kind regards

**Carole Poletti**  
**Senior Solicitor**

**Wessex Water**  
Claverton Down Bath BA2 7WW  
01225 526 387  
07919 881330  
[wessexwater.co.uk](http://wessexwater.co.uk)



---

**From:** Green, Janice <[janice.green@wiltshire.gov.uk](mailto:janice.green@wiltshire.gov.uk)>  
**Sent:** 12 August 2020 11:45  
**To:** Alison Creighton (nee Wyatt) <[Alison.Creighton@wessexwater.co.uk](mailto:Alison.Creighton@wessexwater.co.uk)>  
**Subject:** RE: TVG application Stanton St Quintin

Dear Alison,

**Commons Act 2006 – Sections 15(1) and (2)**

**Applications to Register Land as Town or Village Green – Land off Seagry Road, Lower Stanton St Quintin**

**Application no's 2018/01 and 2019/01**

Thank you for your enquiries regarding the above-mentioned applications to register land as Town or Village Green, off Seagry Road, Lower Stanton St Quintin. I am sorry I missed your call last week, but I see that my colleague Sally has very kindly provided you with the correct information. Just to clarify that there are now two applications, but the overall effect is that the whole of the semi-circular green area is now subject to an application to register the land as a town or village green.

Please find attached formal notice of the applications, in the form of Form 45 notices with plans attached. I would be very grateful if you could confirm whether or not Wessex Water plant is affected and the location of any plant. Please also feel free to make any representations regarding the applications, in writing (e-mail is acceptable), to myself, on or before Monday 28<sup>th</sup> September 2020, as per the attached notices.

Kind regards,

Janice Green  
Senior Definitive Map Officer  
Rights of Way and Countryside  
Wiltshire Council  
County Hall  
Trowbridge  
BA14 8JN

**Wiltshire Council**

Telephone: Internal 13345 External: +44 (0)1225 713345

Email: [janice.green@wiltshire.gov.uk](mailto:janice.green@wiltshire.gov.uk)

Information relating to the way Wiltshire Council will manage your data can be found at:

<http://www.wiltshire.gov.uk/recreation-rights-of-way>

Web: [www.wiltshire.gov.uk](http://www.wiltshire.gov.uk)

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Wessex Water Services Limited, Registered in England No 2366648. Registered Office – Wessex Water Operations Centre, Claverton Down Road, Claverton Down, Bath, BA2 7WW



Janice Green  
Senior Definitive Map Officer  
Rights of Way & Countryside Team  
Community and Neighbourhood  
Services  
County Hall  
Bythesea Road  
Trowbridge  
Wiltshire BA14 8NJ

Tel: 07919 881330  
Email: [carole.poletti@wessexwater.co.uk](mailto:carole.poletti@wessexwater.co.uk)  
Our Ref: CM3648/CP  
Your ref: JG/PC/212 2018/01 & 2019/01

Date: 22 September 2020

Dear Ms Green,

**Land Adjacent to Seagry Road, Lower Stanton St Quintin ("the Land") – Applications to Register Land as Town or Village Green Ref No. 2018/01 & 2019/01 ("the Applications")**

I refer to the above and to your recent telephone conversation with Alison Creighton of Wessex Water about the Applications.

Wessex Water would like to register its concerns as to the effect of registration of the Land as a town or village green on Wessex Water's ability to meet its statutory duties as the appointed sewerage and water undertaker for its region, which includes this area of Wiltshire.

Our records show an existing foul sewer as well as water meters indicative of the presence of water supply pipes running beneath the Land. A plan showing the approximate location of the sewer and water meters is attached (note that communication pipes and public lateral drains from the Wessex Water mains would not be shown on the plan).

Wessex Water enjoys powers conferred by sections 159 and 168 of the Water Industry Act 1991 to enter and carry out works in land other than a street, subject to the service of prescribed periods of notice on the owner and occupier of that land. Such works relate to the laying of new pipes and accessories and to inspection, maintenance, adjustment, repair and alteration of existing pipes and accessories.

We understand that certain Victorian legislation - namely section 12 of the Inclosure Act 1857 and section 29 of the Commons Act 1876 - is brought into play by virtue of land being registered as a town or village green. These provisions create criminal offences as regards causing injury, interruption of use as a place of recreation or disturbance of soil of town or village greens.

Any designation of the Land as a town or village green has the potential to frustrate Wessex Water's ability to maintain, extend and improve its assets. As I understand the legislation, there is no provision comparable to that applying to Common land, whereby the

Wessex Water  
Claverton Down  
Bath BA2 7WW  
Tel 01225 526 000  
Web [wessexwater.co.uk](http://wessexwater.co.uk)

Wessex Water Services Limited registered office  
Registered in England No 2366648



authorisation of the Secretary of State can be sought for the carrying out of new works on a town or village green.

If future maintenance and repair of Wessex Water's underground pipes was in any way restricted (e.g. a blockage in a sewer beneath the Land which could not be accessed and cleared), there could be a significant impact on the immediate locality.

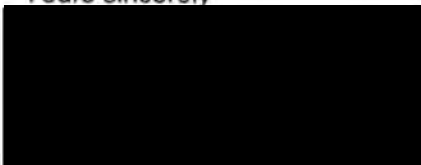
Consequently, Wessex Water is concerned that registration of the Land as a town or village green could have adverse impacts both on its ability to carry out its statutory duties and potentially on the residents of Lower Stanton St Quintin, on visitors to the area and to the wider environment.

Whilst Wessex Water is not the owner of the Land, it does have assets beneath its surface with associated rights of access through the surface of the land. These rights are akin to easements and have, as a result of the exercise of statutory powers, been described as a "statutory easement". As such, the condition contained within section 15(1) of the Commons Act 2006 as to indulgence "as of right" for the period of time set out may not be met. At any time, the indulgence could have been halted by service of the requisite notice under sections 159 and 168 of the Water Industry Act 1991. Furthermore, the designation, going forward, as a town or village green seems to be at odds with the notion that Wessex Water enjoys rights of easement over the Land.

In submitting these observations, we would like to make it clear that Wessex Water does not object to use of the Land for sports and pastimes. Wessex Water simply wishes to record the need for careful consideration of Wessex Water's statutory obligations in deciding how to approach the future designation of the Land.

Please accept this letter as a formal submission setting out Wessex Water's position in this matter.

Yours sincerely



Carole Poletti  
Senior Solicitor  
for and on behalf of  
Wessex Water Services Limited

Enc.

Wessex Water  
Claverton Down  
Bath BA2 7WW  
Tel 01225 526 000  
Web [wessexwater.co.uk](http://wessexwater.co.uk)

Wessex Water Services Limited registered office  
Registered in England No 2366648



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**Green, Janice**

---

**From:** Paul Aviss [REDACTED]  
**Sent:** 15 August 2020 09:57  
**To:** Green, Janice  
**Subject:** Notices of Application to Register Land as Town or Village Green - Reference not:  
2018/01 and 2019/01

**Importance:** High

**Follow Up Flag:** Follow up  
**Flag Status:** Flagged

Janice

Further to your two letters , both of the 10th August, we wish to add our FULL support to the proposals to register land adjacent to Seagry Road, Lower Stanton St Quintin as Town or Village Green. We are joint owners of number [REDACTED] The Forge Lower Stanton St Quintin.

For sake of clarity, our support is for the land outlined in accompanying plans **IN ITS ENTIRETY** and with no access across it as seems to have been identified in these plans.

I shall be grateful if you will please acknowledge safe receipt of this email in due course.

Many thanks

Regards

Paul and Alison Aviss



**Green, Janice**

---

**From:** Cadent EAGLES System <noreply.eagles@dnvgl.com>  
**Sent:** 13 August 2020 16:47  
**To:** Green, Janice  
**Subject:** Cadent and National Grid Plant Enquiry Response - Your Ref: SSQ TVG Our Ref: XX\_XX\_3SWX\_710899  
**Attachments:** NATIONAL\_GRID\_XX\_XX\_3SWX\_710899\_1\_8356.pdf

**Proposed Works - Your Ref: SSQ TVG Our Ref: XX\_XX\_3SWX\_710899**

Thank you for your enquiry which was received on 13/08/2020.

Please refer to the attached documentation for Cadent and National Grid's response.

**Self-service for Plant Enquiries:** [www.beforeyoudig.cadentgas.com](http://www.beforeyoudig.cadentgas.com)

If you need to contact the Plant Protection Team regarding your enquiry, please use the following details:

Email: [plantprotection@cadentgas.com](mailto:plantprotection@cadentgas.com)  
Address: Plant Protection  
Cadent  
Block 1; Floor 1;  
Brick Kiln Street  
Hinckley  
LE10 0NA  
Telephone: +44 (0)800 688 588

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**National Gas Emergency Number:**

**0800 111 999\***

**National Grid Electricity Emergency Number:**

**0800 40 40 90\***

\* Available 24 hours, 7 days/week. Calls may be recorded and monitored.

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\*\*\*\*\*



Janice Green  
Wiltshire Council  
Unit 9  
Ascot Court  
White Horse Business Park  
Trowbridge  
Wiltshire  
BA14 0XA

**Date:** 13/08/2020

**Our Ref:** XX\_XX\_3SWX\_710899

**Your Ref:** SSQ TVG

**RE: Proposed Works, Lower Stanton St Quintin, Chippenham, Wiltshire**

Thank you for your enquiry which was received on 13/08/2020.

An assessment has been carried out with respect to Cadent Gas Limited, National Grid Electricity Transmission plc's and National Grid Gas Transmission plc's apparatus. Please note it does not cover the items listed in the section "Your Responsibilities and Obligations", including gas service pipes and related apparatus.

For details of Network areas please see the Cadent website (<http://cadentgas.com/Digging-safely/Dial-before-you-dig>) or the enclosed documentation.

**Searches based on your enquiry have identified that there is no record of apparatus in the vicinity of your enquiry.**

**As your works are at a "proposed" stage, any maps and guidance provided are for information purposes only. This is not approval to commence work. You must submit a "Scheduled Works" enquiry at the earliest opportunity and failure to do this may lead to disruption to your plans and works. Plant Protection will endeavour to provide an initial assessment within 14 days of receipt of a Scheduled Works enquiry and dependent on the outcome of this, further consultation may be required.**

**In any event, for safety and legal reasons, works must not be carried out until a Scheduled Works enquiry has been completed and final response received.**

Plant Protection  
Cadent  
Block 1; Floor 1  
Brick Kiln Street  
Hinckley  
LE10 0NA  
E-mail: [plantprotection@cadentgas.com](mailto:plantprotection@cadentgas.com)  
Telephone: +44 (0)800 688588

**National Gas Emergency Number:**  
**0800 111 999\***

**National Grid Electricity Emergency Number:**  
**0800 40 40 90\***

\* Available 24 hours, 7 days/week.  
Calls may be recorded and monitored.

[www.cadentgas.com](http://www.cadentgas.com)

## Your Responsibilities and Obligations

The "Assessment" Section below outlines the detailed requirements that must be followed when planning or undertaking your scheduled activities at this location.

It is your responsibility to ensure that the information you have submitted is accurate and that all relevant documents including links are provided to all persons (either direct labour or contractors) working for you near Cadent and/or National Grid's apparatus, e.g. as contained within the Construction (Design and Management) Regulations.

This assessment solely relates to Cadent Gas Limited, National Grid Electricity Transmission plc (NGET) and National Grid Gas Transmission plc (NGGT) and apparatus. This assessment does **NOT** include:

- Cadent and/or National Grid's legal interest (easements or wayleaves) in the land which restricts activity in proximity to Cadent and/or National Grid's assets in private land. You must obtain details of any such restrictions from the landowner in the first instance and if in doubt contact Plant Protection.
- Gas service pipes and related apparatus
- Recently installed apparatus
- Apparatus owned by other organisations, e.g. other gas distribution operators, local electricity companies, other utilities, etc.

It is **YOUR** responsibility to take into account whether the items listed above may be present and if they could be affected by your proposed activities. Further "Essential Guidance" in respect of these items can be found on either the [National Grid](#) or [Cadent](#) website.

This communication does not constitute any formal agreement or consent for any proposed development work; either generally or with regard to Cadent and/or National Grid's easements or wayleaves nor any planning or building regulations applications.

Cadent Gas Limited, NGGT and NGET or their agents, servants or contractors do not accept any liability for any losses arising under or in connection with this information. This limit on liability applies to all and any claims in contract, tort (including negligence), misrepresentation (excluding fraudulent misrepresentation), breach of statutory duty or otherwise. This limit on liability does not exclude or restrict liability where prohibited by the law nor does it supersede the express terms of any related agreements.

If you require further assistance please contact the Plant Protection team via e-mail ([click here](#)) or via the contact details at the top of this response.

Yours faithfully

Plant Protection Team

# GUIDANCE

## Standard Guidance

**Essential Guidance document:**

<http://www2.nationalgrid.com/WorkArea/DownloadAsset.aspx?id=8589934982>

**General Guidance document:**

<http://www2.nationalgrid.com/WorkArea/DownloadAsset.aspx?id=35103>

**Excavating Safely in the vicinity of gas pipes guidance (Credit card):**

<http://www.nationalgrid.com/NR/rdonlyres/A3D37677-6641-476C-9DDA-E89949052829/44257/ExcavatingSafelyCreditCard.pdf>

**Excavating Safely in the vicinity of electricity cables guidance (Credit card):**

<http://www.nationalgrid.com/NR/rdonlyres/35DDEC6D-D754-4BA5-AF3C-D607D05A25C2/44858/ExcavatingSafelyCreditCardelectricitycables.pdf>

Copies of all the Guidance Documents can also be downloaded from the [National Grid](#) and [Cadent](#) websites.



# ENQUIRY SUMMARY

## Received Date

13/08/2020

## Your Reference

SSQ TVG

## Location

Centre Point: 391728, 180845

X Extent: 54

Y Extent: 37

Postcode: SN14 6DB

Location Description: Lower Stanton St Quintin, Chippenham, Wiltshire

## Map Options

Paper Size: A4

Orientation: LANDSCAPE

Requested Scale: 1250

Actual Scale: N/A

Real World Extents: N/A

## Recipients

janice.green@wiltshire.gov.uk

## Enquirer Details

Organisation Name: Wiltshire Council

Contact Name: Janice Green

Email Address: janice.green@wiltshire.gov.uk

Telephone: (01225) 713345

Address: Unit 9, Ascot Court, White Horse Business Park, Trowbridge, Wiltshire, BA14 0XA

## Description of Works

Application to register land as Town/Village Green

## Enquiry Type

Proposed Works

## Activity Type

Highways

## Work Types

Work Type: Non-invasive Works (existing infrastructure)

Work Type: Plans Only

## Green, Janice

---

**From:** [REDACTED]  
**Sent:** 18 August 2020 11:17  
**To:** Green, Janice  
**Cc:** [REDACTED]  
**Subject:** Planning Application to register the semi-circular area of land adjacent to Seagry Road, Lower Stanton St Quintin, as a town or Village Green.

**Follow Up Flag:** Follow up  
**Flag Status:** Flagged

Dear Janice

It has been brought to our attention that there have been multiple planning applications made to put a driveway across what we know as the "village green".

Myself and Tracy moved into the village in 2009 and one of the many functions held on the village green was instrumental in introducing us to many of our neighbours who are now great friends.

On VE Day this year, a neighbour and myself turned the village green and the small area opposite, into a VE Day display by parking up one WW2 jeep and three WW2 motorcycles.  
As VE day celebrations were limited, we have received lots of positive comments regarding making the village green a focal point in the village on that day.

We have no village pub and there are not many places in the village where people can gather for fun. This area should be maintained and adopted as our village green in order to continue being a meeting place. It is a really important feature of our village.

We support the semi-circular area of land, adjacent to Seagry Road, being formally adopted as a village green for the people of Stanton St. Quintin.

Kind regards

Malcolm Barrington and Tracy Warne

[REDACTED]  
[REDACTED] Lower Stanton St. Quintin  
Chippenham  
Wiltshire  
SN14 6 [REDACTED]

## Green, Janice

---

**From:** Michael Childs [REDACTED]  
**Sent:** 08 August 2020 13:08  
**To:** Green, Janice  
**Subject:** Applications to register land as Town/Village Green - Seagry Road, Lower Stanton St Quintin

**Follow Up Flag:** Follow up  
**Flag Status:** Completed

**Commons Act 2006 – Sections 15(1) and (2)**  
**Applications to Register Land as Town/Village Green – Seagry Road, Lower Stanton St Quintin**  
**Application no's 2018/01 and 2019/01**

Dear Ms Green,

I write to you with reference to the above application numbers.

I send this email to you in support of the above planning application to register the land in question as a town/village green.

Lower Stanton St Quintin is a small village that has very few local amenities, it doesn't even have a telephone box anymore!!

The Green in question is for the majority of the villagers the geographic centre of Lower Stanton and is therefore an ideal location.

It is now used for a large number of purposes, my family and a number of others I have seen use it as a picnic site. Earlier this year a small display of WW2 vehicles was held to commemorate VE Day in the absence of any formal event because of Covid-19. A number of people visited the site during the day and chatted whilst socially isolating. There is also a local free library on the site too.

The people of Lower Stanton St would clearly benefit from a village green and I'm sure that is what it has been in the decades gone by.

Kind regards,

Mike Childs



Virus-free. [www.avg.com](http://www.avg.com)

## Green, Janice

---

**From:** Liz Cullen [REDACTED]  
**Sent:** 17 August 2020 18:25  
**To:** Green, Janice  
**Subject:** Adoption of a Village Green at Lower Stanton St Quintin  
**Attachments:** P1070025.JPG; P1090116.JPG; P1090215.JPG

**Application to register Land as Village Green – Land Adjacent to Seagry Road, Lower Stanton St Quintin, Ref: 2018/01 & 2019/01**

Dear Ms. Green,

I am writing to you to add my recommendations to (hopefully) a growing number of positive comments about the adoption of the green space outside our house as a recognised Village Green.

We have lived in [REDACTED] behind the Green for 26 years plus and I have seen the space become established over the years as a community asset. There have been several open air church services held there and numerous national celebrations with “Bring and Share” food and drink, such as the Queen’s Jubilee, Royal Weddings and most recently, V.E. Day with a display of vintage vehicles. In May 2018, a group of adults helped village children plant wildflower seeds, to establish a small Community garden (photo 1). In June 2019, a book sale was held to raise funds to provide a ‘Wee Free Library’ (photo 2) where people could exchange books. The library was paid for by an anonymous local person, books were purchased to start the venture and it has been very well-used, especially in the months of lock-down, when shops and libraries were closed. (opening of the library by local poet, picture 3)

There is a public notice board giving information about the Parish Council meetings, church services and local events. The bench seat and picnic bench are used by residents and visitors as a pleasant place to meet, picnic and chat. Our Parish council have maintained the area for many years, paying for regular grass-cutting and tree-surgery.

Thank you for your time with this gathering of information. I can honestly say that the vast majority of villagers are wholeheartedly in favour of having the Village Green established in perpetuity for now and for generations to come,

Yours sincerely,

Liz Cullen









## Green, Janice

---

**From:** PETER CULLEN [REDACTED]  
**Sent:** 11 August 2020 09:48  
**To:** Green, Janice  
**Subject:** Lower Stanton St Quintin

**Follow Up Flag:** Follow up  
**Flag Status:** Flagged

Janice Green  
Senior Definitive Map Officer  
Rights of Way & Countryside Team  
Communities and Neighbourhood Services  
County Hall  
Bythesea Road  
TROWBRIDGE  
Wiltshire BA14 8JN

11<sup>th</sup> August 2020

Dear Ms Green,

I write with reference to the Notice of Application to Register Land as Town or Village Green at Lower Stanton St Quintin – Ref: 2018/01.

I support this application very strongly. I have lived in a property adjacent to the land concerned for over 26 years and know that it gives a great deal of pleasure to village residents, visitors from the locality and those passing through. There is no question that the land has provided a focus for village celebrations including street parties, most recently the commemoration of VE Day in May. In addition there have been church services, book sales and many informal gatherings of locals. The benches on the Green are used daily, at least in summer, by residents and also walkers and cyclists passing through the village. The little library receives visits from many people, at least daily, and has been very well received. I am not aware that there has ever been any anti-social behaviour.

I know that the grass and trees on the Green have been maintained at the Parish Council's expense for all the time that I have lived in Lower Stanton St Quintin and I believe they took on responsibility well before I arrived.

The land that is subject to the Application is clearly a valuable asset and focus of enjoyment for the local community and others. There is no doubt in my mind that it should be registered as a Village Green and I support the Council's Application.

Yours sincerely,

Peter Cullen  
[REDACTED]  
[REDACTED] Lower Stanton St Quintin  
Near CHIPPENHAM  
Wiltshire SN14 6 [REDACTED]  
United Kingdom

## Green, Janice

---

**From:** Davis, Martin [REDACTED]  
**Sent:** 13 August 2020 14:14  
**To:** Green, Janice  
**Cc:** Helen Davis  
**Subject:** Re: application refs: no 2018/01 and 2019/01

Janice,

Thank you for sharing the applications for the application of village green:

I have lived in the village (since Oct 1997) and during that time the space in question has played a part on bringing the village together on many occasions. We personally have met and made strong friendships from the people we have met and these probably would have not developed had the green space not been there or had been available to use.

During this time I have seen an ever increasing use of the space and particularly in this time where people have to socially distance the coming together of families in sensible surroundings to maintain a healthy life balance has been really good to see.

The green itself has formed part of Royal celebrations and most recently the villages VE day celebrations where we had historical Military vehicles and a village gathering to celebrate.

There are not many places in villages where people gather for fun and for this to be maintained and to continue is a really important feature of the village.

Today all to many people live in isolation and this has brought out people who would never socialised and has made them and the village stronger because of it.

It also forms a living memorial to a number of families who have dedication benches installed in memory of their loved ones and we have to respect and retain this for them.

For these reasons I believe this application should be supported

**Martin Davis**

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## Green, Janice

---

**From:** Keith Garrod [REDACTED]  
**Sent:** 12 August 2020 13:01  
**To:** Green, Janice  
**Subject:** Application to Register TVG

**Follow Up Flag:** Follow up  
**Flag Status:** Completed

Dear Ms. Green

Reference no: 2018/01 Land Adjacent to Seagry Road. Lower Stanton St Quintin.

In response to the letter dated 31 July 2020, I would like to make the following comments.

I am currently resident at [REDACTED] Cooks Close, Lower Stanton St Quintin, the village green is an essential part of our community, a place to sit and enjoy the peace and tranquility that is a major part of the enjoyment in living here. A place to meet and chat with the local community who are not immediate neighbours, but still members of the village, it is also the ideal location to meet and keep social distancing in this current pandemic.

My grandchildren play on the green when they visit my wife and I, they also see other children whilst they are there. The green is an essential part of this community, I would recommend that the application to register the land as TVG for the parish council care and ownership in perpetuity.

Many thanks for your kind attention.

Yours sincerely,  
Keith N Garrod  
[REDACTED] Cooks Close  
Lower Stanton St Quinton  
Chippenham  
SN14 6 [REDACTED]

## Green, Janice

---

**From:** gigaclearltd@safedigs.co.uk  
**Sent:** 10 August 2020 15:59  
**To:** Green, Janice  
**Subject:** LSBUD Job No. 19633653  
**Attachments:** 19633653\_Gigaclear Ltd.pdf; Gigaclear Ltd Plant Affected Letter.pdf

**Follow Up Flag:** Follow up  
**Flag Status:** Flagged

10/08/2020

LinesearchbeforeUdig ref: 19633653

Your ref: SSQ TVG

Dear Sir/Madam,

Further to your enquiry received on 10/08/2020 14:57:41 please find attached the Gigaclear Ltd response to your enquiry.

If your proposed work site was found to be in the vicinity of our plant a plan showing the approximate location is enclosed.

Your scheme/reference is also on the PDF drawing attached.

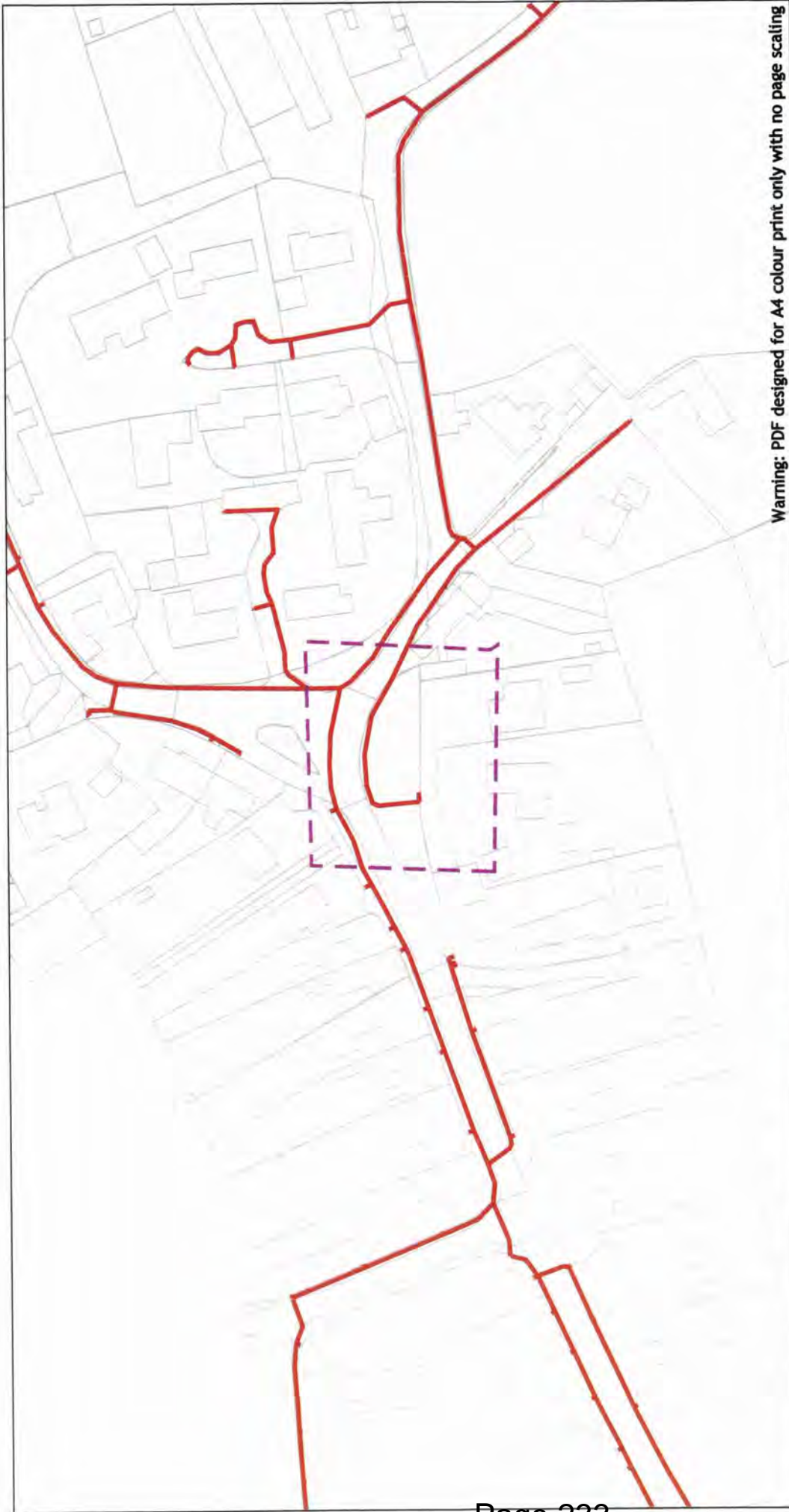
The attached files are in PDF format, to view them you will need Adobe Acrobat Reader(R). You can download it free of charge from <http://get.adobe.com/reader>

If we can help further please contact us.

Kind Regards,

Gigaclear Ltd  
01865 591 121  
diversions@gigaclear.com





**Warning: PDF designed for A4 colour print only with no page scaling**

The quality and accuracy of any prints will depend on your printer, your computer and its print settings. Measurements scaled from this plan may not match measurements between the same points on the ground.

**Gigaclear**  
Ultrafast Fibre Broadband

Gigaclear Ltd,  
Building 1, Wyndyke Furlong,  
Abingdon,  
OX14 1UQ  
T: 01865 59 11 21  
diversions@Gigaclear.com

The information on this document is proprietary and shall not be used, copied, reproduced or disclosed in whole or in part without written consent of Gigaclear Ltd. The location of Gigaclear's apparatus is indicated on the plan for general guidance but the exact location may vary from that shown. Gigaclear Ltd cannot guarantee the accuracy of this document and Safe Digging Practices should always be used to identify the exact location of any utility's plant. Gigaclear Ltd accept no liability for any errors or omissions.

**In Emergency Call: 01865 59 11 21**

**Gigaclear Route**

Date Requested: 10/08/2020  
Job Reference: 19633653  
Site Location: 391689 180815  
Requested by:  
Miss Janice Green  
Your Scheme/Reference: SSQ  
TVG

Scale: 1:1250 (When plotted at A4)

Our Ref: 19633653    Your Ref: SSQ TVG

Monday, 10 August 2020

Janice Green  
County Hall Bythesea Road  
Trowbridge  
Wiltshire  
BA14 8JN

Dear Janice Green

**Gigaclear Ltd - Asset Network Plans**

We acknowledge with thanks your request for information on the location of our assets.

Please find enclosed plan(s) showing the approximate position of our apparatus known to be in the vicinity of this site.

I attach conditions and information regarding our network, including our contact numbers. Please ensure that this detail is made available to anyone carrying out any works which may affect our apparatus.

Should you require further details, please call me at your convenience.

Yours sincerely,

**Gigaclear Ltd**  
01865 591 121  
diversions@gigaclear.com

## Green, Janice

---

**From:** Green, Janice  
**Sent:** 18 September 2020 15:43  
**To:** Adrian Andrews  
**Subject:** RE: Village Green to be

Dear Adrian,

Thank you for the update which is very helpful.

Kind regards,

Janice

Janice Green  
Senior Definitive Map Officer  
Rights of Way and Countryside  
Wiltshire Council  
County Hall  
Trowbridge  
BA14 8JN

## Wiltshire Council

Telephone: Internal 13345 External: +44 (0)1225 713345  
Email: [janice.green@wiltshire.gov.uk](mailto:janice.green@wiltshire.gov.uk)

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<http://www.wiltshire.gov.uk/recreation-rights-of-way>

Web: [www.wiltshire.gov.uk](http://www.wiltshire.gov.uk)

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**From:** Adrian Andrews [REDACTED]  
**Sent:** 18 September 2020 15:27  
**To:** Green, Janice <[janice.green@wiltshire.gov.uk](mailto:janice.green@wiltshire.gov.uk)>  
**Subject:** Re: Village Green to be

Works have now been completed

On 18 Sep 2020, at 15:24, Green, Janice <[janice.green@wiltshire.gov.uk](mailto:janice.green@wiltshire.gov.uk)> wrote:

Dear Adrian,

Thank you for your e-mail, just to confirm safe receipt. This information from Gigaclear is very helpful.

Kind regards,

Janice

Janice Green  
Senior Definitive Map Officer  
Rights of Way and Countryside  
Wiltshire Council  
County Hall  
Trowbridge  
BA14 8JN  
<image005.png>  
Telephone: Internal 13345 External: +44 (0)1225 713345  
Email: [janice.green@wiltshire.gov.uk](mailto:janice.green@wiltshire.gov.uk)

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<image006.png> <image007.png>

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**From:** Adrian Andrews [REDACTED]  
**Sent:** 25 August 2020 08:20  
**To:** Green, Janice <[janice.green@wiltshire.gov.uk](mailto:janice.green@wiltshire.gov.uk)>  
**Cc:** Greenman, Howard <[Howard.Greenman@wiltshire.gov.uk](mailto:Howard.Greenman@wiltshire.gov.uk)>  
**Subject:** Fwd: Village Green to be

Good Morning Janice,  
This email is to confirm the relocation of the broadband pots.  
This relocation will make it easier for both properties to connect to Gigaclear ,rather than going across the green.  
Kind Regards  
Adrian Andrews

Begin forwarded message:

**From:** Chris Morris <[chris.morris@gigaclear.com](mailto:chris.morris@gigaclear.com)>  
**Subject:** Village Green to be  
**Date:** 19 August 2020 at 09:19:45 BST  
**To:** Adrian Andrews [REDACTED]

Good Morning Adrian,

I hope this email finds you well.

I just wanted to update you regarding the situation of connection pots for [redacted] and [redacted] Lower Stanton St Quintin.

We understand that the application to move turn the public land in front of these properties into the Village Green is getting closer and as such we have asked our contractor to complete the works on this location inside the next 2-3 weeks, once the appropriate minor works permit has been agreed with the Local Authority. As discussed previously with myself, and our Project Delivery Lead you met on site Scott Jones, they will be taken to the furthest left and right most points of the Green close to the wall at the back. Hopefully this means they will not be visible or disrupt the soon to be Village Green once the reinstatement is completed.

If you have any questions please do not hesitate to contact me.

**Kind Regards,**

**Christopher Morris.** Community Engagement Manager. South Central.

M 07967 443214 W [gigaclear.com](http://gigaclear.com)

Gigaclear Ltd | Building One | Wyndyke Furlong | Abingdon | Oxon | OX14 1UQ

<image008.png>

Follow us <image009.jpg> <image010.jpg><image011.jpg>

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## Green, Janice

---

**From:** Green, Janice  
**Sent:** 18 September 2020 15:25  
**To:** Adrian Andrews  
**Subject:** RE: Village Green to be

Dear Adrian,

Thank you for your e-mail, just to confirm safe receipt. This information from Gigaclear is very helpful.

Kind regards,

Janice

Janice Green  
Senior Definitive Map Officer  
Rights of Way and Countryside  
Wiltshire Council  
County Hall  
Trowbridge  
BA14 8JN

## Wiltshire Council

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Web: [www.wiltshire.gov.uk](http://www.wiltshire.gov.uk)

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**From:** Adrian Andrews [REDACTED]  
**Sent:** 25 August 2020 08:20  
**To:** Green, Janice <[janice.green@wiltshire.gov.uk](mailto:janice.green@wiltshire.gov.uk)>  
**Cc:** Greenman, Howard <[Howard.Greenman@wiltshire.gov.uk](mailto:Howard.Greenman@wiltshire.gov.uk)>  
**Subject:** Fwd: Village Green to be

Good Morning Janice,  
This email is to confirm the relocation of the broadband pots.  
This relocation will make it easier for both properties to connect to Gigaclear ,rather than going across the green.  
Kind Regards  
Adrian Andrews



Begin forwarded message:

**From:** Chris Morris <[chris.morris@gigaclear.com](mailto:chris.morris@gigaclear.com)>

**Subject:** Village Green to be

**Date:** 19 August 2020 at 09:19:45 BST

**To:** Adrian Andrews [REDACTED]

Good Morning Adrian,

I hope this email finds you well.

I just wanted to update you regarding the situation of connection pots for [REDACTED] and [REDACTED] Lower Stanton St Quintin.

We understand that the application to move turn the public land in front of these properties into the Village Green is getting closer and as such we have asked our contractor to complete the works on this location inside the next 2-3 weeks, once the appropriate minor works permit has been agreed with the Local Authority. As discussed previously with myself, and our Project Delivery Lead you met on site Scott Jones, they will be taken to the furthest left and right most points of the Green close to the wall at the back. Hopefully this means they will not be visible or disrupt the soon to be Village Green once the reinstatement is completed.

If you have any questions please do not hesitate to contact me.

Kind Regards,

Christopher Morris. Community Engagement Manager. South Central

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## Green, Janice

---

**From:** Greenman, Howard  
**Sent:** 03 August 2020 13:45  
**To:** Green, Janice  
**Subject:** Re: Applications to Register Land as Town/Village Green - Seagry Road, Lower Stanton St Quintin (2018/01 & 2019/01)

Many thanks Janice,

I am absolutely supportive of this application action and can confirm it's legitimacy.

Kind Regards,

Howard.

[Get Outlook for iOS](#)

---

**From:** Green, Janice <janice.green@wiltshire.gov.uk>  
**Sent:** Monday, August 3, 2020 10:23:56 AM  
**To:** Greenman, Howard <Howard.Greenman@wiltshire.gov.uk>  
**Subject:** Applications to Register Land as Town/Village Green - Seagry Road, Lower Stanton St Quintin (2018/01 & 2019/01)

Dear Cllr Greenman

**Commons Act 2006 – Sections 15(1) and (2)**  
**Applications to Register Land as Town/Village Green – Seagry Road, Lower Stanton St Quintin**  
**Application no's 2018/01 & 2019/01**

Please find attached notice of applications to register land as town or village green – Seagry Road, Lower Stanton St Quintin. The notice invites formal objections and representations regarding the proposals to be submitted in writing on or before 28<sup>th</sup> September 2020.

Kind regards,

Janice Green  
Senior Definitive Map Officer  
Rights of Way and Countryside  
Wiltshire Council  
County Hall  
Trowbridge  
BA14 8JN

**Wiltshire Council**

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Email: [janice.green@wiltshire.gov.uk](mailto:janice.green@wiltshire.gov.uk)

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## Green, Janice

---

**From:** MARY HAINES [REDACTED]  
**Sent:** 11 August 2020 10:39  
**To:** Green, Janice  
**Subject:** Re: Applications to register land as Town/Village Green - Seagry Road, Lower Stanton St Quintin

**Follow Up Flag:** Follow up  
**Flag Status:** Flagged

Good Morning Janice

First I must apologise for the lateness of reply to thank you for the explanation it has proved to be very helpful.

I obviously give my full support to the Application as I feel that it is much better that a piece of land is looked after and will benefit the village community. Although only a small 'bit of green' it does give the opportunity for people to sit for a few minutes or to visit the Wee Free Library. The Parish council have looked after the Green very well and it is a credit to the village.

I am aware that there is one person who has made several comments on a local neighbourhood page but the ironic thing is he is not a resident in the village he only owns a property overlooking the Green.

Thanking You again.  
Regards  
Mary

----- Original Message -----

**From:** "Green, Janice" <janice.green@wiltshire.gov.uk>  
**To:** [REDACTED]  
**Sent:** Monday, 3 Aug, 20 At 15:06  
**Subject:** Applications to register land as Town/Village Green - Seagry Road, Lower Stanton St Quintin

Dear Mrs Haines,

### **Commons Act 2006 – Sections 15(1) and (2)**

### **Applications to Register Land as Town/Village Green – Seagry Road, Lower Stanton St Quintin**

### **Application no's 2018/01 and 2019/01**

Thank you for your telephone call today regarding the above-mentioned applications to register land as Town/Village Green (TVG) – Seagry Road, Lower Stanton St Quintin.

In this case Wiltshire Council, as the Commons Registration Authority (CRA), received an application to register the whole of the semi-circular area in April 2018, under Sections 15(1) and (2) of the Commons Act 2006. In 2013 the Growth and Infrastructure Act had introduced new provisions to make it more difficult to register land as TVG, including the removal of the "right to apply" to register land where specific planning "trigger" events had occurred, one of those valid trigger events being a planning application in relation to the land or part of it. In the Stanton St Quintin case, the CRA were advised that there was a planning application for a driveway in place over part of the

land which qualified as a “trigger” event and as a result there was no right to apply to register that part of the land as a TVG. The 2018 TVG application was therefore accepted only in part, i.e. for the two areas of land either side of the proposed driveway area.

However, the right to apply to register land is revived where a corresponding planning “terminating” event has taken place, i.e. where a planning application is refused and all available means of challenging the decision are exhausted. Therefore, once a terminating event had taken place in relation to the planning application for the driveway, it was open to the applicants to apply to register that second area of land and the Parish Council applied to do so in April 2019. As a result there are now two separate applications numbered 2018/01 and 2019/01, which together form applications to register the whole of the semi-circular area of land.

We are currently advertising notice of the applications, which is followed by a formal objection period of 6 weeks ending on 28<sup>th</sup> September 2020. After that date the applicants will be given opportunity to comment on any objections received and then all the evidence gathered will be considered in a decision report and the CRA will determine whether or not to register the land as a TVG.

I hope this is helpful, please do let me know if you should require any further clarification at this time. Just to let you know that I will be away from the office from midday tomorrow (Tues 4<sup>th</sup> August), but I will be back in the office on Mon 10<sup>th</sup> August.

Kind regards,

Janice

Janice Green

Senior Definitive Map Officer

Rights of Way and Countryside

Wiltshire Council

County Hall

Trowbridge

BA14 8JN

**Wiltshire Council**

Telephone: Internal 13345 External: +44 (0)1225 713345

Email: [janice.green@wiltshire.gov.uk](mailto:janice.green@wiltshire.gov.uk)

Information relating to the way Wiltshire Council will manage your data can be found at:  
<http://www.wiltshire.gov.uk/recreation-rights-of-way>

Web: [www.wiltshire.gov.uk](http://www.wiltshire.gov.uk)

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Mr S R Jackson

[REDACTED]  
Lower Stanton Saint Quintin  
Chippenham,  
Wiltshire SN 14 6 [REDACTED]

6 September 2020

Mr J Green, Senior Definitive Map Officer  
Rights of Way Countryside  
Communities & Neighbourhood  
Wiltshire County Council  
County Hall  
Trowbridge BA14 8JN

**APPLICATION FOR VILLAGE GREEN REGISTRATION**  
**APPLICATION NUMBERS 2018/01 AND 2019/01**

*Dear Mr Green,*

I am writing to seek clarification of the situation regarding the above Applications, both dated 13 August 2020, and both relating to a single contiguous piece of land adjacent to Seagry Road, in the village of Lower Stanton Saint Quintin.

According to the map accompanying Application **2018/01**, the area marked in red for which registration is sought consists of a narrow strip of land lying on a north-south axis, roughly in the centre of the contiguous piece of land.

In Application **2019/01** the area for which registration is sought is the rest of the contiguous piece of land, lying partly to the east and partly to the west of the narrow strip noted above.

I have two questions:-

a) Are both the Applications in force, so that if the two are approved the whole of the contiguous piece of land will be granted Village Green status ?

b) If one of the Applications has superseded the other, which Application is currently in force ?

I will take this opportunity to state that I support both Applications and would like to see the whole of the piece of land designated as a Village Green.

I look forward to receiving your reply.

Yours sincerely





22<sup>nd</sup> September 2020

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

Mr S R Jackson

[REDACTED]  
Lower Stanton St Quintin  
Chippenham  
Wiltshire  
SN14 6 [REDACTED]

Your ref:

Our ref: JG/PC/212 2018/01 & 2019/01

Dear Mr Jackson,

**Commons Act 2006 – Sections 15(1) and (2)**  
**Applications to Register Land as Town or Village Green – Land adjacent to Seagry Road, Lower Stanton St Quintin**  
**Application no's 2018/01 & 2019/01**

Thank you for your letter dated 6<sup>th</sup> September regarding the above-mentioned applications to register land adjacent to Seagry Road, Lower Stanton St Quintin, as Town or Village Green, with many apologies for the delay in getting back to you, we are having only occasional visits to the office at this time.

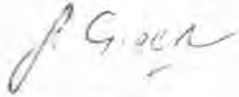
I note your support for both applications to register the whole of the semi-circular area of land as a town or village green. Just to explain the reasons for the two applications over the land, in this case Wiltshire Council, as the Commons Registration Authority (CRA), received an application to register the whole of the semi-circular area of land adjacent to Seagry Road, Lower Stanton St Quintin, as a town or village green (TVG), in April 2018, under Sections 15(1) and (2) of the Commons Act 2006. In 2013 the Growth and Infrastructure Act had introduced new provisions to make it more difficult to register land as TVG, including the removal of the "right to apply" to register land where specific planning "trigger" events had occurred, one of those valid trigger events being a planning application in relation to the land or part of it. In the Stanton St Quintin case, the CRA were advised that there was a planning application for a driveway in place over part of the land which qualified as a "trigger" event and as a result there was no right to apply to register that part of the land as a TVG. The 2018 TVG application was therefore accepted only in part, i.e. for the two areas of land either side of the proposed driveway area.

However, the right to apply to register land is revived where a corresponding planning "terminating" event has taken place, i.e. where a planning application is refused and all available means of challenging that decision are exhausted. Therefore, once a terminating event had taken place in relation to the planning application for the driveway, it was open to the applicants to apply to register that second area of land and the Parish Council applied to do so in April 2019. As a result there are now two separate applications numbered 2018/01 and 2019/01, which together form applications to register the whole of

the semi-circular area of land as a TVG. Both applications are live and if both are successful, the whole of the area of land will be registered as town or village green.

I hope this information is helpful.

Yours sincerely,



Janice Green  
Senior Definitive Map Officer  
Direct line: 01225 713345  
Email: [janice.green@wiltshire.gov.uk](mailto: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>*

## Green, Janice

---

**From:** Graeme Pattison [REDACTED]  
**Sent:** 25 September 2020 09:20  
**To:** Green, Janice  
**Subject:** Village Green Registration - Lower Stanton St Quintin  
**Attachments:** Village Green application - HWJ.docx


I have been asked by my father-in-law Mr H Jolly of [REDACTED] Lower Stanton St Quintin to forward the attached letter supporting this application.

Thank You



Lower Stanton St Quintin

Chippenham

SN14 6 

Wiltshire Council

County Hall

Trowbridge

BA14 8JN

22nd September 2020

Dear Sir

**Application for Registration of Land as Town or Village Green –**

**Land Adjacent to Seagry Road, Lower Stanton St Quintin -**

**Reference No: 2019/01**

I have lived in the village for about 30 years and have always considered it as being a village green.

Many events for the community have taken place on this piece of land which I have thoroughly enjoyed.

I support this proposal

Yours faithfully

H W Jolly

**Green, Janice**

---

**From:** noreply@linesearchbeforeudig.co.uk  
**Sent:** 10 August 2020 15:58  
**To:** Green, Janice  
**Subject:** LSBUD-200810-19633653  
**Attachments:** LSBUD-200810-19633653.PDF

**Follow Up Flag:** Follow up  
**Flag Status:** Flagged

Thank you for using our service - please find attached your LSBUD enquiry confirmation. Please ensure that this document is passed to those undertaking the works (if relevant).

Please DO NOT respond directly to this email. If you have any queries contact LSBUD by email or phone quoting your LSBUD reference number.

LinesearchbeforeUdig Limited  
Tel: 0845 437 7365  
Email: enquiries@linesearchbeforeudig.co.uk

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To improve the satisfaction of our customers, we have partnered with the online review community, Trustpilot, to collect reviews.  
Would you kindly spare a minute to review how our service has been?

<https://eur02.safelinks.protection.outlook.com/?url=https%3A%2F%2Fwww.trustpilot.com%2Fevaluate%2Fwww.lsbud.co.uk&data=02%7C01%7Cjanice.green%40wiltshire.gov.uk%7Cdf888abc9b6a4af3bd7e08d83d3db7f9%7C546e75e3be14813b0ff26651ea2fe19%7C0%7C0%7C637326682737965859&sdata=NLML9RGYt%2F8AxFrwFCdy6E8ClI4vxFk7YBanOfnsnLs%3D&reserved=0>

All reviews will be visible immediately.

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<https://eur02.safelinks.protection.outlook.com/?url=http%3A%2F%2Fwww.trustwave.com%2F&data=02%7C01%7Cjanice.green%40wiltshire.gov.uk%7Cdf888abc9b6a4af3bd7e08d83d3db7f9%7C546e75e3be14813b0ff26651ea2fe19%7C0%7C0%7C637326682737965859&sdata=%2B8pUctBCAg2KBfefeFdqWY09V7zhrj0VJjsjAboRXw%3D&reserved=0>  
#####

Enquirer			
Name	Miss Janice Green	Phone	01225 713345
Company	Wiltshire Council	Mobile	Not Supplied
Address	County Hall Bythesea Road Trowbridge Wiltshire BA14 8JN		
Email	janice.green@wiltshire.gov.uk		

Enquiry Details			
Scheme/Reference	SSQ TVG		
Enquiry type	Initial Enquiry	Work category	Highways
Start date	28/09/2020	Work type	Construction/realignment
End date	28/09/2020	Site size	2271 metres square
Searched location	SN14 6DB	Work type buffer*	25 metres
Confirmed location	391732 180847		
Site Contact Name	Janice Green	Site Phone No	01225 713345
Description of Works			

\* The WORK TYPE BUFFER is a distance added to your search area based on the Work type you have chosen.







## Enquiry Confirmation

LSBUD Ref: 19633653

Date of enquiry: 10/08/2020

Time of enquiry: 15:56

### Asset Owners

**Terms and Conditions.** Please note that this enquiry is subject always to our standard terms and conditions available at [www.lineSearchbeforeudig.co.uk](http://www.lineSearchbeforeudig.co.uk) ("Terms of Use") and the disclaimer at the end of this document. Please note that in the event of any conflict or ambiguity between the terms of this Enquiry Confirmation and the Terms of Use, the Terms of Use shall take precedence.

**Notes.** Please ensure your contact details are correct and up to date on the system in case the LSBUD Members need to contact you.

**Validity and search criteria.** The results of this enquiry are based on the confirmed information you entered and are valid only as at the date of the enquiry. It is your responsibility to ensure that the Enquiry Details are correct, and LineSearchbeforeUdig accepts no responsibility for any errors or omissions in the Enquiry Details or any consequences thereof. LSBUD Members update their asset information on a regular basis so you are advised to consider this when undertaking any works. It is your responsibility to choose the period of time after which you need to resubmit any enquiry but the maximum time (after which your enquiry will no longer be dealt with by the LSBUD Helpdesk and LSBUD Members) is 28 days. If any details of the enquiry change, particularly including, but not limited to, the location of the work, then a further enquiry must be made.

**Asset Owners & Responses.** Please note the enquiry results include the following:

1. "LSBUD Members" who are asset owners who have registered their assets on the LSBUD service.
2. "Non LSBUD Members" are asset owners who have not registered their assets on the LSBUD service but LSBUD is aware of their existence. Please note that there could be other asset owners within your search area.

Below are three lists of asset owners:

1. **LSBUD Members who have assets registered within your search area. ("Affected")**
  - a. These LSBUD Members will either:
    - i. Ask for further information ("Email Additional Info" noted in status). The additional information includes: Site contact name and number, Location plan, Detailed plan (minimum scale 1:2500), Cross sectional drawings (if available), Work Specification.
    - ii. Respond directly to you ("Await Response"). In this response they may either send plans directly to you or ask for further information before being able to do so, particularly if any payments or authorisations are required.
2. **LSBUD Members who do not have assets registered within your search area. ("Not Affected")**
3. **Non LSBUD Members who may have assets within your search area.** Please note that this list is not exhaustive and all details are provided as a guide only. It is your responsibility to identify and consult with all asset owners before proceeding.

**National Grid.** Please note that the LSBUD service only contains information on National Grid's Gas above 7 bar asset, all National Grid Electricity Transmission assets and National Grid's Gas Distribution Limited above 2 bar asset.

For National Grid Gas Distribution Ltd below 2 bar asset information please go to [www.beforeyoudig.nationalgrid.com](http://www.beforeyoudig.nationalgrid.com)





## Enquiry Confirmation

### LSBUD Ref: 19633653

Date of enquiry: 10/08/2020

Time of enquiry: 15:56

**LSBUD Members who have assets registered on the LSBUD service within the vicinity of your search area.**

List of affected LSBUD members			
Asset Owner	Phone/Email	Emergency Only	Status
Gigaclear Ltd	01865594145	01865594145	Await response
Scottish and Southern Electricity Networks	08000483516	08000727282	Await response
Wales and West Utilities	02920278912	0800111999	Await response

**LSBUD Members who do not have assets registered on the LSBUD service within the vicinity of your search area. Please be aware that LSBUD Members make regular changes to their assets and this list may vary for new enquiries in the same area.**

List of not affected LSBUD members		
AWE Pipeline	Balfour Beatty Investments Limited	BOC Limited (A Member of the Linde Group)
BP Exploration Operating Company Limited	BPA	Carrington Gas Pipeline
CATS Pipeline c/o Wood Group PSN	Cemex	Centrica Storage Ltd
Chrysaor Production (UK) Limited	CLH Pipeline System Ltd	CNG Services Ltd
Concept Solutions People Ltd	ConocoPhillips (UK) Teesside Operator Ltd	Diamond Transmission Corporation
DIO (MOD Abandoned Pipelines)	Drax Group	E.ON UK CHP Limited
EirGrid	Electricity North West Limited	ENI & Himor c/o Penspen Ltd
EnQuest NNS Limited	EP Langage Limited	ESP Utilities Group
ESSAR	Esso Petroleum Company Limited	Fulcrum Pipelines Limited
Gamma	Gas Networks Ireland (UK)	Gateshead Energy Company
Gtt	Heathrow Airport LTD	Humbly Grove Energy
IGas Energy	INEOS FPS Pipelines	INEOS Manufacturing (Scotland and TSEP)
INOVYN Enterprises Limited	Intergen (Coryton Energy or Spalding Energy)	Jurassic Fibre Ltd
Mainline Pipelines Limited	Manchester Jetline Limited	Manx Cable Company
Marchwood Power Ltd (Gas Pipeline)	Melbourn Solar Limited	Murphy Utility Assets
National Grid Gas (Above 7 bar), National Grid Gas Distribution Limited (Above 2 bar) and National Grid Electricity Transmission	Northumbrian Water Group	NPower CHP Pipelines
NYnet Ltd	Oikos Storage Limited	Ørsted
Perenco UK Limited (Purbeck Southampton Pipeline)	Petroineos	Phillips 66
Portsmouth Water	Premier Transmission Ltd (SNIP)	Redundant Pipelines - LPDA
RWE - Great Yarmouth Pipeline (Bacton to Great Yarmouth Power Station)	RWEpower (Little Barford and South Haven)	SABIC UK Petrochemicals
Scottish Power Generation	Seabank Power Ltd	SES Water
SGN	Shell	Shell NOP
SSE (Peterhead Power Station)	SSE Enterprise Telecoms	SSE Generation Ltd
SSE Utility Solutions Limited	Tata Communications (c/o JSM Construction Ltd)	Total (Colnbrook & Colwick Pipelines)
Total Finaline Pipelines	Transmission Capital	UK Power Networks
	University of Cambridge Granta Backbone	

Uniper UK Ltd	Network	Vattenfall
Veolia ES SELCHP Limited	Veolia ES Sheffield Ltd	West of Duddon Sands Transmission Ltd
Western Power Distribution	Westminster City Council	Zayo Group UK Ltd c/o JSM Group Ltd





## Enquiry Confirmation

### LSBUD Ref: 19633653

Date of enquiry: 10/08/2020

Time of enquiry: 15:56

The following Non-LSBUD Members may have assets in your search area. It is YOUR RESPONSIBILITY to contact them before proceeding. Please be aware this list is not exhaustive and it is your responsibility to identify and contact all asset owners within your search area.

#### Non-LSBUD members (Asset owners not registered on LSBUD)

Asset Owner	Preferred contact method	Phone	Status
BT	<a href="https://www.swns.bt.com/pls/mbe/welcome.home">https://www.swns.bt.com/pls/mbe/welcome.home</a>	08009173993	Not Notified
CenturyLink Communications UK Limited	plantenquiries@instalcom.co.uk	02087314613	Not Notified
CityFibre	asset.team@cityfibre.com	033 3150 7282	Not Notified
Colt	plantenquiries@catelecomuk.com	01227768427	Not Notified
Energetics Electricity	plantenquiries@lastmile-uk.com	01698404646	Not Notified
ENGIE	nrswa.uk@engie.com	01293 549944	Not Notified
GTC	<a href="https://pe.gtc-uk.co.uk/PlantEnqMembership">https://pe.gtc-uk.co.uk/PlantEnqMembership</a>	01359240363	Not Notified
KPN (c-/Instalcom)	kpn.plantenquiries@instalcom.co.uk	n/a	Not Notified
Mobile Broadband Network Limited	mbnlplantenquiries@turntown.com	01212 621 100	Not Notified
Sky UK Limited	nrswa@sky.uk	02070323234	Not Notified
Sota	SOTA.plantenquiries@instalcom.co.uk		Not Notified
Utility assets Ltd	assetrecords@utilityassets.co.uk		Not Notified
Verizon Business	osp-team@uk.verizonbusiness.com	01293611736	Not Notified
Virgin Media	<a href="http://www.digdat.co.uk">http://www.digdat.co.uk</a>	08708883116	Not Notified
Vodafone	osm.enquiries@atkinglobal.com	01454662881	Not Notified
Wessex Water	Asset.enquiries@wessexwater.co.uk	01225526422	Not Notified
Wiltshire County	streetworks@wiltshire.gov.uk	01249445554	Not Notified

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## Green, Janice

---

**From:** Doreen Pattison [REDACTED]  
**Sent:** 25 September 2020 13:53  
**To:** Green, Janice  
**Subject:** Lowe Stanton St Quintin Village Green

I have lived here in Lower Stanton for 32 years and before that within the RAF camp and at the other end village. Throughout that time I have regarded the space in question as the village green. Many social events have been held and I have helped organise several in the past few years. It has been good to have a space where we can gather and the majority of the village attend. We put up bunting to celebrate national ,and even some local ,events such as a wedding. At Christmas there are some lights . We can now boast a wee free library ( greatly appreciated , especially while the library has been closed ) and I received permission from the parish council several years ago to install a small picnic bench. We also involved local children when we planted wild flower seeds--- it is the only open space for them to play.

We are a small but fairly spread out community and this land ,our village green ,is our point of connection. We would like to see it formally designated a village green as soon as possible as so many of us in this village are looking forward to the day when we can all get together again to celebrate our community and the way we have supported each other during such a difficult time.

Doreen Pattison

## Green, Janice

---

**From:** Graeme Pattison [REDACTED]  
**Sent:** 25 September 2020 09:26  
**To:** Green, Janice  
**Subject:** Lower Stanton St Quintin - Village Green Application  
**Attachments:** Village Green application.docx

Dear Mrs Green

Please find attached my letter supporting this application


Kind Regards

Graeme Pattison



Lower Stanton St Quintin

Chippenham

SN14 6 

Wiltshire Council

County Hall

Trowbridge

BA14 8JN

8<sup>th</sup> September 2020

Dear Sir

**Application for Registration of Land as Town or Village Green –**

**Land Adjacent to Seagry Road, Lower Stanton St Quintin - Reference No: 2019/01**

I support this application which has been long overdue.

The land was originally a pond and filled in many years ago as it was considered dangerous for the children of the village. It has been used by the villagers as a green for many decades and certainly to my own knowledge since the spring of 1977. The Parish Council land has maintained the land and has paid for tree surgery when required. The Parish Council has also funded grass cutting and paid for other amenities such as the table and benches as well as a village notice board. Two benches have been installed with Parish Council approval as memorials to villagers.

Events have taken place on the green on many occasions and only the current Covid 19 situation prevented VE and VJ day celebrations recently.

It is the only piece of land available to the residents and needs to be registered officially as a green in order to protect it for the villagers as a whole.

The facility is appreciated and frequently used by a wide range of people passing through the village as a resting point and/or to have refreshment such as lunch or coffee

Yours faithfully

G E Pattison

J. Green

Senior Definitive Map Officer

Rights of Way and Countryside

Communities and Neighbourhood

Wiltshire County Council

County Hall

Bythesea Road

Trowbridge

Wiltshire

BA14 8JN

Your Ref:-JG/PC/212 2019/01

Malcolm Peal

Lower Stanton St. Quintin

SN14 6

7<sup>th</sup> August, 2020

Dear Janice Green,

I am writing to state that I have no objection to the land being registered as Town or Village Green.

Unfortunately the plan attached to the application is not strictly correct as it shows our driveway as part of the village green and a driveway to No: [REDACTED] which does not exist. If the plan is only to demonstrate the centre of the green, then I apologise but as it is, could be misinterpreted.

Yours sincerely,

Malcolm Peal.

[REDACTED]



## Green, Janice

---

**From:** ssen@safedigs.co.uk  
**Sent:** 10 August 2020 15:59  
**To:** Green, Janice  
**Subject:** Plant Enquiry Ref Job No. 19633653  
**Attachments:** SSEN\_19633653.pdf; SSE Networks Plant Affected Letter.pdf; Guide to Interpreting.pdf; Safety\_Info.pdf; Watch Out Cables About - ENA MC bulletin - Avoidance of underground cab V5 Final Clean.pdf

**Follow Up Flag:** Follow up  
**Flag Status:** Flagged

10/08/2020

LinesearchbeforeUdig ref: 19633653

Your ref: SSQ TVG

Dear Sir/Madam,

Thank you for your enquiry, please find attached the SSE Networks files relating to your request for network record information.

If you experience any difficulties with the attached files please contact The Asset Data Team on 01256 337294.

Your Scheme/Reference is also on the PDF drawing attached.

The attached files are in PDF format, to view them you will need Adobe Acrobat Reader(R). You can download it free of charge from <http://get.adobe.com/reader>

Please ensure you have printed all network types for this site.

Please ensure you read all attachments fully. If this does not answer your questions please contact the local depot indicated in the attached Important Info file with any enquiries.

Kind Regards,

The Asset Data Team

### Contact Us

#### Emergency or Power Supply issues

In an emergency call 105, 24 hours a day.

#### Mapping Enquiries:

If you have an enquiry relating to this letter or the attached map plan, please contact us using the following information:

Telephone: 01256 337294

Email: [asset.data@sse.com](mailto:asset.data@sse.com)

#### General Enquiries:

If you have a general enquiry, please call us on the following number:

All areas: 0800 048 3516

#### LinesearchbeforeUdig:

If you have an enquiry relating to the use of the LinesearchbeforeUdig website please contact:

Telephone: 0845 437 7365

Email: [enquiries@linesearchbeforeudig.co.uk](mailto:enquiries@linesearchbeforeudig.co.uk)

Website: [www.linesearchbeforeudig.co.uk](http://www.linesearchbeforeudig.co.uk)





Our Ref: 19633653      Your Ref: SSQ TVG

Monday, 10 August 2020

Janice Green  
County Hall Bythesea Road  
Trowbridge  
Wiltshire  
BA14 8JN

Dear Janice Green

**SSE Networks - Asset Network Plans**

We have sent you the plans of our network records within the area requested. You will shortly receive responses each of the following; any High Voltage Mains cables and Low Voltage Mains cables.

Attached to this email is the 'Guide to Interpreting' which includes the legends for the plans on pages 7-9.

If a Service Cable is not shown on our maps sent, and you require the Cable to be Traced, please contact the General Enquiries Department on 0800 048 3516 (option 3) or via email, [ge@ssen.co.uk](mailto:ge@ssen.co.uk)

If you need further information on our network in this area or a quotation for any required works, please contact the Connections & Engineering Department on 0800 048 3516 or via email, [connections@sse.com](mailto:connections@sse.com)

Kind Regards,

Asset Data Team  
01256 337 294  
[Asset.data@sse.com](mailto:Asset.data@sse.com)

## Green, Janice

---

**From:** johndnglyn [REDACTED]  
**Sent:** 15 August 2020 13:59  
**To:** Green, Janice  
**Subject:** Notices of Application to Register Land as Town or Village Green - Reference no: 2018/01 and 2019/01  
**Attachments:** LSSQ Village Green Registration.docx  
  
**Follow Up Flag:** Follow up  
**Flag Status:** Flagged

Dear Janice,

With reference to your two letters of 10th August 2020, as joint owners of [REDACTED] The Forge, Lower Stanton St Quintin, we fully support the application to formally register the subject land as a Village Green.

Our reasons are expanded in the attached file.

Thank you for an opportunity to comment on the above application.

Regards

John Seale    Glynis Seale

[REDACTED] The Forge  
Lower Stanton St Quintin

[REDACTED]  
The Forge  
Lower Stanton St Quintin  
Chippenham  
Wiltshire  
SN14 6 [REDACTED]

Janice Green  
Senior Definitive Map Officer  
Rights of Way and Countryside  
Wiltshire Council  
County Hall  
Trowbridge  
BA14 8JN

15<sup>th</sup> August 2020

**Reference:- Notices of Application to Register Land as Town or Village Green -  
Reference no: 2018/01 and 2019/01 - Lower Stanton St Quintin.**

Dear Janice,

As joint owners of [REDACTED] The Forge, Lower Stanton St Quintin, we fully support the application made to formally register the subject land as a Village Green.

Our reasons for giving our support include:-

- The Village Green has, for the past 50 years, provided the only community land focal point on which residents can celebrate notable historical and commemorative events.
- The land is of proven community value through both historical and current use and an asset to rural village life.
- No other similar community land asset exists in Lower Stanton St Quintin.
- The value of the Village Green has been further enhanced through the siting of a commemorative tree and plaque, a picnic bench and by a small residents' lending library.
- The land has been maintained by the Parish Council throughout this period.
- The land provides a "home" for the Parish Council notice board for residents.

We noted on the attached maps (Exhibits) the inclusion of what appears to be a path or driveway across the Village Green. This may be an error as none currently exists but wish to state we do not support any such future development across the Village Green.

John Seale MBE

Glynis Seale

## Green, Janice

---

**From:** Mike & Sue Smith [REDACTED]  
**Sent:** 19 August 2020 18:05  
**To:** Green, Janice  
**Subject:** Commons Act 2006 - Your references 2018/01 and 2019/01  
**Attachments:** Lower Stanton Village Green\_proposal.pdf

**Follow Up Flag:** Follow up  
**Flag Status:** Flagged

Dear Janice,

Thank you for the opportunity to comment on the proposals to register land adjacent to Seagry Road in Lower Stanton St Quintin as village green. I strongly support this application and, although I have only been resident in Lower Stanton since 1997, I know that the land shown on the maps that you have attached to your letters dated 10 August has been in continual use as a green by residents throughout this period. As you are probably already aware, it already features mature trees, a village noticeboard, two picnic tables and a 'wee free' library box – all regularly used by residents of the village and visitors.

I also notice that one of the two maps that you have provided (marked exhibit B) suggests a possible driveway across the main green space to the south side of the road. I consider this to be completely spurious. There is no evidence of vehicle access across the green at this point, nor would it be possible without the destruction of a stone wall and the removal of at least two mature trees. In fact, the extent of the green area encompasses both sides of the Seagry Road (see map attached) and a more realistic green space registration would encompass all of these areas, not just the piece to the south of Seagry Road.

Regards,

M Smith

[REDACTED] The Forge



■ The Forge  
Lower Stanton St Quintin  
Chippenham  
Wilts  
SN14 6 ■

10th August 2020

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

FAO Janice Green  
Senior Definitive Map Officer

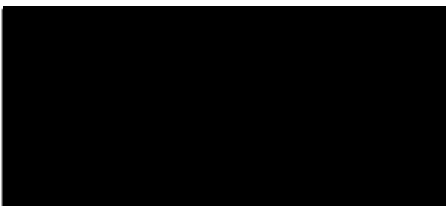
Dear Ms Green,

**Land Adjacent to Seagry Road, Lower Stanton St Quintin**  
**Ref 2018/01 and 2019/01**  
**Application to Register Land as Village Green**

The land on these plans is near my home and is the main focal point at the heart of our small village. It is there for all to enjoy to meet up on special occasions with neighbours and new arrivals alike and is the only green space within safe convenient walking distance for parents with younger children.

It is an attractive visual amenity, identified as green space in the draft neighbourhood plan and which contributes to the wellbeing of all. I believe it deserves to be protected.

Your sincerely



Roger Starling

## Green, Janice

---

**From:** Mervyn & Sue [REDACTED]  
**Sent:** 11 August 2020 11:00  
**To:** Green, Janice  
**Subject:** Stanton St Quintin Village Green

**Follow Up Flag:** Follow up  
**Flag Status:** Completed

For the attention of

Janice Green, Rights of Way & Countryside Team, Communities and Neighbourhood Services, County Hall, Bythesea Road, Trowbridge, Wiltshire, BA14 8JN.

Dear Janice

My wife and myself are very much in favour of registering the proposed site for the village green. It would protect this site for the current residents of the village as well as providing an opportunity for future residents.

Kind regards,  
Mervyn and Sue Stephens

[REDACTED]  
Stanton St Quintin  
SN14 6 [REDACTED]

## Green, Janice

---

**From:** Michael Thomas <Michael.Thomas@wwutilities.co.uk>  
**Sent:** 24 September 2020 16:59  
**To:** Green, Janice  
**Subject:** RE: Gas Supply Pipe in land at Stanton St Quintin - Town/Village Green Applications  
**Attachments:** WWU Letter re TVG Application.pdf

**Follow Up Flag:** Follow up  
**Flag Status:** Flagged

Dear Ms Green

**Commons Act 2006 – Sections 15(1) and (2)**  
**Applications To Register Land as Town Village Green – Land off Seagry Road, Lower Stanton St Quintin**  
**Application No's 2018/01 & 2019/01**

Further to notices served on Wales & West Utilities dated 12<sup>th</sup> August 2020 I now attach a letter making representations in respect of a gas service pipe that is situated within the land that is subject to the Town and Village Green applications.

Should you require further details in relation to the pipe then please let me know.

Yours sincerely

**Michael Thomas BSc MRICS | Senior Estates Surveyor**

Wales & West Utilities Ltd | Wales & West House | Spooner Close | Newport | NP10 8FZ  
T: 02920 278882 | M: 07811 473366 | E: [michael.thomas@wwutilities.co.uk](mailto:michael.thomas@wwutilities.co.uk)

---

**From:** Green, Janice <janice.green@wiltshire.gov.uk>  
**Sent:** 12 August 2020 10:46  
**To:** Michael Thomas <Michael.Thomas@wwutilities.co.uk>  
**Subject:** RE: Gas Supply Pipe in land at Stanton St Quintin - Town/Village Green Applications

[Caution: This email has been sent from outside Wales & West Utilities]

Dear Mr Thomas,

**Commons Act 2006 – Sections 15(1) and (2)**  
**Applications To Register Land as Town Village Green – Land off Seagry Road, Lower Stanton St Quintin**  
**Application No's 2018/01 & 2019/01**

Thank you for your e-mail, please find attached formal notice of applications to register land off Seagry Road, Lower Stanton St Quintin as Town or Village Green, (as shown on the plans attached to the Form 45 notices). The land is now subject to two applications, but the overall effect is that the whole of the semi-circular area of green is now subject to an application for registration as a town or village green.

I have carried out an online utilities search, including Wales and West Utilities (WWU), which revealed that there is no WWU apparatus located on the land, however, I would be very grateful if you could confirm. Please also feel free

to make any other representations regarding the applications on behalf of WWU, in writing (e-mail is acceptable), to myself, on or before Monday 28<sup>th</sup> September 2020, as per the Form 45 notices attached.

Thank you for your help in this matter.

Kind regards,

Janice Green  
Senior Definitive Map Officer  
Rights of Way and Countryside  
Wiltshire Council  
County Hall  
Trowbridge  
BA14 8JN

## Wiltshire Council

Telephone: Internal 13345 External: +44 (0)1225 713345

Email: [janice.green@wiltshire.gov.uk](mailto:janice.green@wiltshire.gov.uk)

Information relating to the way Wiltshire Council will manage your data can be found at:

<http://www.wiltshire.gov.uk/recreation-rights-of-way>

Web: [www.wiltshire.gov.uk](http://www.wiltshire.gov.uk)

Follow Wiltshire Council



Follow Wiltshire Countryside



**From:** Michael Thomas <[Michael.Thomas@wwutilities.co.uk](mailto:Michael.Thomas@wwutilities.co.uk)>

**Sent:** 10 August 2020 10:53

**To:** Green, Janice <[janice.green@wiltshire.gov.uk](mailto:janice.green@wiltshire.gov.uk)>

**Subject:** Gas Supply Pipe in land at Stanton St Quintin

Dear Ms Green

I have been passed your name by a resident of Stanton St Quintin as he has a gas supply that crosses the area of land which I understand has been subject to an application for Village Green status.

Wales & West Utilities (WWU) is the licensed gas transporter for Wales and South West England and as such we are responsible for the gas network. Unfortunately I have not managed to find a record of the application on your website, could you please point me in the right direction or provide copies?

Whilst we realise it is often not permitted for gas pipes and other services to be laid in a Village Green, in this case the pipe is already in place and we would like reassurance that we will not be required to divert it should the Village Green status be approved. A diversion would require excavations in the area so we would hope that it would be appropriate for the gas pipe to remain.

I look forward to hearing from you.

Kind regards

**Michael Thomas BSc MRICS | Senior Estates Surveyor**

Wales & West Utilities Ltd | Wales & West House | Spooner Close | Newport | NP10 8FZ  
T: 02920 278882 | M: 07811 473366 | E: [michael.thomas@wwutilities.co.uk](mailto:michael.thomas@wwutilities.co.uk)

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

Wales & West House  
Spooner Close  
Celtic Springs  
Coedkernew  
Newport NP10 8FZ  
T. 029 2027 8500  
F. 0870 1450076  
[www.wwutilities.co.uk](http://www.wwutilities.co.uk)

Tŷ Wales & West  
Spooner Close  
Celtic Springs  
Coedcermyw  
Casnewydd NP10 8FZ

24<sup>th</sup> September 2020

Your ref: JG/PC/212 2018/01 & JG/PC/212 2019/01

Dear Sir/Madam

**Commons Act 2006 – Sections 15(1) and (2)  
Notice of Application to Register Land as Town or Village Green – Land Adjacent to  
Seagry Road, Lower Stanton St Quintin – Reference nos. 2018/01 and 2019/01**

We refer to the above applications to register land adjacent to Seagry Road, Lower Stanton St Quintin as a Town or Village Green, and confirm that Wales & West Utilities (WWU) wishes to make representations in relation to a gas service pipe that crosses the land.

The approximate position of the pipe is shown by a red line on the plan attached, it was laid in 2016. The area of land was found to be unregistered at the time and as it adjoined the public highway it was assumed to be highway verge. Notices were served in relation to work in a highway and the pipe was therefore legally laid. WWU has various rights under legislation related to gas and services, in particular the Gas Act 1986. WWU does not anticipate any issues with the pipe but should access be required for repair or maintenance then WWU needs to make sure that access can be obtained, the area would be reinstated following completion.

Should the application for Town or Village Green status be successful then WWU asks that the presence of the gas pipe is recognised to ensure it is not damaged or disturbed through any activities that may take place on the land in the future.

If you require any further details then please let us know.

Yours faithfully



Michael Thomas BSc MRICS  
Senior Estates Surveyor  
On behalf of Wales & West Utilities Limited

24 hour gas escape number  
Rhif 24 awr os bydd rwy yn gollwng

**0800 111 999\***

\*Dilydd 24 awr os bydd rwy yn gollwng  
Rhif galwddiwedd 24 awr os bydd rwy yn gollwng

Wales & West Utilities Limited  
Wylfaelod C19710  
Wales & West Utilities Limited | Cwmni Cymunedol a Chwmariadau  
Enghreifftiau o Gynhyrchu a Gwasanaethu Cymunedol





PROJECT ID:  
 SCALE: 1:500 @A4  
 USER ID:  
 DATE: 21/09/2020  
 PROJECT PLAN  
 GRID REFERENCE:  
 E: 391,754 N: 180,841

Some examples of Plant Items:

- Valve
- Depth of Cover
- Syphon
- Diameter Change
- Material Change

TITLE : Gas Pipe at Lower Stanton St Quintin

The plan shows those pipes owned by Wales & West Utilities or the relevant Gas Distribution Network in their roles as Licenced Gas Transportors (GT). Gas pipes owned by other GTs, or otherwise privately owned, may be present in this area. Information with regard to such pipes should be obtained from the relevant owners. The information shown on this plan is given without warranty, the accuracy thereof cannot be guaranteed. Service pipes, valves, syphons, stub connections, etc. are not shown but their presence should be anticipated. No liability of any kind whatsoever is accepted by Wales & West Utilities, the relevant Gas Distribution Network, or their agents, servants or contractors for any error or omission. Safe digging practices, in accordance with HSE/GM7, must be used to verify and establish the actual position of mains, pipes, services and other apparatus on site before any mechanical plant is used. It is your responsibility to ensure that this information is provided to all persons (either direct labour or contractors) working for you or near gas apparatus. The information included on this plan should not be referred to beyond a period of 28 days from the date of issue.

Wales & West Utilities  
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## Green, Janice

---

**From:** Michael Thomas <Michael.Thomas@wwutilities.co.uk>  
**Sent:** 10 August 2020 10:53  
**To:** Green, Janice  
**Subject:** Gas Supply Pipe in land at Stanton St Quintin

**Follow Up Flag:** Follow up  
**Flag Status:** Completed

Dear Ms Green

I have been passed your name by a resident of Stanton St Quintin as he has a gas supply that crosses the area of land which I understand has been subject to an application for Village Green status.

Wales & West Utilities (WWU) is the licensed gas transporter for Wales and South West England and as such we are responsible for the gas network. Unfortunately I have not managed to find a record of the application on your website, could you please point me in the right direction or provide copies?

Whilst we realise it is often not permitted for gas pipes and other services to be laid in a Village Green, in this case the pipe is already in place and we would like reassurance that we will not be required to divert it should the Village Green status be approved. A diversion would require excavations in the area so we would hope that it would be appropriate for the gas pipe to remain.

I look forward to hearing from you.

Kind regards

**Michael Thomas BSc MRICS | Senior Estates Surveyor**

Wales & West Utilities Ltd | Wales & West House | Spooner Close | Newport | NP10 8FZ  
T: 02920 278882 | M: 07811 473366 | E: [michael.thomas@wwutilities.co.uk](mailto:michael.thomas@wwutilities.co.uk)

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## Green, Janice

---

**From:** wwutilities@safedigs.co.uk  
**Sent:** 10 August 2020 16:01  
**To:** Green, Janice  
**Subject:** Plant Enquiry Ref Job No. 19633653  
**Attachments:** WWU LP Assets Affected Letter.pdf; 19633653\_WWU.pdf; general\_condns\_wwu (1).pdf; can-you-dig-it-dial-before-you-dig.pdf

10/08/2020

LinesearchbeforeUdig ref: 19633653

Your ref: SSQ TVG

Dear Sir/Madam,

Thank you for contacting us

Please find enclosed a copy of the requested plan, covering letter and our general conditions, for your reference.

Our records show those pipes owned by Wales & West Utilities (WWU) in its role as a Licensed Gas Transporter (GT). On some occasions, blank maps may be sent to you. This is due to your proposed work being in a no gas area, but within our operational boundaries. Service pipes, valves, syphons, stub connections, etc. may not be shown, but their presence should be anticipated. No warranties are therefore given in respect of it.

They also provide indications of gas pipes owned by other GTs, or otherwise privately owned, which may be present in this area. This information is not information of WWU and WWU is unable to verify this information or to confirm whether it is accurate or complete.

The plan must be printed in the size requested (A3/A4) and will also need to be produced in colour. If this is not possible, we can send you a hard copy if requested. Please let us know if you require any further assistance.

### Contact Us

#### Gas Emergency Number:

In an emergency call 0800 111 999, 24 hours a day.

#### Mapping Enquiries:

If you have an enquiry relating to this letter or the attached map plan, please contact us using the following information:

Telephone: 02920 278912

Email: [dig@wwutilities.co.uk](mailto:dig@wwutilities.co.uk)

#### General Enquiries:

If you have a general enquiry, please call us on the following number:

All areas: 0800 912 29 99

#### For further information please see the videos below:

The homeowners video is aimed at our domestic customers who are looking to undertake work within their own land. It provides information regarding the visual signs to look for that will indicate the presence of pipeline located in your land and what you should do before excavating.

Homeowners: <https://www.youtube.com/watch?v=LxB6ePx3N7U>

The contractor video is aimed at those who undertake more complex work around our pipelines, to inform that we

may need to approve your work in advance, depending on the proposals and the distance you working from our pipeline. It also provides information regarding what details we need from you, before excavation begins.

Contractors: [https://www.youtube.com/watch?v=iBIitu\\_0zTM](https://www.youtube.com/watch?v=iBIitu_0zTM)

**LinesearchbeforeUdig:**

If you have an enquiry relating to the use of the LinesearchbeforeUdig website please contact:

Telephone: 0845 437 7365

Email: [enquiries@linesearchbeforeudig.co.uk](mailto:enquiries@linesearchbeforeudig.co.uk)

Website: [www.linesearchbeforeudig.co.uk](http://www.linesearchbeforeudig.co.uk)

Regards

WWU Dig Team



**Company Address**

Wales and West Utilities Ltd,  
Wales and West House,  
Spooner Close, Celtic,  
Springs, Coedkernew,  
Newport, NP10 8FZ

Our Ref: 19633653 SSQ TVG

Monday, 10 August 2020

Janice Green  
County Hall Bythesea Road  
Trowbridge  
Wiltshire  
BA14 8JN

Dear Janice Green

Thank you for contacting us regarding Wales & West Utilities equipment at the above site.

I enclose an extract from our mains records of the area covered by your proposals together with a comprehensive list of General Conditions for your guidance. This information is given as a general guide and its accuracy cannot be guaranteed. Service pipes, valves, syphons, stub connections, etc., are not shown but their presence should be anticipated.

No liability of any kind whatsoever is accepted by Wales and West Utilities (WU), its agents or servants for any error or omission. Please note that all WU equipment on site should be assumed to be LIVE until proven otherwise.

Safe digging practices, in accordance with HS(G)47, Avoiding Danger from underground services must be used to verify and establish the actual position of mains, pipes, services and other apparatus on site before any mechanical plant is used. It is your responsibility to ensure that this information is provided to all persons (either direct labour or contractors) working for you on or near gas apparatus. Safe working procedures should be defined and practiced.

**WU reserves its position completely to enforce the terms of any existing easement against the landowner, even if this results in any planning permission granted not being able to be fully implemented.**

**You must not build over any of our plant or enclose our apparatus.**

**Wales & West Utilities have no planning objections to these proposals, although it should be noted that Wales & West's apparatus is held pursuant to easements and it has other private law rights in relation to the use of the land in the vicinity of its apparatus. Wales & West's private law land rights are not material planning considerations and therefore no comment is made in relation to those rights and they have no impact on whether or not planning permission should be granted, or whether, if permission is granted, it can lawfully be implemented. It should also be noted that Wales & West's apparatus may be at risk during construction works and should the planning application be approved, then we require the promoter of these works to contact us directly to discuss our requirements in detail. Should diversion works be required these will be fully chargeable.**

Where diversions to WU apparatus are needed to allow change to occur on site, the cost of these alterations may be charged to the persons responsible for the works.

If you have requested a new connection the WU connections team will where necessary prepare detailed proposals and provide a quotation for any necessary alterations and/or development of our equipment on the site.

If you require advice in connection with your proposals please contact the relevant number below.

Yours sincerely,



**Company Address**

Wales and West Utilities Ltd,  
Wales and West House,  
Spooner Close, Celtic,  
Springs, Coedkernew,  
Newport, NP10 8FZ

WWU Dig Team

**Gas Emergency Number:**

In an emergency call 0800 111 999, 24 hours a day.

**Mapping Enquiries:**

If you have an enquiry relating to this letter or the attached map plan, please contact us using the following information:

Telephone 02920 278912  
Email dig@wwutilities.co.uk

**General Enquiries:**

If you have a general enquiry, please call us on the following number

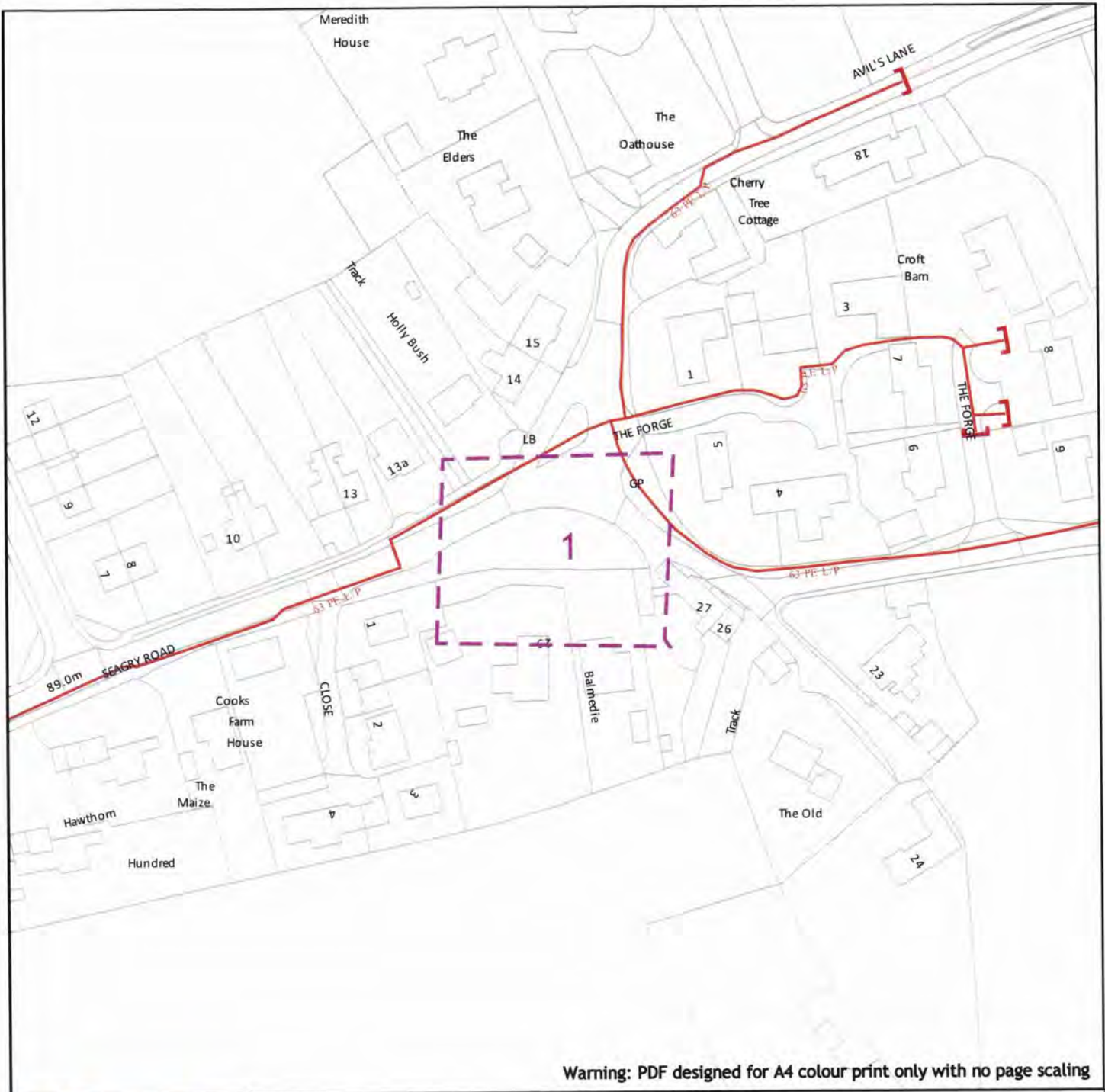
All areas 0800 912 29 99

**LinesearchbeforeUdig:**

If you have an enquiry relating to the use of the LinesearchbeforeUdig website please contact LinesearchbeforeUdig using the following information:

Telephone 0845 437 7365  
Email enquiries@linesearchbeforeudig.co.uk  
Website www.linesearchbeforeudig.co.uk





Warning: PDF designed for A4 colour print only with no page scaling

**WALES & WEST UTILITIES**

**Contact Us**  
**Mapping Enquiries:**  
 All areas 02920 278 912  
**General Enquiries:**  
 All areas 0800 912 2999

Date Requested: 10/08/2020  
 Job Reference: 19633653  
 Site Location: 391732 180847  
 Requested by: Miss Janice Green  
 Your Scheme/Reference: SSQ TVG

Scale: 1:1250 (When plotted at A4)

100m

**Dig Sites** Area: Line:

	Low Pressure (LP) 21mbar – 75mbar		Change of Diameter		Line/Fire Valve
	Medium Pressure (MP) 350mbar – 2bar		End Cap		Governor Station
	Intermediate Pressure (IP) 2bar – 7bar		Depth of cover		
	High Pressure (HP) >7bar				

**IMPORTANT NOTICES**

- This information is given as a guide only and its accuracy cannot be guaranteed
- The plan only shows those pipes owned by Wales & West Utilities (WUU) as its role as a licensed Gas Transporter
- Service pipes, valves, syphons, stub connections etc. may not be shown but their presence should be anticipated
- You must use safe digging practices in accordance with H5(G)47 to establish the actual position of mains, services and other apparatus before any mechanical excavation is used
- It is your responsibility to ensure this information is provided to all persons working near our plant
- If in doubt call the WUU dig team on 02920 27891

**Report damage immediately – KEEP EVERYONE AWAY FROM THE AREA**  
 0800 111 999

Smell gas?  
 Call the Gas Emergency Service on  
 0800 111 999

**Dial before you dig**

029 2027 8912  
 0800 111 999

16 Days

0800 111 999

i) Planning Application 18/01108/FUL Supplementary Information (Extract)

## **Supplementary Information**

Project: New Access  
Site location: [REDACTED] Lower Stanton St. Quintin, Chippenham,  
Wiltshire, SN14 6 [REDACTED]

### **Notes**

Source documents are referenced in square brackets e.g. [1]. These references are listed in the reference section at the end and for ease, copies of the referenced documents have been attached at back.

As Planning may consider the negative pre-planning advice given then it is necessary in this document to point out the many flaws, errors and omissions in that advice in some detail to ensure Planning have all the correct facts on which to make their decision. I therefore apologise for the size that has made this document.

Due the number of pictures and diagrams in this document it has been necessary to optimise it for screen viewing rather than printing in order to reduce the file size under the 5MB limit. Full resolution versions of the pictures are available should Planning need them.

### **Summary**

The pre-planning advice was not thorough and only looked at the previous 1986 planning application, N86.1805.FUL. Pre-planning did not look at any previous applications thus missed the fact that access across the verge had previously been approved in the initial outline planning application, N82.1461.OL [1]. Plus, when the first full plans were submitted in 1986, N86.1322, with the right of way as access, Planning wrote and strongly suggested that going across the verge was the better option [6] and that the plans should be reconsidered. More issues with the pre-planning advice invalid assumptions will be expanded on in later sections.

There are significant safety benefits that come with new access both for fire and especially ambulance. There is also a benefit for the east end of Lower Stanton St. Quintin as the new access would guarantee long term access to the telephone pole that feeds it. These will be detailed in later sections.

This application asks for an access over this verge similar to the access granted in 1982 and renewed in 1985. This verge is legally highway, as will be explained later so its prime purpose should be as a right of way. Indeed there is ample evidence that the property had an access to the highway and there is no evidence that this access was ever legally stopped up as required by Highways Act 1980.



## ***Verge Status***

The verge in front of [REDACTED] is approximately 40m long and ranges from 8m to 14m in width. This is shown on the map in figure 1 below (note the map does not show the tarmac accesses for any properties including [REDACTED] and [REDACTED] which cross this verge). This verge has 13 trees on it most of which were planted 30 years ago following the land sale in 1986 and apparently with no consultation with highways, the utilities using the verge, or the homes these trees were being planted in front of. No professional advice seems to have been sought on the type of tree or positioning and today there are trees planted so close to household boundary wall that they are undermining this wall.

The verge is overcrowded with trees. Many are too close together such that their branches cross and the branches foul the telephone cables that cross the verge.

This verge is sometimes referred to as Lower Stanton “green” but the definition of a village green is an area where sports or pastimes can be played. It is thus too small to be a “green” and especially now with all the trees on it there is even less free space. It is also not legally common land as was reported by the county solicitor in 1982 [4] following discussion of the planning application [3]. It seems odd to me that the then Parish Council should both claim it is their land as well as asking if it was common land since the two are very different.

In fact up until 1954 it was a large pond into which a roadside ditch drained. Maps circa 1900 show that the pond occupied almost all the land that is now verge. This map is shown in figure 2 below along with a merge of current and old maps in figure 3. This ditch took run off from the road, the farm and some cottages. The farm also used water from the pond and it might have also had a spring feeding it since the farm had no mains water at that time.

The pond was regularly reported to be a nuisance and to need cleaning. The Parish Council had been trying for years to get it filled in and the run off diverted to the main sewer and this was finally done by the Rural District Council. This used free rubble etc. from the new housing site in the village which is how it was afforded as neither the RDC nor the Parish Council had the money for this work. Subsequently it was used a dumping ground for rubbish necessitating the installation of sign prohibiting the dumping of rubbish. It was also used a store for road chippings in 1965 if not at other times and it was still to be covered with soil and seeded, by the RDC, as late as June 1966.

It therefore has no history of being an ancient bucolic village green as some would suggest. Similarly the boundary wall of [REDACTED] that borders the verge is not some ancient monument but dates after 1965 as until that time the boundary was a row of trees.



Figure 1 – Current Map

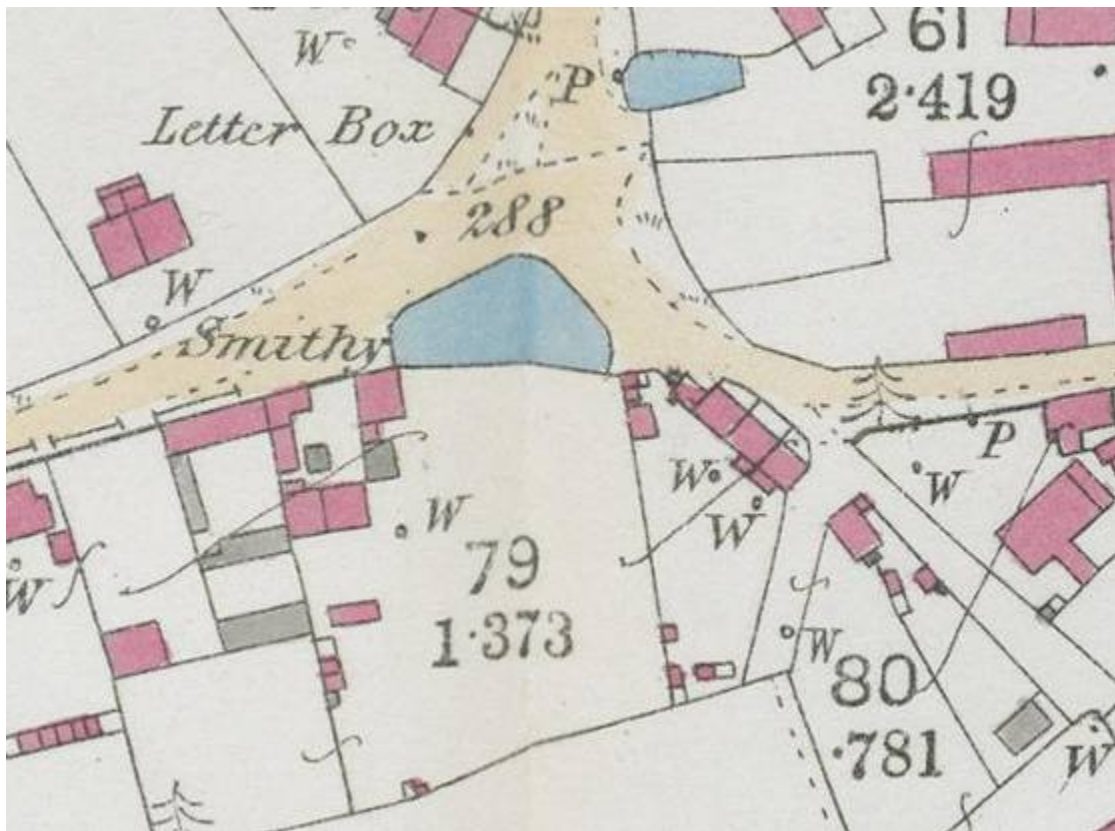


Figure 2 – Map circa 1900



**Figure 3 – Merged Maps**

I have been a visitor to [redacted] for 32 years and in the last 3 years I have been there most days. I can only recall one time the verge was used for an “event” and that was for small gathering for the Queen’s 90<sup>th</sup> Birthday. A group of around a dozen stood on the verge for a short time during the afternoon. At that time many more branches were below head height so standing space was restricted. Some people had brought a garden chair for themselves, some a bottle and a glass. We had been on site to catch up on some work and were leaving when we were invited to join this small gathering. Most people were at larger events or private parties, we could hear the sound of one party drifting over from a house in the Forge.

The most regular use for this verge is by villagers looking at the notice board or people using the one relatively clean bench, often these are cyclists taking a breather, not villagers. Non of these usages are frequent. The only other use of this verge is people walking across it which an access would not affect.

Pre-planning have cited these two benches as proof of the verge’s use which is a bit of stretch given the state of the benches as can been from the pictures in figure 4 and figure 5 below. Also, these benches look out across the road. Anyone sitting on these benches would have to be looking over their right shoulder to see the route in the “Access Plan”, not exactly a comfortable position to maintain for any length of time. Plus, given that both the access and the road are tarmac I can’t actually see what difference there is in two bits of tarmac.





**Figure 4 – Bench 1**



**Figure 5 – Bench 2**

The Parish Council claimed ownership of this verge in 1982, 1986 and last year but they now admit that the land is manorial waste and they have no title to it. The Parish Council accounts do not show the verge as an asset and presumably never have done as by default assets would just be copied from one year's accounts to the next, unless sold of course.

The Parish Council accounts do not show wayleaves from the two telephone poles on this verge. Openreach wayleaves department have confirmed that they do not know of an owner and pay no wayleaves to anyone. The verge is unregistered land according to the land registry. Wiltshire Council Highways say that this verge is not one of theirs but I do not think that is the correct legal status of the verge.

UK courts have ruled that "highway" runs from hedge to hedge and includes verge and waste land (East v Berkshire County Council (1911), Evelyn v Mirrielees (1900)). Highways Act 1980, section 130 also claims waste land as highway. On this basis the verge would therefore be highway verge, and certainly that post the 1980 act. As part of the highway its prime purpose is public access, including access to properties, the same as every other verge in every other village and town.

### **Old Access**

In 1986 there was a gate in existence in the north east corner. This is shown on the site survey from 1986 [8] (north is bottom of page). A gate implies an access way to the road. And the 1982 application [2] says on page 2 "Vehicular access gate already in existence, approach to this to be improved.". Also if you look at the old map in figure 2 the pond does not extend to the north-east corner of the plot. The land at the north-east corner is shown as road.

I would presume that the roads were unmetalled at the time of the map in figure 2 and when this was later tarmaced it followed the bend, i.e. as it runs now, and they did not fill in the corner since that would have the householder responsibility to fund. [REDACTED] number [REDACTED] on the access plan, have concreted their access but the farm, as it was at time did not. The entrance would likely have only been used for animals so there would have been no justification for the expense.

It is therefore pretty cut and dried that there was an access to the highway in the north east corner. There is no record of this being stopped up as per the procedure in the Highways Act 1980, section 124. Indeed to use section 124 it would need to be shown that the access was a danger to traffic and that is not the case as the original 1982 planning application was passed with the access route across the verge [1]. This permission was renewed with no problem in 1985 [5]. Likewise there is no evidence of an agreement to stop up this access to use section 127 of the Highways Act. Both sections require the house holder to be compensated when an access is stopped up and there is no evidence of that either.

Therefore the conclusion must be that the access in the north-east corner to the highway still legally exists, since it has not been legally stopped up.

Please note that Planning Application no.18/01108/FUL Supplementary Information is included here in extract form only, the document in full may be viewed on the Wiltshire Council website, (see Documents, Supplementary Information):

<https://development.wiltshire.gov.uk/pr/s/planning-application/a0i3z000014ep3mAAA/1801108ful>

ii) Objections Prior to Form 45

**Green, Janice**

---

**From:** Green, Janice  
**Sent:** 12 June 2018 16:03  
**To:** 'Malcolm Reeves'  
**Subject:** RE: Application for new green at Lower Stanton St. Quintin?

Dear Mr Reeves,

Thank you for your e-mail, I note your objections to the potential application to register land at Seagry Road, Stanton St Qunitin, as a Town or Village Green under Section 15 of the Commons Act 2006.

In reply to your second e-mail regarding the date of the application, although the application is dated 18th April 2018, it was received by Wiltshire Council, as the Registration Authority on 30th April 2018 and this will become the critical date in this case, if the application is accepted as a valid application, by the Registration Authority.

Before the application can be accepted, the Registration Authority must:

1) Consult with the Planning Authorities regarding planning "trigger" events which may have occurred over the land or part of the land, such as a planning application, which would extinguish the right to apply to register a town or village green over the land, or part of the land. This process has now been completed.

2) If the right to apply is preserved over the land or part of it, the Registration Authority must check that the application is in order and if it is found not to be duly made, the applicant must be given reasonable opportunity to put the application in order.

For this reason the Registration Authority are not yet in a position to serve formal notice of the application on interested parties, but please be assured, that if/when the application is accepted as duly made, you will receive formal notice. In the meantime, I will hold your objections on the relevant file.

I hope this information is helpful.

Kind regards,

Janice Green  
Rights of Way Officer  
Wiltshire Council Waste and Environment  
Ascot Court Trowbridge BA14 0XA  
Telephone: Internal 13345 External: +44 (0)1225 713345  
Email: janice.green@wiltshire.gov.uk

Web: [www.wiltshire.gov.uk](http://www.wiltshire.gov.uk)

Follow Wiltshire Council

Follow Wiltshire Countryside

-----Original Message-----

From: Malcolm Reeves [REDACTED]  
Sent: 11 June 2018 10:04  
To: Green, Janice

Cc: Roberts, Ali

Subject: Re: Application for new green at Lower Stanton St. Quintin?

Dear Ms Green,

I understand that you are the case officer for the application for a village green at Lower Stanton St. Quintin.

I wish to formal object to this application. Some of the reasons for this are:

1. This land currently has a planning application appeal outstanding on it.
2. The map included with the email is incorrect in showing the extent of the land highways claim as public highway. Currently the east end is part of the highway too.
3. The central section of land used to be a soakaway to drain the road (also called the pond locally). Highways have not yet accepted that this is their responsibility however I believe they wrong. All the evidence points towards this being highway. There is no evidence of any other owner going back to 1834. The planning appeal, which has been copied to Wiltshire Planning as required contains all the evidence and arguments in support of this. The document you need is Appeal - Verge Status.pdf together with all the photographs of supporting documents.
4. There also exists an access at the east end to the garage for [REDACTED] (the building running N-S on it own), as well as one for the house to the west of [REDACTED].
5. The Parish Council was asked the question on common land following the 1965 commons registration act and they replied that there were no commons in the village on 31/10/1966. This was about 13 yrs after "the pond" had been filled in by the RDC with waste material from the council house build in the village. It was also covered with soil and seeded by the RDC Highways.
6. In 1961 an application was granted for the land south of the claimed green. This application included a access road cutting across this land. There is no record of the Parish Council objecting to this. This application lapsed and was resubmitted and regranted in 1972. All the history suggests that the Parish Council then considered this land to highway verge.
7. There are services running under this land, electricity, drains and gas. As well as telephone cables and poles.
8. The Parish Council do not own this land, which they have now admitted. My research has found that the earliest claim to own this land seems to be in 1982. In 1982 the Parish Council wrote a strong objection to a planning application in which they claimed they owned this land and were not about to sell it for an access. An access which was in fact over public highway. And indeed they don't own any of the land as they claimed as late as 2016.
9. My research leads me to the conclusion it is highway, but failing that being accepted then the land would revert to those houses fronting on to the highway since there is no record of any other owner. This would make the east half my land, and I object to it being registered as a green.
10. In order to be registered as a green it has to be shown that the land has been used for 20yrs for sports and pastimes as a right. This is simply not true. I have known this property since 1987. The land is too small for sports and plus it is covered with trees. The free space is less than the average house lawn. I would suggest that you ask anyone claiming it has been used for 20yrs for sports and pastimes for some proof as well as reminding them of the penalties for perjury.  
If the land has been used for the past 20yrs for sports and pastimes there will be some documented evidence of such. I have seen so such activity in the 31 yrs I have been a visitor and an owner of this property.

Kind regards

Malcolm Reeves



On Mon, 11 Jun 2018 07:50:53 +0000, you wrote:

>Dear Mr Reeves,

>

>Please see attached the application plan for a village green at Stanton St Quintin. The case officer assigned to this application is Janice Green. I will ask Janice to update you with any progress on this application.

>

>Kind regards,

>

>Ali

>

>-----Original Message-----

>From: Malcolm Reeves [REDACTED]

>Sent: 03 June 2018 20:19

>To: rightsofway

>Subject: Application for new green at Lower Stanton St. Quintin?

>

>Hi,

>

>According to the Stanton St. Quintin Parish Council minutes for 13

>March 2018 a verge in front of my house "was also being registered as a

>Village Green". Can I ask if such an application would come to you and

>if you have received such?

>

>Thanks

>

>Malcolm Reeves

--

## Green, Janice

---

**From:** Malcolm Reeves [REDACTED]  
**Sent:** 11 June 2018 17:34  
**To:** Roberts, Ali  
**Cc:** Green, Janice  
**Subject:** Re: Application for new green at Lower Stanton St. Quintin?

Hi,

I notice from the pdf that it was created 8/5/2018. Can I ask if this was the date of the application?

Regards

Malcolm Reeves

On Mon, 11 Jun 2018 07:50:53 +0000, you wrote:

>Dear Mr Reeves,

>

>Please see attached the application plan for a village green at Stanton St Quintin. The case officer assigned to this application is Janice Green. I will ask Janice to update you with any progress on this application.

>

>Kind regards,

>

>Ali

>

>-----Original Message-----

>From: Malcolm Reeves [REDACTED]

>Sent: 03 June 2018 20:19

>To: rightsofway

>Subject: Application for new green at Lower Stanton St. Quintin?

>

>Hi,

>According to the Stanton St. Quintin Parish Council minutes for 13

>March 2018 a verge in front of my house "was also being registered as a

>Village Green". Can I ask if such an application would come to you and

>if you have received such?

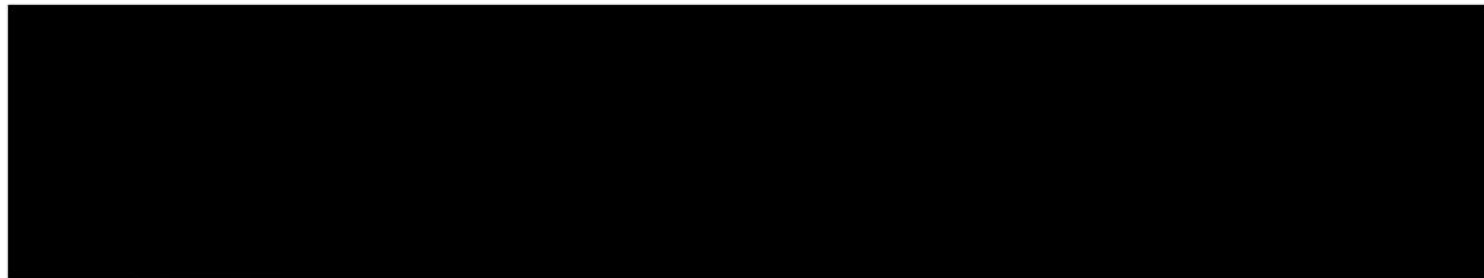
>

>Thanks

>

>Malcolm Reeves

--



PARISH COUNCIL COMMENTS ON  
OBJECTIONS + ADDITIONAL EVIDENCE  
(10TH DECEMBER 2020)

**Green, Janice**

---

**From:** Adrian Andrews [REDACTED]  
**Sent:** 10 December 2020 11:26  
**To:** Green, Janice  
**Subject:** Village green

**Follow Up Flag:** Follow up  
**Flag Status:** Flagged

Dear Janice

I have been in the village for twelve years. The Wee free library is used daily and has been meeting point (keeping up social distancing). Kind Regards Adrian

## Green, Janice

---

**From:** Adrian Andrews [REDACTED]  
**Sent:** 23 November 2020 14:35  
**To:** Green, Janice  
**Subject:** Fwd: Minute books  
**Attachments:** Village green - extracts from old Minute book.docx

**Follow Up Flag:** Follow up  
**Flag Status:** Flagged

Begin forwarded message:

**From:** "Box Parish Council" <[mailbox@boxparish.org.uk](mailto:mailbox@boxparish.org.uk)>  
**Subject:** Minute books  
**Date:** 19 November 2020 at 09:59:26 GMT  
**To:** "Adrian Andrews" [REDACTED]

Good morning Adrian

I went through the old Minute books last night. I am typed out the entries re the Village Green and Pond

Let me know if you still wish me to drop everything over to you. You probably have a lot of relevant information from local residents

Margaret



Virus-free. [www.avg.com](http://www.avg.com)

## Village green

### Minutes of meeting dated 14<sup>th</sup> April 1983

#### Lower Stanton

The Clerk reported that the prospective purchase of Lower Stanton had made a request to the Parish Council to construct a vehicular access to the property over the village green.

A number of the members expressed concern about the possible loss of part of the village green and others stated that the local opinion was not in favour of the request.

The clerk stated that the Parish Council was unable to prove ownership of the land that the Council's Solicitors considered that any attempts to do so might be expensive

After a long discussion the members RESOLVED that the request for a vehicular access be refused and that the Clerk arrange for the Parish council to register the village green as common land.

### Minutes dated 19<sup>th</sup> May 1983

#### Lower Stanton

The Clerk distributed a letter that had been received from the local MP Mr Richard Needham asking for the parish council to reconsider its decision not to grant a vehicular access over the village green to Lower Stanton

The Members reconsidered the subject at some length and **resolved** after a majority vote to wait and see if it would be possible to register the land as common land, and, if not, to negotiate a price with the owner of Lower Stanton.

### Minutes of meeting dated 22<sup>nd</sup> September 1983

#### Lower Stanton

The Clerk reported that it had not been possible to register the land at the front of Lower Stanton as Common Land. The District Valuer had, therefore, been instructed to agree a valuation with the owner of No

### Minutes of meeting dated 9<sup>th</sup> February 1984

#### Lower Stanton

The Clerk stated that the owner of Lower Stanton had not replied to any letters sent to him regarding the purchase of the land in front of the property. The members agreed it was unlikely the land would be sold in the near future.

**Minutes of meeting dated 16<sup>th</sup> October 1986**

**Village Green – Lower Stanton**

The members reported that the owner of [REDACTED] Lower Stanton had asked for a contribution towards his costs of cutting the grass just outside the boundary to his property. After a long discussion it was agreed that Mr Heredge be thanked for cutting the grass but be informed that no money could be given from the public purse.

**Minutes of meeting dated 28<sup>th</sup> January 1988**

**Village Pond**

The Chairman stated that letters had been received from Mr Doran of [REDACTED] and Mr Pennington of [REDACTED] about possible reinstatement of the village pond in Lower Stanton

Some members expressed concern about flooding in the village and the likely cost of such a venture

After considerable discussion Mrs Bird proposed and Mr Jones seconded that those persons interested form a sub- committee and carry out a feasibility study. The committee to report back to some future meeting of the parish council.

**Minutes of meeting dated 19<sup>th</sup> May 1988**

**Village Pond**

It was reported that the Village Pond sub-committee had decided not to proceed with the restoration of the Village Pond in Lower Stanton due to it not being possible to obtain a clean source of water.

The sub-committee had however indicated their willingness to improve the area with the addition of a number of trees and shrubs and a new notice board. The members discussed the matter in depth and agreed to support the scheme and to provide an initial sum of £100 towards the costs. The sub-committee were instructed to present their plans for approval at the Parish Council meeting in September/October 1988.

**Minutes of Meeting held on 2<sup>nd</sup> October 1989**

**Grass cutting**

The Clerk reported that the grassed area on the former pond site at Lower Stanton St Quinin had been cut once during the summer, and would need another cut before the end of the season.

**Minutes of meeting dated 1<sup>st</sup> June 1990**

The use of the green at Lower Stanton for ball games and the possibility of providing protection for the young trees was discussed. It was felt that this would prove more costly than replacement and the Parish Council therefore proposed no action be taken.



## Green, Janice

---

**From:** Adrian Andrews [REDACTED]  
**Sent:** 23 November 2020 14:31  
**To:** Green, Janice  
**Cc:** Greenman, Howard  
**Subject:** Fwd: Pictures

**Follow Up Flag:** Follow up  
**Flag Status:** Flagged

Janice

Here are some photos of events held prior events prior to applicatio  
Mrs Creasey has agreed to leave her statement as it is.

Will send you the reply to The objections tomorrow

I will also be sending a email taken from the minute book,if you require to actually see the minute books am more than willing to bring this over after lockdown ,unless you want to see it before?

Regards

Adrian

Begin forwarded message:

**From:** Liz Cullen [REDACTED]  
**Subject:** Fw: Pictures  
**Date:** 15 November 2020 at 14:44:32 GMT  
**To:** Adrian Andrews [REDACTED]

---

**From:** Liz Cullen [REDACTED]  
**Sent:** 15 November 2020 14:37  
**To:** [REDACTED]  
**Subject:** Re: Pictures

Opening of Wee Free Library June 2019 ( something that has been very well used in both Lockdowns and I have a letter thanking us for it from some visitors.)



From: [Serena Parker](#)  
To: [Green, Janice](#)  
Cc: [REDACTED]  
Subject: Village Green Application  
Date: 09 December 2020 21:10:42

---

**Dear Janice**

**Commons Act 2006 – Sections 15(1) and (2)**  
**Applications to Register Land as Town or Village Green – Land off Seagry Road,**  
**Lower Stanton St Quintin**  
**Application no's: 2018/01 & 2019/01**

I wish to support the above application for the following reasons:

1. The land has been used as a Village Green for many years, ever since the former pond was filled in. During this time the Parish Council has maintained the land by cutting the grass and general maintenance, tree cutting etc.
2. The green is in the heart of the village and is an area where villagers and visitors can congregate and come together to relax and have community events.
3. This is the only village green in the Stanton villages, there is no other suitable space to hold village events.

Thank you

Serena Parker  
[REDACTED]  
Stanton St Quintin  
Sn14 6 [REDACTED]

Sent from my iPad

Appendix 10 - Objectors Comments on Applicants Comments on Objections

**From:** [REDACTED]  
**Sent:** 26 January 2021 15:47  
**To:** [Green, Janice](#)  
**Subject:** TVG Application

---

**Follow Up Flag:** Follow up  
**Flag Status:** Flagged

Your Reference: JG/PC/212 2018/01 & 2019/01

Dear Janice Green,

With reference to your letter dated 20\01/2021

We are very unhappy with the majority of comments opposing this application on which appear to be making out that we did not stay at 29a Lower Stanton St Quinton as often as we said we did and to make out that letters sent out were similar and we had obviously copied from each other is not acceptable. The reason why they appear similar is because it is a true account of what happened.

We feel the whole case has been dealt with unprofessionally and we will not be destroying any paperwork as requested as this may be needed and kept as evidence.

Yours Sincerely

Olwyn & John Kelly

**From:** [REDACTED]  
**Sent:** 05 January 2021 15:28  
**To:** [Madgwick, Sally](#)  
**Subject:** Re: Application to Register Land as Town/Village Green,  
Seagry Road, Lower Stanton St Quintin  
**Attachments:** [20160918-CullenLetter.pdf](#)  
[20170405-CullenLetter.pdf](#)  
[HouseAccess-6.pdf](#)  
[PCemail20170522.pdf](#)  
[SSQPC-TVGapplication-1.pdf](#)  
[SSQPC-TVGapplication-1a.pdf](#)  
[StantonTVGobjection-3.pdf](#)  
[StantonTVGobjection-3a.pdf](#)

---

Dear Ms Madgwick,

As Ms Greens auto reply indicates she is away until 11 Jan please see below the email sent to Ms Green today, and the attached files.

-----  
Dear Ms Green,

Please find attached our comments on the applicant's reply:

StantonTVGobjection-3.pdf

together with reference evidence pdfs. Also our comments on the other representations:

StantonTVGobjection-3a.pdf

In addition let me inform you that my wife, Mrs K Reeves and my daughter Miss J Reeves, have received the letter in regard to the signature you failed to redact. This has now been redacted with a sharpie. It was not possible to return the document as requested since you didn't see fit to include the information on the back of the original page.

Regards

Malcolm Reeves



On Mon, 21 Dec 2020 09:29:16 +0000, you wrote:

>Dear Mr Reeves

>

>

>Commons Act 2006 - Sections 15(1) and (2)

>

>Applications to Register Land as Town or Village Green - Land adjacent to Seagry Road, Lower Stanton St Quintin

>

>Application no's 2018/01 & 2019/01

>

>

>I am writing to advise you that as required by paragraph 6 of The Commons (Registration of Town or Village Greens) (Interim Arrangements) (England) Regulations 2007, the Registration Authority forwarded the applicant, (Stanton St Quintin Parish Council), every written statement in objection to the above-mentioned application to register land in the parish of Stanton St Quintin as a town or village green, (additionally including representations in support for completeness), and allowing the applicant reasonable opportunity of dealing with the matters contained in the statements.

>

>The Parish Council have now replied and I have attached a copy of their statement/additional evidence, with copies of the objections and representations received to date, inviting your comments on these statements. I would be very grateful if you could reply in writing before 5:00pm on 15th February 2021, but please do let me know if you should require additional time.

>

>I have also forwarded this information to other objectors for comment.

>

>Thank you for your help in this matter.

>

>Kind regards,

>

>Janice Green

>Senior Definitive Map Officer

>Rights of Way and Countryside

>Wiltshire Council

>County Hall

>Trowbridge

>BA14 8JN

>[cid:image005.png@01D6D77B.AB50D940]

>Telephone: Internal 13345 External: +44 (0)1225 713345

>Email: janice.green@wiltshire.gov.uk<<mailto:janice.green@wiltshire.gov.uk>>

>

>Information relating to the way Wiltshire Council will manage your data can be found at:

[https://eur02.safelinks.protection.outlook.com/?url=http%3A%2F%2Fwww.wiltshire.gov.uk%2Frecreation-](https://eur02.safelinks.protection.outlook.com/?url=http%3A%2F%2Fwww.wiltshire.gov.uk%2Frecreation-rights-of-)

[way&data=04%7C01%7Csally.madgwick%40wiltshire.gov.uk%7Cb2b46f0b8f504ab9f51308d8b18e8886%7C5546e75e3be14813b0ff26651ea2fe19%7C0%7C0%7C637454573797005878%7CUnknown%7CTWFpbGZsb3d8eyJWIjoiMC4wLjAwMDAiLCJQIjoiV2luMzliLCJBTiI6Iik1haWwiLCJXVCi6Mn0%3D%7C1000&data=nDc1EBh%2](https://eur02.safelinks.protection.outlook.com/?url=http%3A%2F%2Fwww.wiltshire.gov.uk%2Frecreation-rights-of-way&data=04%7C01%7Csally.madgwick%40wiltshire.gov.uk%7Cb2b46f0b8f504ab9f51308d8b18e8886%7C5546e75e3be14813b0ff26651ea2fe19%7C0%7C0%7C637454573797005878%7CUnknown%7CTWFpbGZsb3d8eyJWIjoiMC4wLjAwMDAiLCJQIjoiV2luMzliLCJBTiI6Iik1haWwiLCJXVCi6Mn0%3D%7C1000&data=nDc1EBh%2)

[Redacted]

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[Redacted]

[Redacted]

[Redacted]

[Redacted]

[Redacted]

[Redacted]

[Redacted]

=====

To: Malcolm Reeves [REDACTED]  
Subject: Re: Old Records  
From: Margaret Carey <infoboxparish@gmail.com>  
Date: Mon, 22 May 2017 12:52:28 +0100

-----

Hi Malcolm

The only record I have is the old minute book. I have been through it from 1970 - 1994 and there is no reference at all to either property. The Minutes are very scant and no planning applications are minuted either apart from the number and address. Perhaps it it work asking the Wiltshire Council Planning Department

Margaret

On Mon, May 22, 2017 at 12:01 PM, Malcolm Reeves <

[REDACTED]>

> Dear Ms Carey,  
>  
> I forgot to say that I'm willing to do the searching myself. I didn't  
> mean to burden you with any work :-). If you have records going back  
> that far that is. I can do the searching at wherever suits you as I  
> can understand you might not be comfortable with me taking them away.  
>  
> Regards  
>  
> Malcolm Reeves

> On Sun, 21 May 2017 19:38:29 +0100, you wrote:

>>Dear Ms Carey,  
>>  
>>May I ask if the records of Stanton St. Quintin Parish Council go back  
>>as far as 1986/87? I'm interested to know if there is anything  
>>pertaining to [REDACTED] or it might have been [REDACTED] (not sure if  
>>that was [REDACTED] then) as [REDACTED] sold off the plot that became [REDACTED]

>>Thanks  
>>  
>>Malcolm Reeves

> --

> Malcolm Reeves BSc (Retired CEng MIET MIRSE), [REDACTED]  
> Full Circuit Ltd, Chippenham, UK. Reg in: ENGLAND No: 3234613  
> Design Service for Analogue/Digital H/W & S/W Railway Signalling and Power  
> electronics. More details plus freeware see:




> <http://www.fullcircuit.com>

> Also on - [www.CharteredConsultant.co.uk](http://www.CharteredConsultant.co.uk) - The Consultant A-List



> And a plug for my son

> <https://www.facebook.com/plunderpress>

>

  
 *Lower Stanton St. Quintin*  
*Chippenham*  
*Wiltshire*  
*SN14 6* 

9 August, 2020

Mrs M Carey  
Stanton St Quintin Parish Clerk  
 Greenhill  
Neston, Corsham  
Wiltshire  
SN13 9 

By email: clerkstantonstquintinpc@gmail.com

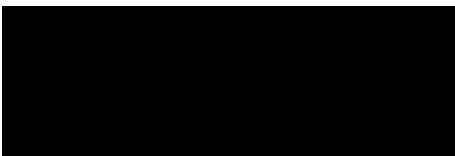
### OPEN LETTER

Dear Mrs Carey,

As Clerk to Stanton St. Quintin Parish Council would you please ensure that the attached letter is distributed to all current parish councillors and all former parish councillors who were involved in the decision to make a Town and Village Green application for Lower Stanton St. Quintin in 2018 and 2019. Would you also confirm to me by email that this has happened and record such in the minutes too.

Thanks.

Yours faithfully



Malcolm Reeves

C.C. James Gray M.P.

9 August, 2020

### Open Letter

#### FAO Former and Current Stanton St. Quintin Parish Councillors

Stanton St. Quintin Parish Council has made an application to register the land in front of my house at Lower Stanton St. Quintin as a Town or Village Green (TVG). To be precise, 2 linked applications and the land claimed also includes some in front of and the driveway of . This letter is for attention of those former and current councillors serving at the time of this application and after.

The parish council minutes record that you had legal advice originally but the application form reveals that you do not have a solicitor as part of this application. I think it only fair then that I bring certain legal facts to your attention so that you are fully aware of your actions and their consequences.

The TVG application was made on the basis of the Commons Act 2006 s15(2) which is thus a claim that from 1998 to 2018, 20 yrs, a significant number of local inhabitants used the land for sports or pastimes as of a right on a regular basis and that such activities continue today. The wording of the act does not say regular but you will find that legal precedent has set that bar. The application form is sworn statement of truth so making a false statement is perjury, a criminal offence.

I and my wife have over 30 yrs knowledge of the land in front of . My mother owned the property there from 1986 and we visited very regularly as she did our house to see her grandchildren. Since 2015 we have been involved in (self) building work in and on and have overlooked this land. We have never seen any regular sports and pastimes taking place on this land either while working in and on nor on the very numerous occasions we visited over the years, nor did my mother ever mention any such activities in the course of the numerous and frequent conversations we all had. All of which strongly suggests that your claim of sports and pastimes use, implicit in ticking 15(2), is false. No evidence of such sports or pastimes use has been included with the application either.

Town and Village Greens are protected by section 12 of the Inclosure Act 1857 and section 29 of the Commons Act 1876. Section 29 says:

*"any erection thereon or disturbance or interference with or occupation of the soil thereof which is made otherwise than with a view to the better enjoyment of such town or village green or recreation ground, shall be deemed to be a public nuisance"*

A public nuisance is criminal offence so there is an absolute ban on *occupation of soil etc.* since you legally cannot give anyone permission to commit a criminal act. You can confirm this by googling Planning Inspectorate Common Land Guidance Sheet 2b or by asking a solicitor. All legislation is online at gov.uk so you can also google Commons Act 1876 to check the above.

Your application for TVG is therefore an attempt to cut off my property from the services that currently come to my house, drains, water, electric and gas, via the land you claim for this TVG.

When I sought to bring gas into [REDACTED] you claimed to own the land in front of my house. In 2016 I asked you to prove that ownership and you admitted that your claim was false. From my research I can document this false claim back to 1982 and it was part of a fraud committed against my mother by the parish council of 1986 (and also a fraud against the owners of [REDACTED] at that time). Given that the land was not listed as an asset in the parish accounts and that each year all councillors review these accounts I find it strange that nobody noticed the discrepancy.

Despite all councillors being informed of the new status of the land there was still interference by a parish councillor with laying of the gas pipe by the gas company. I therefore think it would be difficult for you to claim that this current attempt to cut services off from my house is accidental.

Attempting to cut off services from my property is a clear breach of the Human Rights Act. The First Protocol, Article 1 of the Human Rights Act is about the protection of rights for property. It states that every *"person is entitled to the peaceful enjoyment of his possessions"* which includes property. Article 8 of the HRA is also applicable. Article 8 includes "respect" for "his home" and "family life". It forbids interference except in extreme circumstances, such as national security, public safety or the for the protection of the rights and freedoms of others. In addition, HRA Article 14, prohibits discrimination, including discrimination due to association with a particularly property.

The rights and freedom of others are not affected by whether this land is TVG or not. It is my opinion that it is legally highway verge as I have stated and there is nothing to prevent people gathering on highway verge, nor would I wish there to be. However I find that I do object to some people treating my front boundary wall as public seat to make a point. This just bad manners as well actually being trespass.

It is unlawful for any council to act in contravention of the HRA hence making this TVG application is unlawful. Councillors wilfully acting unlawfully would also be committing misconduct in public office, a serious criminal offence that in fact carries a tariff of up to life imprisonment.

The case of fraud requires a false statement and a loss for the victim both of which are present in this TVG application hence it also satisfies the criteria for fraud. Fraud is a crime in its own right as well as also being misconduct in public office in this situation.

You are now informed of all the facts. All the legislation is online for you to read and I have highlighted other authoritative documents to search for online too. Plus of course you have the option taking advice from a solicitor. What action you take or don't take is now up to you but either way it will clearly be wilful and with knowledge of the results of your actions.

Malcolm Reeves



Lower Stanton St. Quintin  
Chippenham  
Wiltshire  
SN14 6

5 January, 2021

Janice Green  
Senior Definitive Map Officer  
Rights of Way & Countryside Team  
Communities & Neighbourhood Services  
County Hall  
Bythesea Road  
Trowbridge  
Wiltshire  
BA14 8JN

By email: "Green, Janice" <janice.green@wiltshire.gov.uk>

## OPEN LETTER

### Application to Register Town or Village Green in Lower Stanton

Your Refs: 2018/01, 2019/01

Dear Ms Green,

Please find below our comments on the applicants' reply pdf that you sent on 21 Dec 2020 which you have accepted as part of the TVG application process. Our question to you is why have you on the behalf of Wiltshire Council accepted documents which contain nothing related to the TVG case and furthermore are clearly libellous?

We also think that Mr Andrews trying to use the VE 75 celebration held in Lower Stanton St. Quintin is beyond the pale. It was bad enough that this event was actually organised. The government message at the time was "Stay at home, Protect the NHS, Save lives". We were only legally allowed to leave our house and garden for essential shopping, work if we could not work from home, or 1hr of exercise. All public events were cancelled unless they had special dispensation. Over 40,000 more people have died since VE 75 day (8 May), many of those deaths are because of people breaking lockdown rules and organising events in defiance of the law.

## Comments on Applicant's Reply

### Executive Summary

The applicant's reply, contained in "Applicants comments on objections (final) reduced.pdf", consists of emails from Cllr Adrian Andrews, Chair of Stanton St. Quintin Parish Council, the TVG applicant, either making his own comments or forwarding on other people's.

Most of the applicant's reply is either irrelevant, misleading, untrue, libellous or all 4. None of it actually addresses any of the legal issues we raised in our letters. The applicant's reply should be attempting to prove what the applicant has claimed, 20 yrs usage prior to 2018 by a significant number of residents for sports or pastimes. If this claim was false then making this claim was perjury.

Where are the photos to support the vague claims of Royal Wedding, Queen's Jubilee, etc. events? Nobody can even say which wedding or jubilee, a date or a even the year. The only photos presented relate to events after the application was submitted in 2018, or to the Wee Free library, also opened after 2018 but it is not even on the land claimed for TVG but is in fact on highway land.

Instead the applicant's reply just makes or repeats various lies about us which is libel. These lies will all be debunked below and the evidence is attached. We would also point out that we would have happily provided this evidence had Cllr Andrews' had the courtesy to speak to us first before repeating these lies. Cllr Andrews' failure to do so is a breach of the code of conduct he has signed.

Cllr Andrews also claims that the letters which object to the TVG are all lies, libelling not just us but 6 other adults too. Cllr Andrews claims that all these letters must be lies because they all read the same. They are all describing the same period of time. Of course they sound similar as they are all recounting the same truth. Cllr Andrews has not even proved that any events took place on the land let alone that these events were so frequent that anyone claiming never to have seen or heard about a single event has to be lying.

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED] The TVG application kicked off because we made an application for a new access direct to the road. [REDACTED]

[REDACTED]

We are also concerned by Cllr Andrews' statement that the parish wants the area as protected green space "*children wish to play on*". What exactly is meant by that? A children's play area would require safety fencing which would cut off the access route to our house that the Fire Service said they would use. A route that has already been impeded by the installation of the picnic bench with no consultation with anyone, Fire Service included.

But we must thank Cllr Andrews for including the extracts of the Minutes Book which we had not been given before. These prove that the parish council **knew** in 1983 that they had no legal right to this land. This makes their actions **deliberate fraud**. Plus in 1983 they failed to register the land as common land so again it was a deliberate fraud to refer to the land as "Village Green" over these past 30yrs.

The parish clerk also seems to have missed all these entries Cllr Andrews has included when she wrote to me in 2017 [4] claiming about the Minutes Book "*I have been through it from 1970 - 1994 and there is no reference at all to either property.*" (meaning [redacted] or [redacted]). How do you miss 5 entries, 4 of which are actually titled 29 Lower Stanton?

### Reference Documents

Ref	Description	File
[1]	Letter from Mrs Cullen [redacted] [redacted] dated 18 Sept 2016	20160918-CullenLetter.pdf
[2]	Letter from Mrs Cullen [redacted] [redacted] dated 5 April 2017	20170405-CullenLetter.pdf
[3]	Letter to parish council, with covering letter to clerk, dated 9 Aug 2020	SSQPC-TVGapplication-1 a.pdf SSQPC-TVGapplication-1.pdf
[4]	Email from Margaret Carey, Clerk to Stanton St. Quintin Parish Council, dated 22 May 2017	PCemail20170522.pdf
[5]	Letter to Mr & Mrs Cullen following the [redacted]	HouseAccess-6.pdf

### Email 10 Dec 2020 11:26

The wording seems to imply that the Wee Free library has existed longer than Cllr Andrews has lived in the village. The Wee Free library was installed in June 2019. Cllr Andrews' home address is a mile away from the Wee Free library so we hardly think he is speaking from personal experience when he says it is used daily. In any case it is immaterial since the Wee Free library did not exist until after the 20 yrs that is relevant to the TVG application, 30 April 1998 to 30 April 2018. The Wee Free library is also sited outside of the area claimed for TVG so is doubly irrelevant.

### Email 10 Dec 2020 11:10

Whether the land is Local Green Space in the Neighbour Development plan or not is irrelevant to TVG and the claim of 20yrs usage for sport and pastimes. And in fact the ND plan is currently in draft and open for informal comments.

The only Royal Wedding event I am aware of was in May 2018 so again outside of the 20yrs of the claim. What were the other Royal Weddings? Dates? Photos?

The VE 75 event on 8 May 2020 was in direct breach of Covid regulations. The government message at the time was "Stay at home, Protect the NHS, Save lives". The law said that we were only allowed out of our home and gardens for essential shopping, work if we couldn't work from home, and for 1hr of exercise. All public events were cancelled unless they had special dispensation. Over 40,000 more people have died since 8 May, many directly or indirectly because of people ignoring the regulations and organising events. We find it shows a lack of integrity and leadership that Cllr Andrews should boast about the breaking the law, especially laws that were there to save lives.

In addition, the 8 May 2020 is after the TVG application was submitted so is outside of the 20yr period, plus the VE 75 celebration did not actually use the TVG claimed land as the photo in figure 1 shows. If anything this proves that highway verge can be used for events as we have stated, and therefore that TVG is not needed to "protect" the land.



Figure 1 – VE 75 Day Celebrations - 8 May 2020.

The 3<sup>rd</sup> paragraph is libellous. Cllr Andrews is accusing 8 adults of making false statements "all being told what to write", "like copying homework at school". Cllr Andrews should prove this or publicly retract it and write to all the people he has libelled to apologise. When all the letters are describing the same facts then of course they sound similar. The letters, roughly, all state that the writers have never seen any events or sports or pastimes taking place on the claimed land, nor heard about any, nor been told about any either. Where is Cllr Andrews' evidence that any events even took place? Dates? Photos? Cllr Andrews cannot even prove the writers are mistaken never mind proving that so many events took place that the writers must all be deliberately lying as he claims.

We bought our first digital camera in 2004 and they had been out a while by then. The number of photos people took exploded when photos went digital so how come there are no photos even between 2004 and 2018? We also have 23 photo albums prior to 2004 not to mention multiple shoeboxes of loose photos and GBs of digital photos after 2004, of our family and children. These record them visiting [REDACTED] down the years as well as visiting fetes in other local villages. Where are the photos of the events claimed to have taken place on

this land within the 20yr period of interest? Every parent takes photos of their children why weren't there any taken at these supposed events?

Cllr Andrews' statement that "*Older members of the village admit the children did visit but not as often as they say.*" is libellous since it claims those objecting to the TVG are lying and frankly it is ridiculous in its arrogance. This claim is then that "*older members of the village*" have such detailed and extensive knowledge of my mother's home and life for over 20yrs that they can authoritatively state they know better than the people who were actually there. Cllr Andrews should either provide proof of this claim or retract it and apologise.

And we have now read the other letters of objection, and unlike what is implied in Cllr Andrews' claim, these letters do not make any specific statement of frequency of visits but just give a general idea of all the different times they interacted with my late mother. We suggest the "*older members of the village*" stop hiding behind Cllr Andrews and put their names to their libel. We have plenty of photos to prove that my late mother was an integral part of our family until her death in 2014.

Cllr Andrews writes that we no longer live in the village. In fact it was my late mother who lived in the village as I mentioned in my evidence statement. We are remodelling my late mother's house as a self build project so in fact we are there more days than not including weekends. The house is currently not habitable. When we finish and the house is habitable again we as a family will live there. But this is totally irrelevant to Cllr Andrews proving 20yrs usage for sports and pastimes.

Cllr Andrews writes that my wife claims the boundary wall at the front of [REDACTED] belongs to [REDACTED]. In fact I also addressed this in the letter I sent to all parish councillors [3] where I mentioned that I found it bad manners to sit on a person's wall like you owned it. It is frankly risible to claim the wall belongs to any other property than the one that it fronts. Who else would it belong to? The parish council? The parish council has admitted they do not own the land and in fact they knew that in 1983 if not earlier. How can the parish council own a wall when they do not own any of the land either side of it? And why is it that we have to prove what is taken as a given for every other house in the village?

Highways do not own boundary walls so of course we own our front boundary wall. Highways do not even own the land the highway is on, unless we talking motorways. The argument that our wall is a public seat or public wall is ludicrous beyond words. Before making such ridiculous statements, like "*Can they prove it?*", Cllr Andrews should take advice on the law that applies to properties, as well as the law on libel.

We will give Cllr Andrew some advice though, which is not to bother trying to prove the parish council owns the boundary wall. In the parish council minutes of 20 Jan 1956 the owner of [REDACTED] asks that as the former pond has become a dumping ground for rubbish which is straying on to his property because of the lack of a proper boundary, whether the parish council would erect a fence or plant a hedge at the boundary. The parish council turn him down and tell him he is responsible for the boundary. We also have a letter from September 1964 to Wiltshire Council Roads department, again from the owner of [REDACTED]. This time he asks when are they going to move the chippings that have been on the former pond site since May as he wants to remove all the trees on the boundary and replace it with a tidy fence. The firm he has contracted to pull out the trees say they cannot be responsible if earth gets mixed in with the gravel. But it is not up to us to prove this, we just mention this to save him further wasting ratepayers' money. It is Cllr Andrews who has to prove that the default presumption does not apply in our case.

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

The Fire Service access route is now further impeded by the picnic table installed after the TVG application and after the District Commander's visit to me in 2017, which was after he had come out at the Cullens' request.

Cllr Andrews then goes on about the parish council paying for grass cutting and tree pruning. This has nothing to do with 20yrs usage for sports and pastimes as grass cutting and tree pruning are not sports or pastimes, particularly when they are paid work. If cutting grass gave one ownership of the highway verge then everybody would be out cutting the grass verge in front of their house and claiming the verge as theirs. Again Cllr Andrews needs



some sound legal advice as well as to be more focused. But we do note that Cllr Andrews only claims the grass has been cut for 14yrs where as the TVG application claimed it was 50yrs. The extracts from the minutes in 1986 proves that the 50yrs claim everyone is repeating is false.

Cllr Andrews claims that we object to the verge being used for gatherings and children's play. This is false and I clearly stated our position in my letter to all councillors [3] where I said:

*The rights and freedom of others are not affected by whether this land is TVG or not. It is my opinion that it is legally highway verge as I have stated and there is nothing to prevent people gathering on highway verge, nor would I wish there to be. However I find that I do object to some people treating my front boundary wall as public seat to make a point. This just bad manners as well actually being trespass.*

Hence, his statement I object to gatherings and children playing is totally false and he knows this. This is libel and defamation of character.

But we are concerned by Cllr Andrews' wording saying that the parish wants the area as "protected green space" "children wish to play on". What exactly is meant by that? A designated children's play area would require a fence for health and safety which would cut off the access route to our house that the Fire Service have said they would use.

The Fire Service route has already been impeded by the installation of a picnic bench with no consultation with village, ourselves, the utilities, or the Fire Service, all of whom have a potential interest. Plus, even if our entrance was wide enough to allow a fire engine on to our land it is still likely that the Fire Service would want their path to the road unimpeded so as to be able to run hoses to the water hydrant which is in the central grass verge.

As I mentioned in my letter [3] in relation to people gathering on the verge in front of my house, we only object to the bad manners of people claiming our wall is public seat that they have a right to sit on. Given that this mild rebuke seems to have provoked an unreasonable response we should perhaps make it clear that it was not just bad manners but a clear intent to harass and intimidate as the CCTV footage shows. Both us and our guests were made to feel threatened and we were all distressed by it.



Figure 3 – CCTV slices - 19 May 2018.

Slices from the CCTV footage are shown above in figure 3. The full CCTV footage shows that on the day of the event nobody uses the wall until we arrive at [REDACTED] with some friends at 14:39. People start to gather at our wall at 14:42 and two people sit on it. Different people come to sit, climb and even lean right over the wall and point at our flowerbed until we leave.

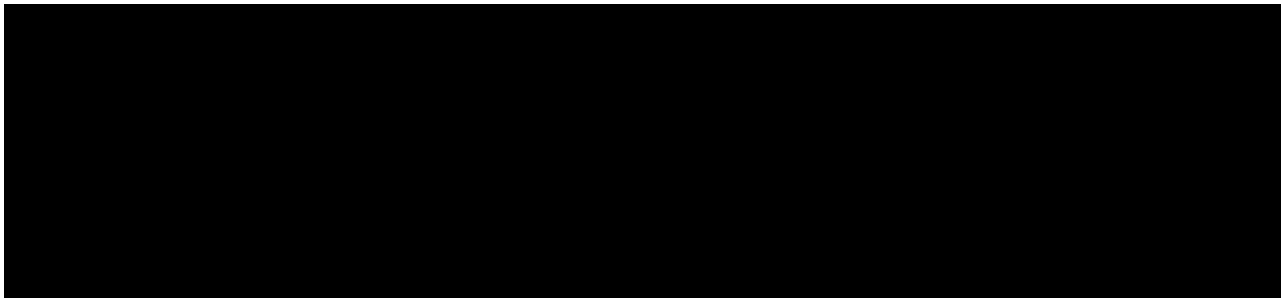


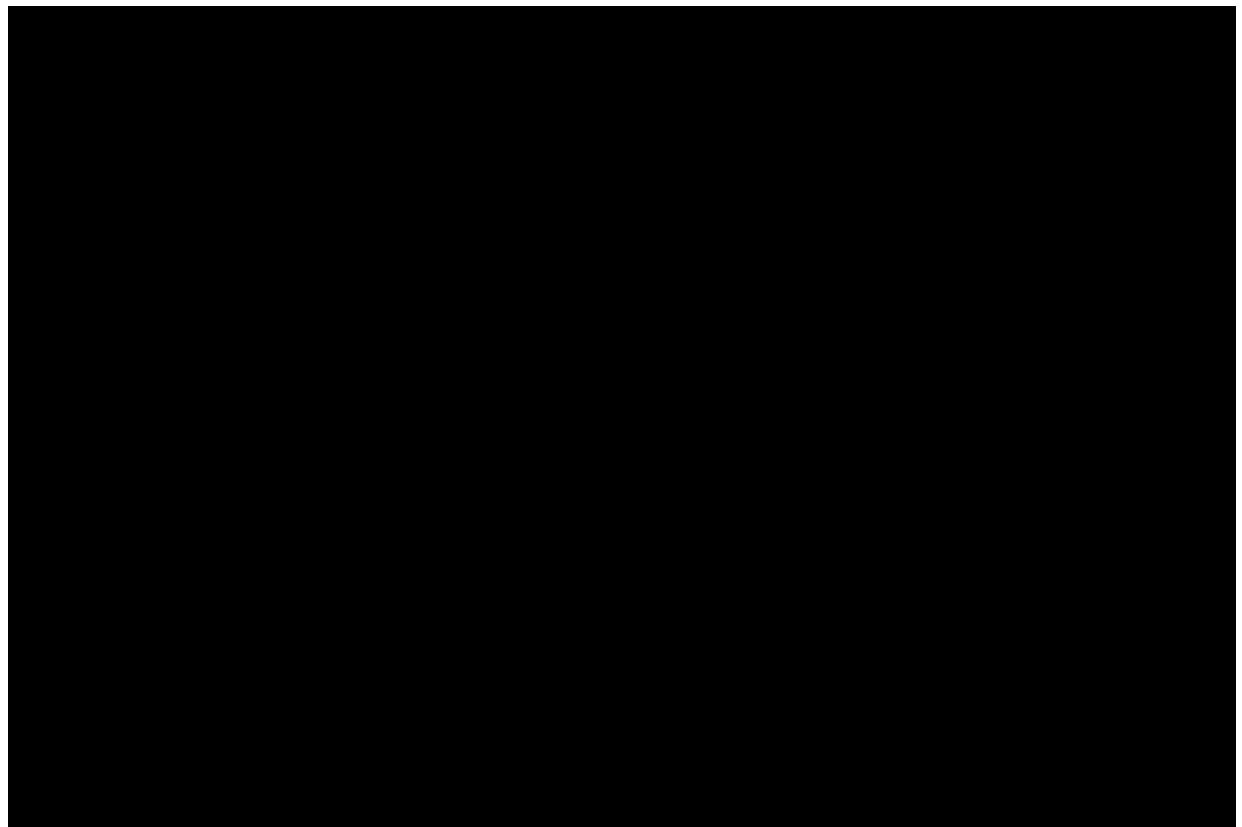
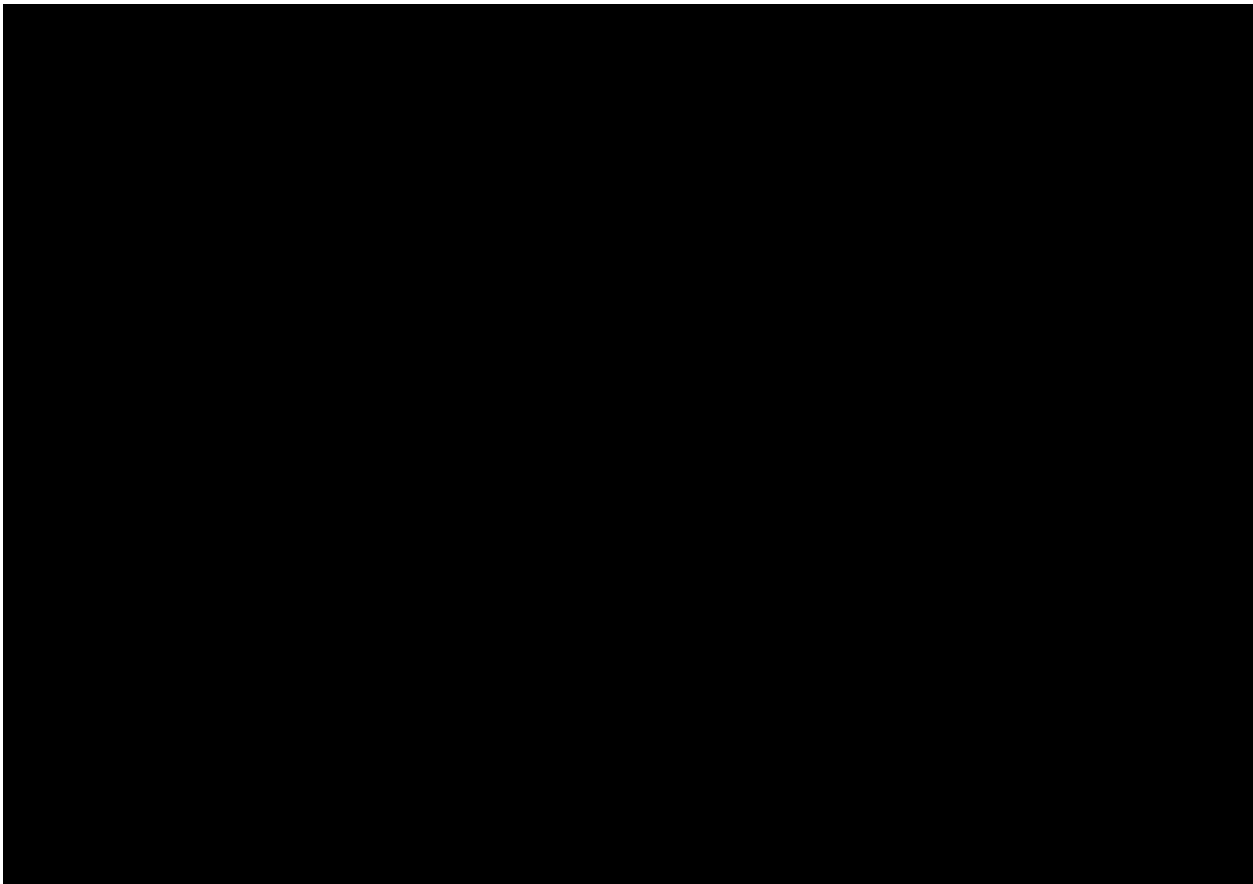
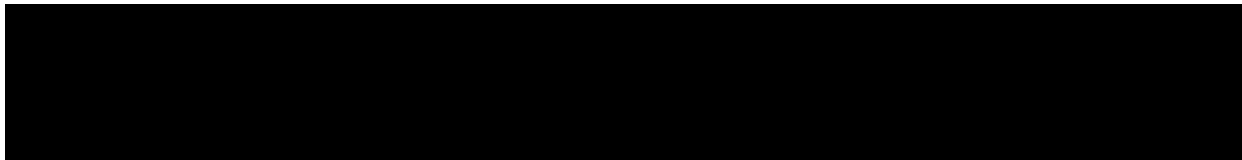
A few minutes after we drive away everyone stops sitting, climbing, and leaning over the wall and they never sit on it again for the rest of the event. The same has happened at the book sale with [REDACTED] deliberately sitting on our wall even though other seating was available. The purpose of these actions is clearly harassment and intimidation.

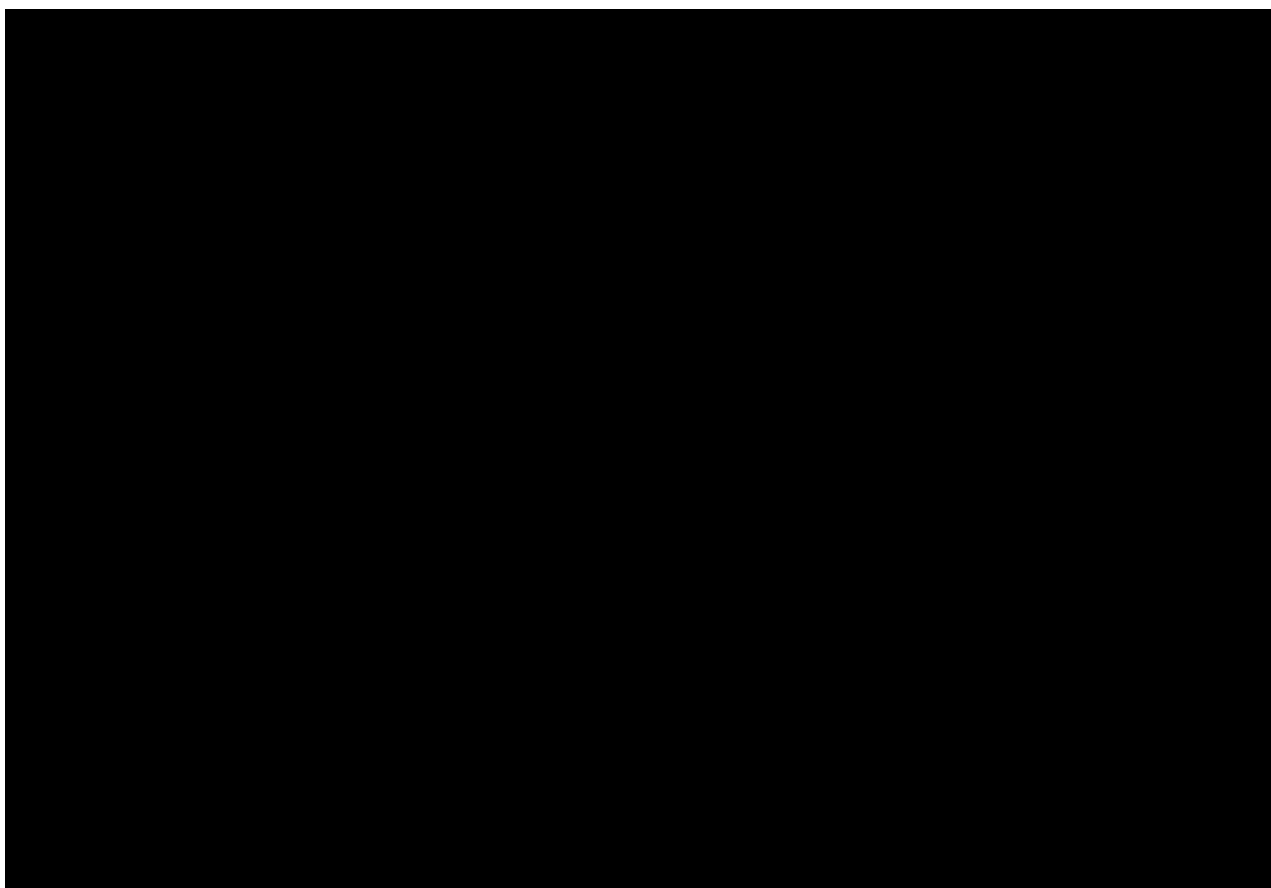
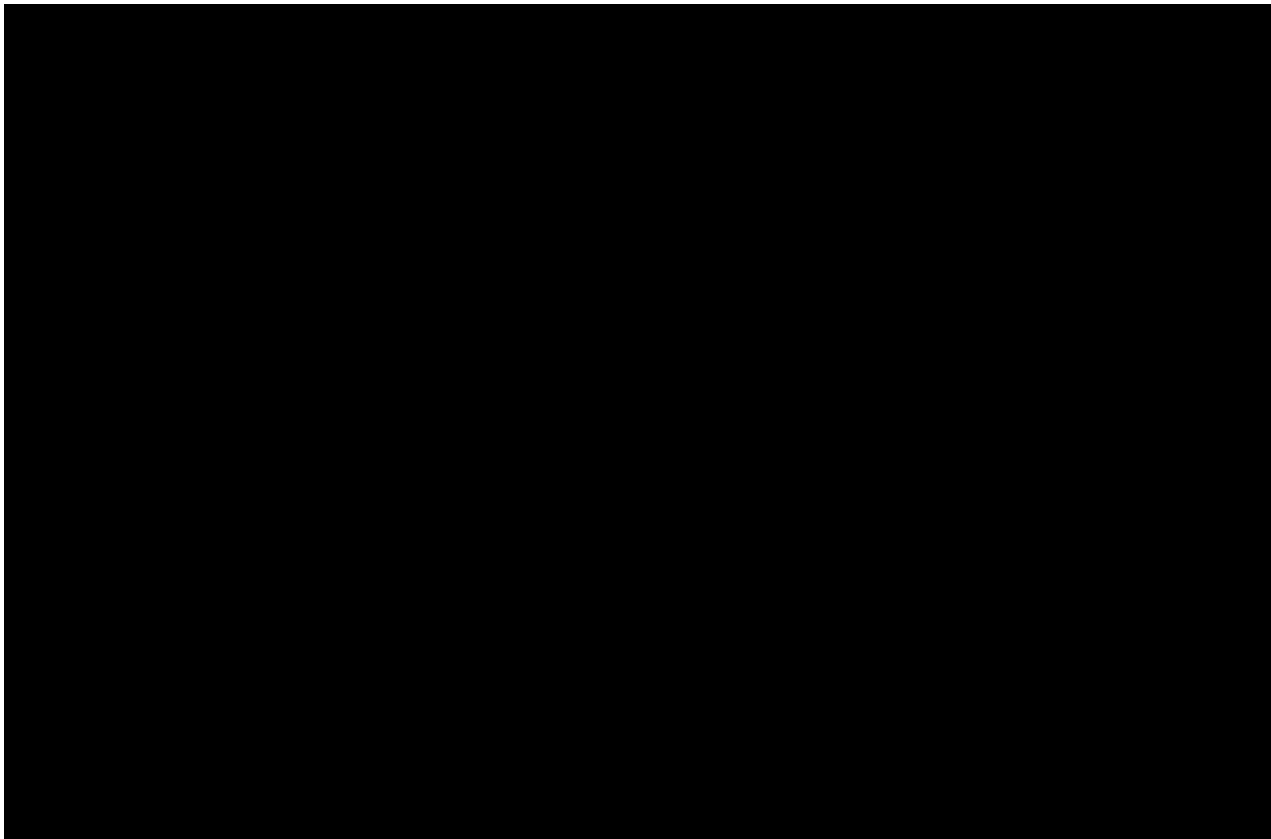
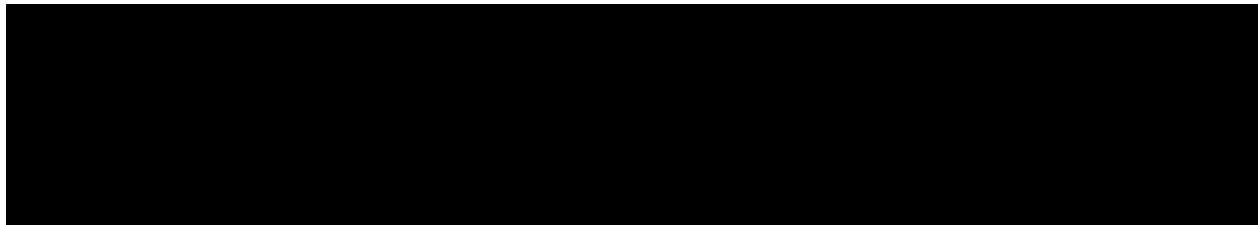
Cllr Andrews refers to Minutes Book extracts from 1983 prepared for me and either claims I "did not show" or is saying these were not shown to me. The latter is factual but I fail to understand why these were not emailed to me. Given that Covid makes personal inspection of the minutes inadvisable (or even banned) why weren't these emailed to me?

The final sentence is also misleading. As I explained in my letter [3] (and as one of the letters from the utilities explains in detail too) the restriction on pipes, cables, etc. under a Village Green is absolute and you **cannot** give permission for such works. They are a criminal offence. We do not object to people gathering on the verge outside my house, but we do object to having my services made criminal.

**Email 10 Dec 2020 9:55**







[Redacted]

[Redacted]

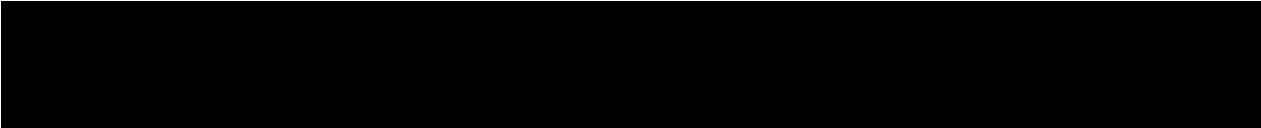
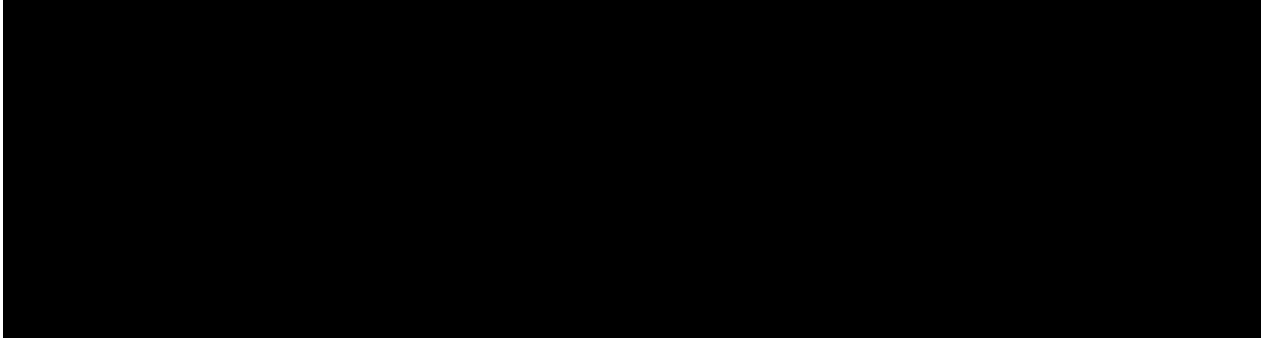
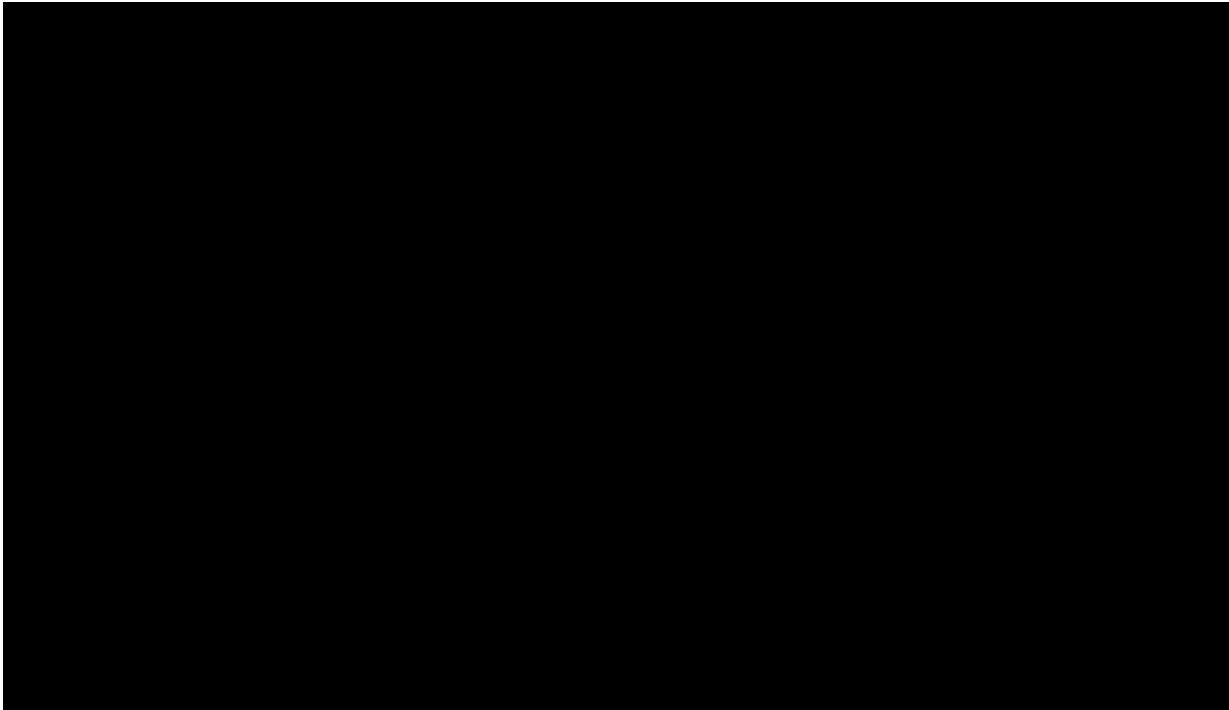
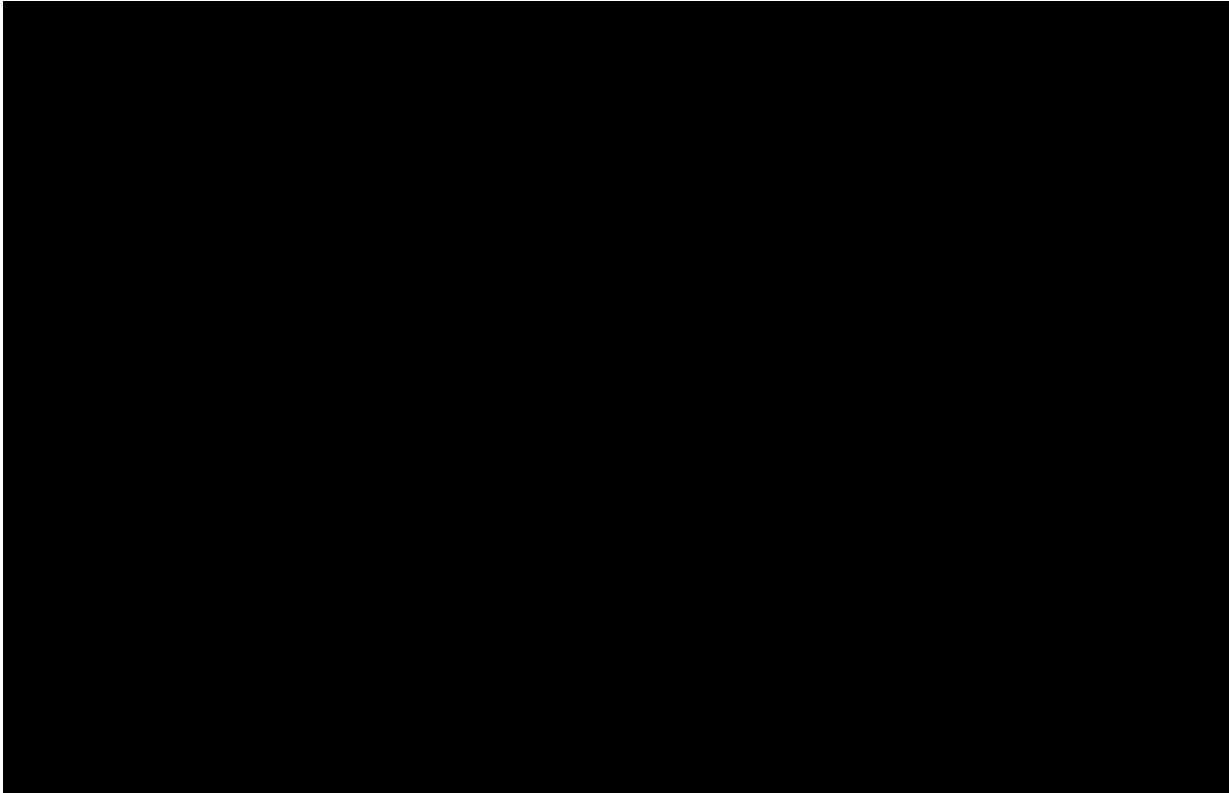
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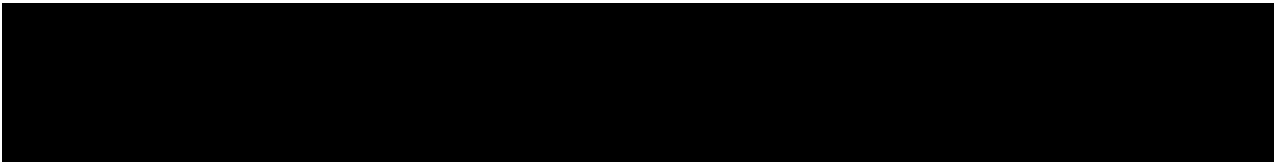
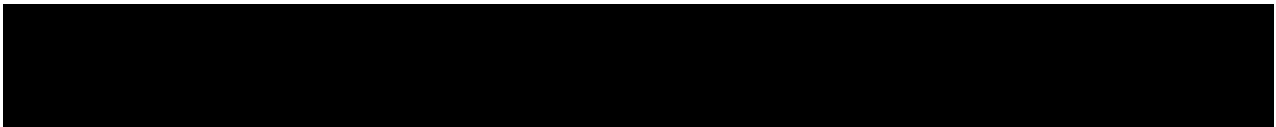
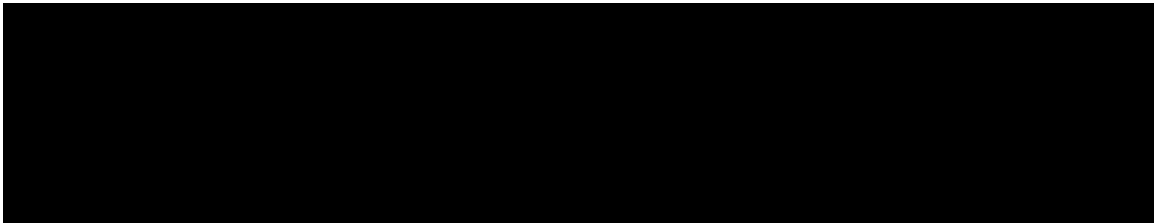
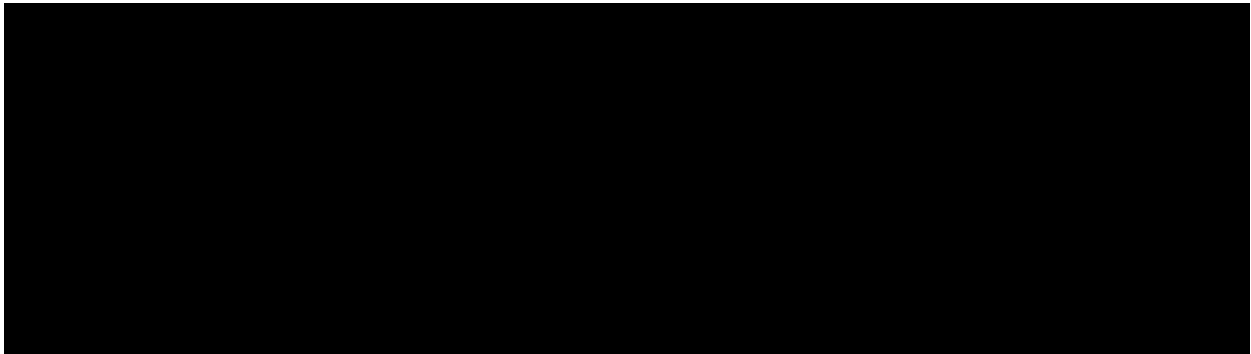
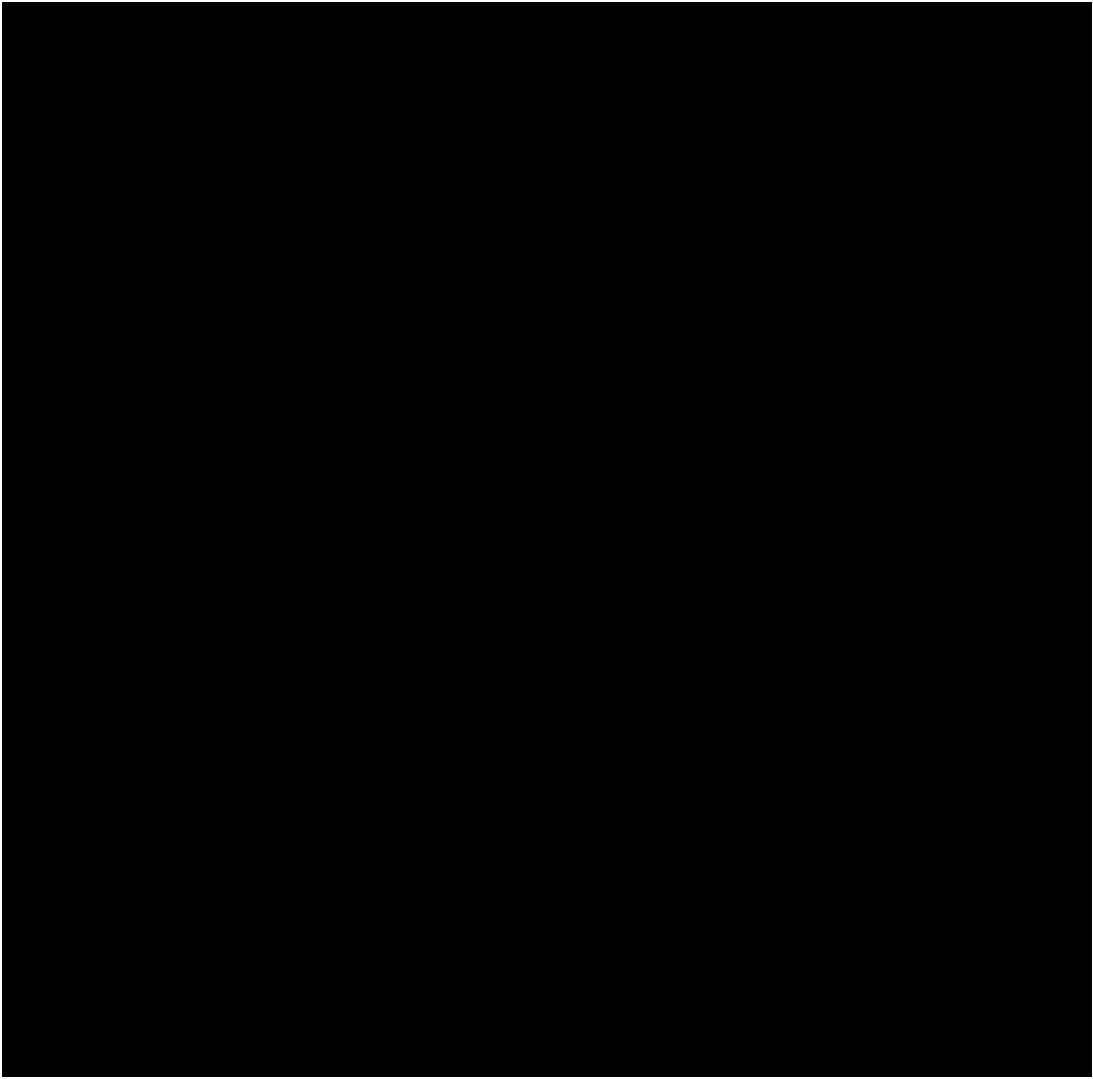
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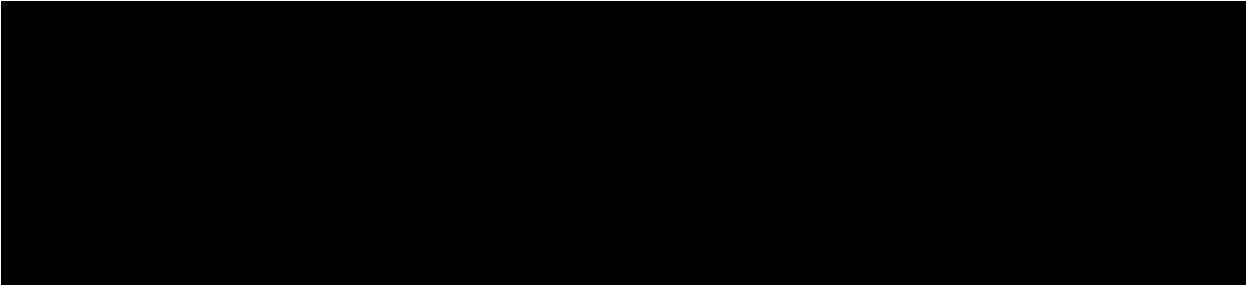
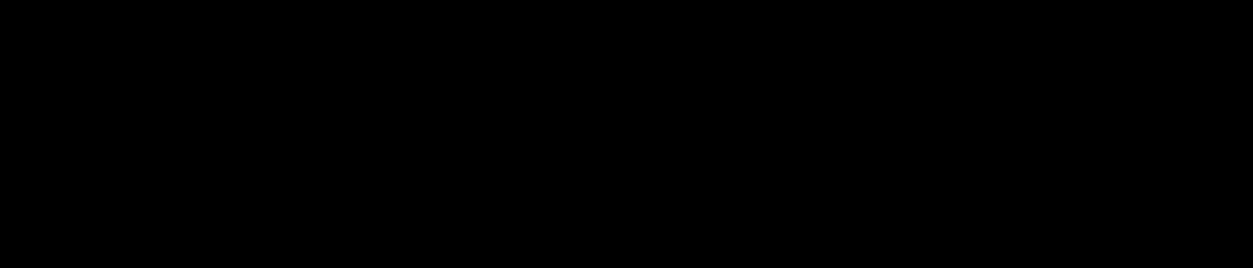
[Redacted]

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[Redacted]





However, to reiterate the point we made at the start, we fail to see how this is at all relevant to the issue of proof of 20 yrs usage for sports or pastimes. Nor indeed how it is in anyway relevant to the TVG application, nor why it has been accepted as relevant by Wiltshire Council and published. The Cullens' statements are untrue as shown above and libellous. Wiltshire Council have made themselves a party to this libel as has the parish council.

**Email 23 Nov 2020 15:30**


**Email 23 Nov 2020 15:24**

Cllr Andrews states that extracts from the Minutes Book were prepared for me to view. Maybe Cllr Andrews can explain why these weren't emailed to me then? They seem to have been emailed to Ms Janice Green easily enough. As Cllr Andrews' states my FOI request came via the What Do They Know web site. This is run by a registered charity (1076346) so its aims have to be above board and for the public good, otherwise it could not be a charity. Cllr Andrews seems to be implying there is something shady about this but in fact WDTK serves the important function of making FOI results available to everyone. This saves repeated FOI requests for same information, which is an aim supported by the ICO.

It would also be more correct to say I haven't made an appointment to view the Minutes Book yet. The country is in the middle of a Covid crisis and unnecessary meetings in person are to be avoided where possible since they increase the R rate. A fact which seems lost on some people as we noted at the VE day celebrations when lockdown was breached. Since it seems that data can be scanned and sent to Ms Green readily enough why it is so difficult to do this when I send in an FOI?

Again, how is this relevant to the TVG application and the need for the parish council to prove 20 yrs usage (or indeed answer any of the other legal points)?

**Email 23 Nov 2020 14:35**

This is forwarding an email from the parish clerk dated 19 Nov 2020 which contains extracts from the Minutes Book. These extracts show there is a case of misconduct to be answered. In 2017 I wrote to the parish clerk [4] saying:

*May I ask if the records of Stanton St. Quintin Parish Council go back as far as 1986/87? I'm interested to know if there is anything pertaining to [REDACTED] or it might have been [REDACTED] (not sure if that was [REDACTED] then) as [REDACTED] sold off the plot that became [REDACTED]*

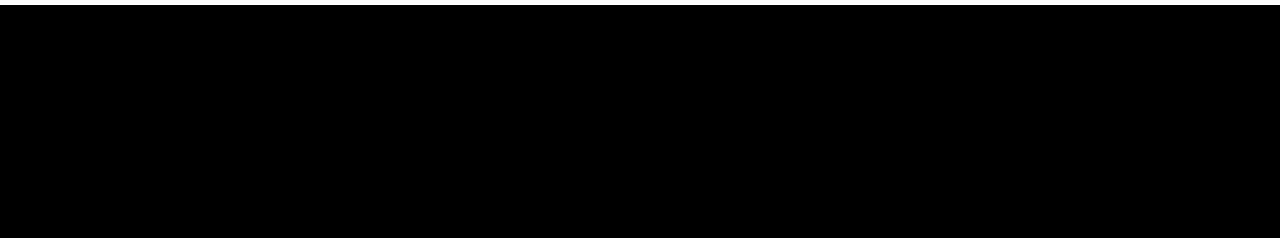
and

*I forgot to say that I'm willing to do the searching myself. I didn't mean to burden you with any work :-). If you have records going back that far that is. I can do the searching at wherever suits you as I can understand you might not be comfortable with me taking them away.*

The parish clerk replied:

*The only record I have is the old minute book. I have been through it from 1970 - 1994 and there is no reference at all to either property.*

How do you miss all 5 entries which reference [REDACTED] Lower Stanton? 4 of these entries are even titled [REDACTED] Lower Stanton.



Dealing with these minutes entries in detail:

**14 April 1983**

This entry shows that the parish council knew that they had no legal basis to claim ownership of the land by 1983. It also shows that rather than pay to settle the matter one way or another they decided just to carry on claiming that they did own it and to prevent the permitted access to the building plot being used. There is no doubt that this was fraud. They had no legal grounds to claim ownership, yet they did claim this causing a loss to the building plot and whoever owned it. Hence they meet the 2 requirements for a simple case of fraud, a loss to the victim and a (deliberate) false statement.

**19 May 1983**

In summary this entry shows that the parish council decided that if they cannot register the land as common land then they will make some money out of it by selling it, even though they know they have no proof that they own the land so have no basis to sell it. Again clearly fraud.

**22 September 1983**

There is no record in the minutes of what price the District Valuer proposed or even if he agreed to value the land as we think it is quite possible given his experience he might have questioned if the parish council had some proof of ownership. The County Surveyor who produced a sketch map in 1986 labelled the land wide verge, not village green. The District Valuer could have come to the same conclusion. We find it odd that there is no record of even an estimated value from the District Valuer, surely the parish council would be interested in what they could get for the land?

However, the important fact here is that the minutes report it was not possible to register the land as common land, that is as a Village Green, yet the parish council continued to call it the Village Green and even do so today. The term Village Green is a legal term, hence this legal application to make the land a Village Green. This term implies certain rules and laws apply to the land. The 1986 planning committee was told the land was a Village Green as they call it that in their minutes, this was clearly another example of false representation of the facts.

**9 February 1984**

We presume this refers to Mr Heredge, the previous owner of [REDACTED] and that the parish council were aware the sale had been completed (19/8/1983). Hence we can only presume that without a buyer for the plot at this time Mr Heredge did not see the point in spending money to acquire the land, unless the parish council were still sending letters addressed to the previous owner Mr Smith.

My late mother bought the building plot from the Heredges in 1986. There is nothing in the minute extracts around this time about negotiating with my mother (or the Heredges) on the sale of the access land, or indeed instructing the District Valuer to start new negotiations.

There was clearly some compelling reason for the Heredges to give up ~90m<sup>2</sup> of their front garden for the right of way access that was used instead of the direct access which had planning permission. The construction of the long replacement access and what is now the Cullens' front fence was paid for by my late mother (which we can prove by the way). It would have been cheaper or about the same just to use the direct access, so either the price demanded by the parish council was ridiculous and the district valuer not involved, or the parish council refused permission. Giving up ~90m<sup>2</sup> of garden is not something done on whim. But either way is moot since the parish council did not own the land as they record they **knew** in 1983. The land was highway so they had no right to block access across it nor to ask for money to allow access, or to sell it. My late mother was not aware she had a legal right to a direct access to the road, otherwise that is the route that [REDACTED] would be using today.

**16 October 1986**

Shows that the parish council claim to have maintained the land for 50yrs is false. They wouldn't even contribute to cutting the grass in 1986.

**28 January 1988**

My mother never knew about plans to re-install the pond as she would have certainly objected on safety grounds alone as at this time she had 2 grandchildren, aged 4 and 2, who regularly visited her and another grandchild on the way, never mind the nuisance factor of midges and possible flooding.

By 1988 this land had drains and electricity cables running under it serving [REDACTED] and [REDACTED]. No consideration has been given to those in relation to the pond.

**19 May 1988**

No mention of contacting the owners of [redacted] and [redacted] to canvass their opinion nor indeed what the rest of the village thought about losing their green space for a potentially dangerous pond. No mention is made of how they planned to overcome the issue of the drains and electricity cables now running where the old pond had been, or the cost of rerouting these. The trees they planted instead of the pond were recklessly planted on top of these drains and cables as well as under telephone wires. Both the telephone wires and the drains would be obvious. There is an access chamber for drains on the grass and how do you miss a telephone pole?

**2 October 1989**

At most 2 cuts per year, not well maintained as claimed.

**1 June 1990**

This entry shows that the kids were used to having a kick-about on this grass. And now that trees were planted all over the grass they were being damaged by the ball games. Clearly if the whole village had been asked before these trees were arbitrarily planted there would have been objections to the loss of this space for children's ball games.

There is also no mention of canvassing the opinion of [redacted] and [redacted] before planting a load of trees in front of their houses either. Neither was any professional advice taken since the trees are planted far too close my boundary wall which is the reason it is falling over through root heave. And clearly any professional would have spotted the drains and telephone poles. Nor were any checks done with the utilities as they should have been.

But the point to be taken from this entry is that the parish council did not own this land so had no right to arbitrarily plant trees, especially with any consultation. And if the land had been registered as a Village Green then planting the trees would have been a criminal act too so either way their actions were wrong. A green is a place of exercise, hence the name and interference with that, as the trees clearly did for the ball games would be a criminal offence.

**Email 23 Nov 2020 14:31**

The first sentence is untrue and obviously so. The application date is April 2018 and the forwarded email included below starts off "Opening of the Wee Free Library June 2019" so these photos were taken over year **after** the application.

In regard to Cllr Andrews' second sentence what exactly was it that Mrs Creasey wanted to change in her statement and has been "persuaded" not to change? Mrs Creasey's statement was the only evidence supplied with the TVG and although it does not prove their case I wonder what she wanted to change and why.

Mrs Creasey's statement reads as though it was written about a planning application, why else would it mention in the last paragraph a new access to the road. Was her letter used for the TVG application without her permission? Mrs Creasey has publicly stated that this land was never the Village Green.

**Email 9 Dec 2020 21:10**

This email is not from Cllr Andrews, Chair of Stanton St. Quintin Parish Council, like all the others have been but from Serena Parker who is also as parish councillor. This is the only other parish councillor who has emailed. I also note that Ms Parker has not said how long she has been in the village. Ms Parker's current house changed hands in Oct 2017, a bare

7 months before the parish council claimed that there had been continuous usage for sport and pastimes in the preceding 20yrs.

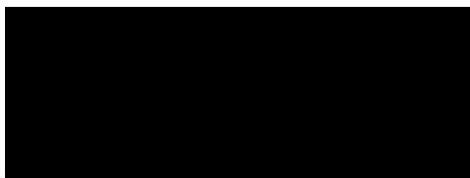
Ms Parker in paragraph 1 claims the land has been used as a village green without actually saying how, i.e. what sports or pastimes she is claiming have taken place there, and when, and by how many residents. Ms Parker fails to explain how she knows this and fails to provide any proof either. Given the short time she appears to have been resident in the village then this looks like she is just repeating what she has been told.

Ms Parker in paragraph 2 makes a general statement that would apply to any open grass area and does not require the land to be TVG. Paragraph 2 does not explain why the verge has to be TVG and the use of the highway verge for the VE 75 celebrations proves that the verge does not need to be TVG to used for events.

Ms Parker's final statement, in paragraph 3, that it is "*the only village green in the Stanton villages, there is no other suitable place the hold village events*" is patently untrue. We could be pedantic and point out that it is not legally a village green but instead we will take this as "green space" which is more the intent. The draft ND plan identifies 2 obvious green spaces which are far larger and far more suitable, the sports field (GS05) and Land to the rear of Valetta Gardens (GS01). And in fact historically the annual Stanton village fete has been held on GS05 which proves our point. The fact that Ms Parker does not know this suggests that she is a comparatively recent arrival and also just repeating what she has been told.

We believe the facts stated in this letter of comments are true.

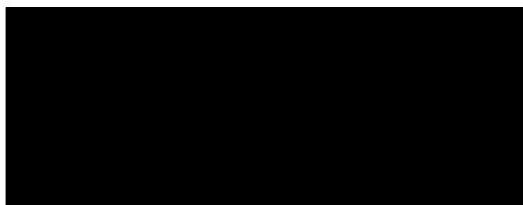
Signed:



Malcolm Reeves

5/1/2021

Dated:



Kathryn Reeves

Dated: 5<sup>th</sup> January 2021

5 January, 2021

Janice Green  
Senior Definitive Map Officer  
Rights of Way & Countryside Team  
Communities & Neighbourhood Services  
County Hall  
Bythesea Road  
Trowbridge  
Wiltshire  
BA14 8JN

By email: "Green, Janice" <janice.green@wiltshire.gov.uk>

## OPEN LETTER

### Application to Register Town or Village Green in Lower Stanton

Your Refs: 2018/01, 2019/01

Dear Ms Green,

Please find below our comments on the representations reply pdf that you sent on 21 Dec 2020 which you have accepted as part of the TVG application process.

### Comments on Representations

This file, "Representations scanned final (reduced).pdf" contains both replies from utility companies who all express their strong concerns that this will prevent them carrying out their work and those "in support" of the TVG application. Objections have been separated in to another pdf and I have no comments on them.

The utility companies in the main repeat the points I made in my objection, namely that they are concerned that the result of TVG would be that our services become criminal and that would not be able to carry out their work since any utility works are something that cannot legally be given permission. Wessex Water is probably the most fulsome analysis of the issues. This is something that the parish council's reply fails to address, nor do they seem to have taken legal advice on the issue as I suggested to them on 9 Aug 2020.

All of the "in support" representations seem to be under the false impression that if this land was just highway verge they would be prevented from gathering on it or using it. This is false and I stated this in my open letter to all parish councillors. The fact that all these representation are based on false information they have been told reduces their value as representations.



In the interest of proper governance, the next pack of information sent out to those who have made comments should make it clear that TVG status does not affect the right of people to gather or even hold events, but that it does however affect the supply of services to [REDACTED]

As has been repeatedly stated the legal case for a claim under Commons Act 15(2) has to show 20yrs usage for sports or pastimes as of right (ignoring the fact that this land is excluded by the Commons Act changes in 2013 that is). In all of the representations none addresses this point.

In summary the representations mention:

- Wee Free library – doubly irrelevant since not only was it installed in 2019, outside of the 20yr period in question, it is also not on the claimed land but on highway verge.
- Maintenance of the land by parish council – not a sport or pastime and claimed time range is over stated too as the minutes prove. According to the minutes, Mr Heredge of [REDACTED] was mowing the grass in 1986 and the parish council would not even contribute to the costs of that. The claim of 50yrs maintenance is thus clearly untrue, belied by the parish council's own Minutes Book. I also find it strange that Mr Seale repeats the 50yrs claim as we recall him telling us that it was only in recent years that the grass had been kept in a decent state. In any case, the parish council have the Minutes Book going back to 1966 so they could prove exactly when they maintained the land from that, if they feel it is relevant. Unsubstantiated repeating of the 50 yrs claim by people who have not been resident in the village long enough to attest to even a fraction of that time is pointless unless they can provide evidence to support their statement.



Figure 1 – VE 75 Day Celebrations - 8 May 2020.

- VE 75 celebration – irrelevant since outside the 20yr period in question and also because the vehicles were parked on the verge opposite the TVG claimed land as the photo in figure 1 shows. This proves the point that highway verge can be used for events. However, it should be noted that at the time of this event, 8 May, the UK



was in lockdown and the government advice was "stay at home, protect the NHS, save lives". We were told to stay in our homes and gardens and were only legally allowed out for essential shopping, to go work if we could not work home, or for 1hr of exercise. All public events were cancelled unless they had special dispensation. Frankly if people who attended or even worse were part of organising an event in breach of lockdown then they are putting down in writing the evidence to convict them. Over 30,000 people had died of Covid by 8 May. That total is now another 40,000 more and some of those deaths are directly down to people not following rules designed to save lives.



Figure 2 – Bench 1 - 21 Nov 2017



Figure 3 – Bench 2 - 21 Nov 2017

- Benches – these face the road so wouldn't qualify the site as a tranquil space under NPPF nor the pastime of admiring a view. Again as mentioned in the representations they are used primarily by walkers or cyclists passing through so do not meet 15(2). The photos I included in my objection letter (page 17,18), reproduced above in figure 2 and figure 3 show the poor condition of these benches in 2017 which belies the claim that they were in regular, even daily, use for years. And the claim should

specify what sports or pastime these benches facilitate, how many residents were doing this sport or pastime, and when and how often this sport or pastime took place, and evidence to support this.

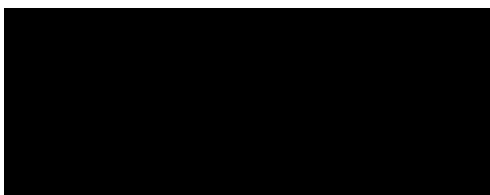
- Christmas lights – not a sport or pastime, and only a recent occurrence too so outside the date range. There are 3 small battery power strings up this year, 2 more than the 1 in 2018, the first year they appeared.
- Notice board – not a sport or pastime, irrelevant.
- Picnic table – this was installed without consultation, there is no reference in the parish minutes to this picnic bench and it is in fact on the route the Fire Service suggested they would use to reach our house. This picnic table is recent, not the several years that is claimed, but dates from after the application in 2018. Hence it is irrelevant to proving 20yrs use, plus as mentioned in the representations it is used primarily by walkers or cyclists passing through, which again does not meet 15(2) which is only interested in use by residents of the neighbourhood the TVG serves, in other words, Stanton St. Quintin parish.
- Other events – various claims have been made about open air church services (when?), Queen's Jubilee (which?) and Royal Weddings (which?). None of these specify a date or even the year or whose wedding was being celebrated. The only events that are given dates are those after the TVG application was submitted so are outside the 20yrs that are relevant. Likewise the only photos submitted are for events that that post date the application so are irrelevant.

There is no evidence in any of the representations that any events took place prior to 2018 when the TVG application was made. Various unsubstantiated claims have been made but no dates, not even the year, have been given. Some claims, such as 50yrs maintenance of the land pre-date when the person moved into the village which makes their veracity suspect when there is no explanation of how they know this. Plus of course the parish council's own minutes prove 50yrs to be a lie. Most, if not all "in support" representations seem to be repeating hearsay and not speaking from their personal knowledge. This is ironic given the libels directed at the objectors, who did write from their personal experience yet were accused of making it up.

All the photos are for events post the TVG application but why? The Cullens have a daughter similar age to one of ours and there are other people, such as the former chairman who signed the TVG application, who have children in the right age range too. Doubtless there are more residents we do not know about who also have such children. We have 23 albums full of photos of our children, from before 2004, many taken at village fetes, and we took even more digital photos when I got my first digital camera in 2004. Why is it then that nobody can produce a photo of their child or family at even one of these events that are claimed to have taken place?

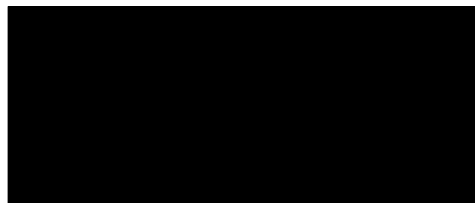
We believe the facts stated in this letter of comments are true.

Signed:



Malcolm Reeves

Dated: 5/1/2021



Kathryn Reeves

Dated: 5<sup>th</sup> January 2021

**From:** [REDACTED]  
**Sent:** 02 February 2021 09:13  
**To:** [Green, Janice](#)  
**Cc:** [Madgwick, Sally](#)  
**Subject:** Re: Application to Register Land as Town or Village Green, Lower Stanton St Quintin - Parish Council Revised Statement  
**Attachments:** [StantonTVGobjection-3-Addendum.pdf](#)

---

Dear Ms Green,

We have considered your email, please find attached our letter in reply. The letter which is an addendum to our letter of 5 Jan 2021, should be accepted into the TVG process along with our letter of 5 Jan 2021 and ideally attached to the end of our previous letter, that is attached to file StantonTVGobjection-3.pdf.

Regards

Malcolm Reeves

On Wed, 20 Jan 2021 16:23:01 +0000, you wrote:

>Dear Mr Reeves,

>

>Commons Act 2006 - Section 15(1) & (2)

>Applications to Register Land as Town or Village Green - Seagry Road, Lower Stanton St Quintin

>Application no's 2018/01 and 2019/01

>

>Thank you for your e-mail. Yes you are correct, the Chair has requested that pages 2-9 (inclusive) of the original document are retracted, which leaves pages 1 and 10 - 16 (inclusive, 8 pages), as per the revised document attached to my e-mail.

>

>Thank you also for your comment regarding the reference on page 6 (of the revised document), to the photographs included, which is noted and will be of course be considered in due course.

>

>Kind regards,

>

>Janice Green

>Senior Definitive Map Officer

>Rights of Way and Countryside

>Wiltshire Council

>County Hall

>Trowbridge

>BA14 8JN

>

>Telephone: Internal 13345 External: +44 (0)1225 713345

>Email: janice.green@wiltshire.gov.uk

>

>Information relating to the way Wiltshire Council will manage your data can be found at:

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>-----Original Message-----

>From: Malcolm Reeves [REDACTED]

>Sent: 19 January 2021 14:51

>To: Green, Janice <janice.green@wiltshire.gov.uk>

>Cc: Madgwick, Sally <Sally.Madgwick@wiltshire.gov.uk>

>Subject: Re: Application to Register Land as Town or Village Green, Lower Stanton St Quintin - Parish Council Revised Statement

>

>

>Dear Ms Green,

>

>The chairman has thus asked to be removed, in total pages:

>

>2, 3, 4, 5, 6, 7, 8 and 9.

>

>Leaving in just pages

>

>1 and 10 to 16.

>

>I would draw your attention to the lie on page 6 (old page 14) where in Cllr Andrews' email of 23 Nov 2020 14:31 he says "Here are some photos of events held prior events prior to applicatio" by which it is clear he is claiming the photos below, labeled as taken in 2019, pre-date the TVG application which is dated 30 April 2018.

>

>I will consider your suggestion that I modify my submission. At this time I am not minded to anything more than add a note detailing the pages Cllr Andrews has retracted with an explanation that my reply to Cllr Andrews libellous emails is retain since these libels are doubtless a slander too which needs correcting with the truth.

>

>Regards

>

>Malcolm Reeves

>

>

>

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>

>

>

>On Tue, 19 Jan 2021 13:55:05 +0000, you wrote:

>

>>Dear Mr Reeves,

>>

>>Commons Act 2006 - Sections 15(1) and (2) Applications to Register Land

>>as Town or Village Green - Seagry Road, Lower Stanton St Quintin

>>Application no's 2018/01 & 2019/01

>>

>>Further to my e-mail dated 21st December 2020, attaching the Applicants comments on the objections in the above-mentioned applications to register land as Town or Village Green, Lower Stanton St Quintin, the Chair of the Parish Council has now written to me to confirm that he wishes to retract parts of the statement made on behalf of the Parish Council, as per the attached e-mail. In addition the Chair has also requested that pages 3, 4 and 9 of the original document be withdrawn. The document which they refer to was included with my e-mail dated 21st December 2020 as "Applicants Comments on Objections" and once opened is entitled "Parish Council Comments on Objections & Additional Evidence (10th December 2020)".

>>

>>I would therefore be very grateful if you could remove from your records and securely dispose of the submission in full and replace it with the attached document which has the information withdrawn, as identified in the Parish Council's instructions. I can confirm that these pages will be removed from the Council's file and papers and they will no longer form any part of the consideration and determination process with regard to these applications.

>>

>>If you would like to make any further/amended comments regarding the revised statement from the Parish Council, (I am in receipt of your representations with your e-mail dated 5th January in relation to the Parish Council Statement in its original form), I would be very grateful if you could do so in writing before 5:00pm on Monday 8th March 2021, but please do let me know if you should require additional time. Please note that any representations submitted will be made available to all parties as part of the determination process.

>>

>>Kind regards,

>>

>>Janice Green







2 February, 2021

Janice Green  
Senior Definitive Map Officer  
Rights of Way & Countryside Team  
Communities & Neighbourhood Services  
County Hall  
Bythesea Road  
Trowbridge  
Wiltshire  
BA14 8JN

By email: "Green, Janice" <janice.green@wiltshire.gov.uk>

Your Refs: 2018/01, 2019/01

## OPEN LETTER

### Application to Register Town or Village Green in Lower Stanton

#### ADDENDUM to our OPEN LETTER of 5 January 2021

Dear Ms Green,

This is an addendum to our letter of 5 Jan 2021 which was supplied to you as file:

StantonTVGobjection-3.pdf

Our letter of 5 Jan dealt with the libels of Cllr Andrews which you had seen fit to accept and publish as part of the TVG process. Cllr Andrews then asked you to delete the libellous pages, that is 8 of the 16 pages he submitted, as you informed us on 19 Jan. In your email you suggested that in the light of this change we should delete the libellous pdf of Cllr Andrews that you published. We will not be deleting this file, nor destroying the paper copy you sent since they are evidence.

You have also suggested that we could revise our letter of 5 Jan sent in reply to Cllr Andrews' libels. We will not be doing that either, except to add this addendum to explain our letter of 5 Jan and the reason we refuse to change it.

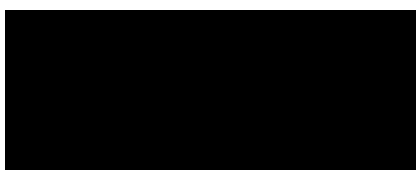
Our letter of 5 Jan addressed the libels in Cllr Andrews' emails to you, which Wiltshire Council published as part of the TVG process. You tell us that these libels are no longer part of the TVG process but we are sure that our letter gives the gist of these libels for readers to understand our comments. Our letter and the attached evidence provided proof that all of Cllr Andrews' defamatory statements were lies. Since these lies are certainly also slander too then it is still necessary to publish the truth that is contained in our letter to counter this slander. Hence our letter of 5 Jan 2021 stands and we will not withdraw it. Everything in the letter is true and backed up with evidence to show it is true.

In addition we note that Cllr Andrews has yet to make a written apology to us and it has been 14 days since you informed us that Cllr Andrews was deleting 50% of his comments. It is clear to us that Cllr Andrews deleting his libels only shows his concern to try to avoid legal action rather than any actual remorse for his actions.

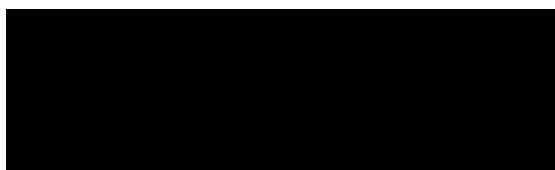
We also note that you informed us that Cllr Andrews had retracted his emails on Tues 19 Jan which was after Wessex Water's Senior Solicitor contacted you on Fri 15 Jan. Our letter was dated 5 Jan and emailed that day at 15:12 to you to be precise, and at 15:28 to your manager, Ms Sally Madgwick, since your automatic reply stated you were on leave until 11 Jan. Hence it also clear that the concern prompting the deletion of these emails was not our letter on the 5 Jan but Wessex Water's Senior Solicitor's request on the 15 Jan where she asked that she be sent the new TVG documents too.

Would you please ensure that this letter is attached to our previous comments in our letter of 5 Jan 2021 submitted to this TVG process, file StantonTVGobjection-3.pdf.

Yours faithfully



Malcolm Reeves



Kathryn Reeves

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Commons Act 2006 - Applications to Register Land as Town or Village Green - Seagry Road  
Lower Stanton St Quintin

Appendix 11 - Applicants Additional Evidence - April 2021

**From:** [Adrian Andrews](#)  
**Sent:** 07 April 2021 13:44  
**To:** Green, Janice  
**Cc:** [Margaret Carey](#)  
**Subject:** Re: TVG Application Stanton St Quintin - Complaint

---

**Follow Up Flag:** Follow up  
**Flag Status:** Completed

Dear Janice

The green space in Lower Stanton st Quintin is part of The Neighbourhood plan (The parish Council fully endorse this) which is in for audit with Wiltshire Council  
Areas like this are very important for well being and health reasons as open space (Present restrictions being adhered to )

The Parish has spent well over £7000 pounds maintaining the grass regularly being cut and also pruning of the trees regularly by a qualified Tree surgeon (over a period of about 15 years)

I do believe the previous owner of [REDACTED] Seagry Road wanted to purchase a piece of land off the parish in the early 1980s but that was refused by the Parish!

Members of the Parish want this area to be preserved as either as a Village Green ideally, but if not as a green space area in the Parish name

The Parish has maintained this area for nearly 40 years (See extracts from Minute book)

Kind regards

Adrian

On 19 Jan 2021, at 10:51, [Green, Janice](#) wrote:

Dear Adrian,

Thank you for confirming, I will now circulate the document in this form to the objectors to inform them that the comments and photographs have been formally withdrawn.

Thank you for your help in this matter.

Kind regards,

Janice

Janice Green  
Senior Definitive Map Officer  
Rights of Way and Countryside  
Wiltshire Council  
County Hall  
Trowbridge  
BA14 8JN  
<image001.png>

Telephone: Internal 13345 External: +44 (0)1225 713345  
Email: [janice.green@wiltshire.gov.uk](mailto:janice.green@wiltshire.gov.uk)

Information relating to the way Wiltshire Council will manage your data can be found at: <http://www.wiltshire.gov.uk/recreation-rights-of-way>

Report a problem: <https://my.wiltshire.gov.uk/>

Web: [www.wiltshire.gov.uk](http://www.wiltshire.gov.uk)

Follow Wiltshire Council

[<image002.png>](#) [<image003.png>](#)

Follow Wiltshire Countryside

[<image002.png>](#) [<image003.png>](#)

**From:** Adrian Andrews [REDACTED]  
**Sent:** 19 January 2021 10:47  
**To:** Green, Janice <[janice.green@wiltshire.gov.uk](mailto:janice.green@wiltshire.gov.uk)>  
**Subject:** Re: TVG Application Stanton St Quintin - Complaint

Thats fine

On 19 Jan 2021, at 10:42, Green, Janice <[janice.green@wiltshire.gov.uk](mailto:janice.green@wiltshire.gov.uk)> wrote:

Dear Adrian,

Thank you for your e-mail. As requested, I have removed additional pages and again I would be very grateful if you could have a look at the second revision of the document and again just confirm that the amendments have been made correctly as requested and you are now happy for me to forward the document to the objectors in this form, as the correct statement from the Parish Council. I will not send until I receive your confirmation.

Thank you for your help in this matter.

Kind regards,

Janice

Janice Green  
Senior Definitive Map Officer  
Rights of Way and Countryside  
Wiltshire Council  
County Hall  
Trowbridge  
BA14 8JN

Telephone: Internal 13345 External: +44 (0)1225 713345  
Email: [janice.green@wiltshire.gov.uk](mailto:janice.green@wiltshire.gov.uk)

Information relating to the way Wiltshire Council will manage your data can be found at: <http://www.wiltshire.gov.uk/recreation-rights-of-way>

Report a problem: <https://my.wiltshire.gov.uk/>

Web: [www.wiltshire.gov.uk](http://www.wiltshire.gov.uk)

Follow Wiltshire Council

Follow Wiltshire Countryside

-----Original Message-----

From: Adrian Andrews [REDACTED]  
Sent: 19 January 2021 10:30  
To: Green, Janice <[janice.green@wiltshire.gov.uk](mailto:janice.green@wiltshire.gov.uk)>  
Subject: Re: TVG Application Stanton St Quintin - Complaint

Janice  
Thankyou for deleting the pages they were correct!  
On the attached amendment can you also retract pages 2,3and 4 Adrian

On 18 Jan 2021, at 15:26, Green, Janice  
<[janice.green@wiltshire.gov.uk](mailto:janice.green@wiltshire.gov.uk)> wrote:

<Applicants comments on objections (final) reduced.pdf>

---

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<Applicants comments on objections (final) reduced.pdf>

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## Green, Janice

---

**From:** Adrian Andrews [REDACTED]  
**Sent:** 07 April 2021 13:47  
**To:** Green, Janice  
**Cc:** Margaret Carey  
**Subject:** Fwd: Pictures

**Follow Up Flag:** Follow up  
**Flag Status:** Completed

The Village green today

Begin forwarded message:

**From:** MARY HAINES [REDACTED]  
**Subject:** Pictures  
**Date:** 7 April 2021 at 13:44:32 BST  
**To:** Adrian Andrews [REDACTED]

Hi Adrian

Pictures of the green for you - if you need any others let me know.

Mary











**From:** [Adrian Andrews](#)  
**Sent:** 08 April 2021 15:38  
**To:** [Green, Janice](#)  
**Subject:** Re: Photos of Activities on the Village Green Lower Stanton St Quintin

---

**Follow Up Flag:** Follow up  
**Flag Status:** Completed

These photos have been forwarded to show activities on the Green,

On 8 Apr 2021, at 15:31, Liz Cullen  wrote:

Seed planting for the Community Garden May 2018  
<P1070025.JPG>

## Green, Janice

---

**From:** Adrian Andrews [REDACTED]  
**Sent:** 08 April 2021 15:39  
**To:** Green, Janice  
**Subject:** Fwd: Photos of Activities on the Village Green Lower Stanton St Quintin

**Follow Up Flag:** Follow up  
**Flag Status:** Completed

Begin forwarded message:

**From:** Liz Cullen [REDACTED]  
**Subject:** Photos of Activities on the Village Green Lower Stanton St Quintin  
**Date:** 8 April 2021 at 15:32:19 BST  
**To:** Adrian Andrews [REDACTED]

Seed Planting on the Village Green May 2018



## Green, Janice

---

**From:** Adrian Andrews [REDACTED]  
**Sent:** 08 April 2021 15:40  
**To:** Green, Janice  
**Subject:** Fwd: Photos of Activities on the Village Green Lower Stanton St Quintin

**Follow Up Flag:** Follow up  
**Flag Status:** Completed

Begin forwarded message:

**From:** Liz Cullen [REDACTED]  
**Subject:** Photos of Activities on the Village Green Lower Stanton St Quintin  
**Date:** 8 April 2021 at 15:33:22 BST  
**To:** Adrian Andrews [REDACTED]

Book Sale June 2019 to raise funds for Wee Free Library





**From:** [Adrian Andrews](#)  
**Sent:** 13 April 2021 10:26  
**To:** [Green, Janice](#)  
**Subject:** Fwd: Evidence of activities on the Green, Lower Stanton St Quintin  
**Attachments:** [Open Air Services for Pentecost.doc](#)

---

**Follow Up Flag:** Follow up  
**Flag Status:** Completed

Begin forwarded message:

**From:** Liz Cullen [REDACTED]  
**Subject:** Evidence of activities on the Green, Lower Stanton St Quintin  
**Date:** 10 April 2021 at 16:49:53 BST  
**To:** Adrian Andrews [REDACTED]

Dear Adrian,

Hilary has provided evidence of Church services planned to be held on the Village green. (see the attachment with a record of where the evidence is located)  
We had to cancel one or two because of the weather, but the service in 2001 definitely took place (I was there too)

We had a road closure and a party on the Green for William and Kate's wedding in April 2011. We also had a celebration of the Queen's Jubilee in 2012.

The Wee Library is in constant use since being set up in 2019. The benches are often used for picnics and coffee with neighbours.

Hope this will add to the bank of evidence that proves the Green has been used over many years for gatherings and celebrations.

All the best from Liz



Open Air Services for Pentecost

Date	Evidence	
3 <sup>rd</sup> June 2001	Minutes of 12 <sup>th</sup> June 2001	
19 <sup>th</sup> May 2002	Finance report to AGM in March 2003	
8 <sup>th</sup> June 2003	Finance report to AGM in March 2004	
15 <sup>th</sup> May 2005	Advert in The Net May 2005	
4 <sup>th</sup> June 2006	Sidesman and readers rota Apr-Jun06	
27 <sup>th</sup> May 2007	Advert in The Net May 2007	



Sport Horse Breeding for the Best

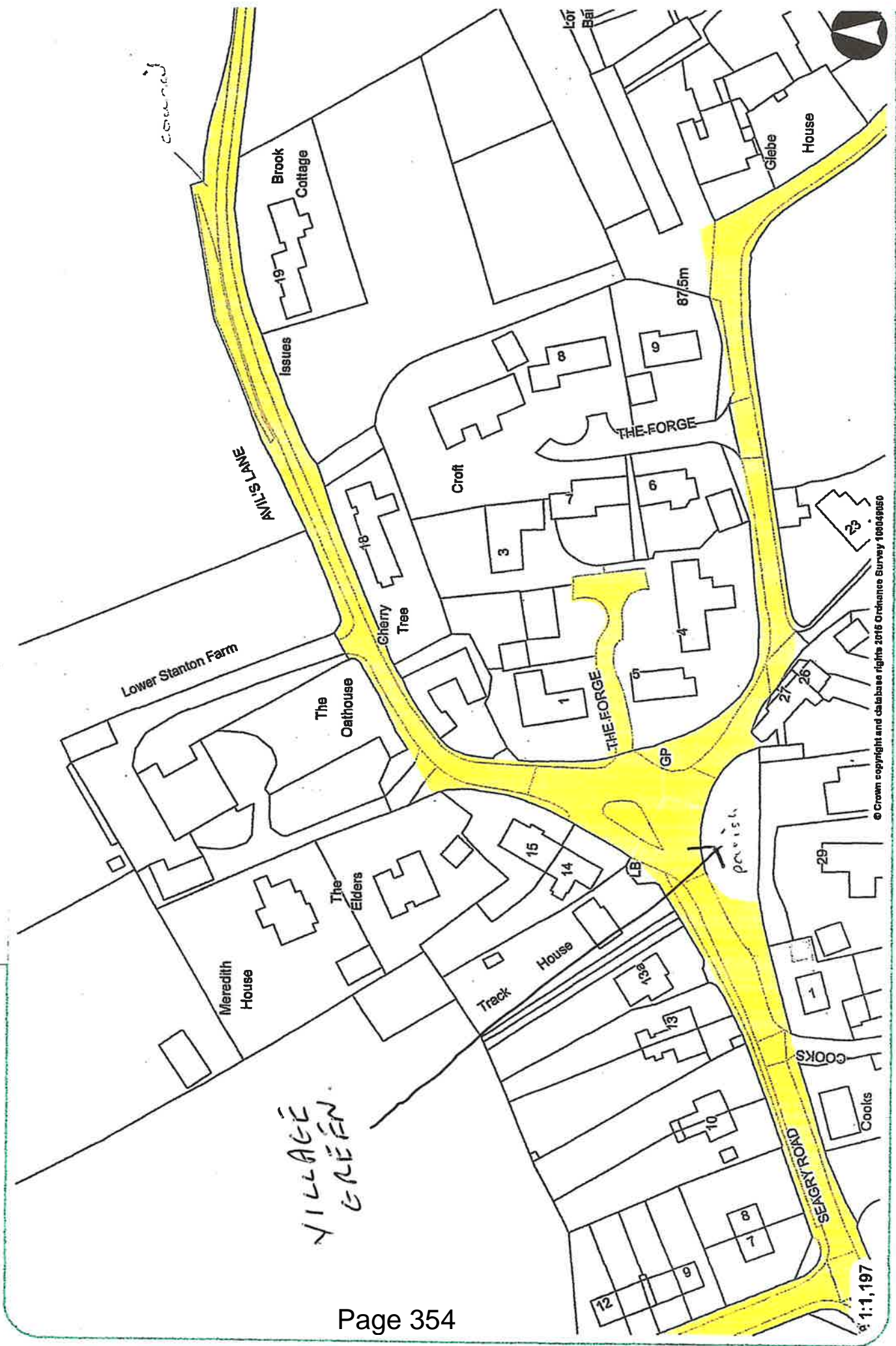
YOU PROBABLY HAVE THIS  
ALREADY

Abscon

with compliments



Lower Stanton St Quintin  
Wiltshire SN14 6



VILLAGE GREEN

**Commons Act 2006 – Sections 15(1) and (2)**

**Application to Register Land as Town or Village Green – Land off Seagry Road, Lower Stanton St Quintin**

**Appendix 12 – Planning Trigger and Terminating Event Consultation Replies:**

**Application no.2018/01 Consultation dated: 8<sup>th</sup> May 2018:**

**Planning Inspectorate – 06/06/18**

*“I confirm that no trigger or terminating event has occurred on the land”*

**Development Control (Wiltshire Council) – 09/05/18**

*“In relation to your request, as set out below, I can confirm that a trigger event has occurred on part of this land, but no corresponding terminating event has occurred.*

*Commons Act 2006 – Section 15(1) & (2)*

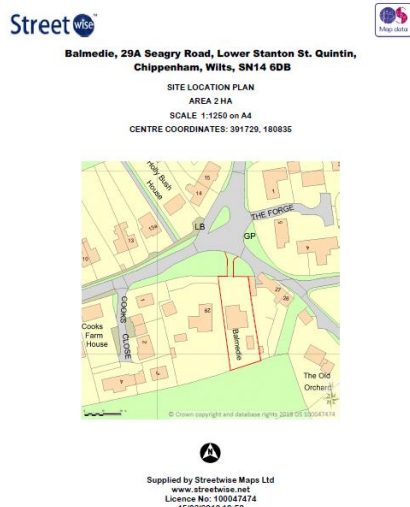
*Application to Register Land as Town or Village Green at Stanton St Quintin*

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

*The area cross hatched red and pointed to by the large arrow was the subject of a planning application submitted earlier this year. This was publicised, thus constituting a trigger event.*

*Although the planning application was determined in March 2018, it was refused. In these circumstances, the terminating event would be: In circumstances where planning permission is refused, all means of challenging the refusal in legal proceedings in the United Kingdom are exhausted and the decision is upheld. The period within which an appeal to the Planning Inspectorate could be lodged will expire six months after the refusal – ie on 7<sup>th</sup> September 2018. So in my view, assuming that challenging a refusal through a planning appeal is a ‘legal proceeding’ then the terminating event will not be until either 7<sup>th</sup> September if no appeal is lodged (no appeal has yet been received), or if one is, when the outcome of that appeal is known and the six week period for challenging such a decision by the Inspector has expired.*

*The trigger event related only to the portion of the green identified. A scaled copy of the location plan submitted with the application is attached. The application itself can be found on the Council's web site."*



**Spatial Planning (Wiltshire Council) – 30/05/18**

*"I have assumed that the land [the subject of this Village Green Application] is marked as "parish" and part shaded in pink on the attached plan. I am also aware that the land was nominated for listing as an asset of community value in March 2018. It is therefore clear to me that the Parish Council intend to protect what they refer to as the 'village green'.*

*I have considered the Village Green Application in the light of the policies of the adopted Wiltshire Core Strategy (WCS, January 2015); the emerging Wiltshire Housing Site Allocations Plan (WHSAP); the fact that the Parish of Stanton St Quintin was designated for the purposes of Neighbourhood Planning on 20<sup>th</sup> September 2017; and knowledge of an emerging Neighbourhood Plan.*

*Stanton St. Quintin and Lower St. Quintin are identified in Core Policy 10 as Small Villages. Neither the WCS or emerging WHSAP identify land for development at Small Villages.*

*No substantive progress has been made by the Qualifying Body in terms of preparing their neighbourhood plan. However, any emerging plan would need to be capable of demonstrating that any subsequent policies/proposals are in general conformity with the WCS. In this regard, Core Policies 1,2 and 9 of the WCS will be directly relevant insofar as they assume any development proposed within the neighbourhood plan for Stanton St Quintin/Lower Stanton St Quintin will be limited to modest infill within the existing built area.*

*In summary, there is no indication in any development plan (adopted or emerging) that the specific area of land [the subject of Village Green Application] is proposed for development, or has the potential for development.*

*Having reviewed the relevant legislation in respect of the Village Green Application, I therefore conclude that no trigger points have been executed.”*

#### **Application no.2018/01 - Consultation dated 4<sup>th</sup> December 2018:**

**Planning Inspectorate – 28/02/19**

*“I confirm that no trigger or terminating event has occurred on the land”*

**Development Control (Wiltshire Council) – 0512/18**

*“I refer to your letter of 4<sup>th</sup> December 2018 to Mike Wilmott and a schedule of planning decisions set out below.*

*Notwithstanding what I think might be an erroneous site address and rather vague location plan, I surmise your query to relate to the entirety of the piece of grassed land to the front of No.29 and 29A Seagry Road, Lower Stanton St Quintin. As I understand it, the land in question is not regarded as public highway, a position the Council maintained at planning appeal under reference 18/01108/FUL. You may wish to confirm with Chris Manns in the Highways Team and Sally Madgwick in the Rights of Way team, both of whom have had previous involvement on this matter. Only 18/01108/FUL (relating to No.29A) includes part of the land surmised to be the subject of this request. All other planning decisions relate to properties which directly adjoin, but include no part of the site subject to this query save for the right of access over it.*

*At the time of replying, only 18/07473/FUL remains inside of the time limit to seek leave for JR (6 weeks for the date of decision being 7<sup>th</sup> January 2019). As it stands, I am not aware of leave being sought.*

*I am unable to confirm whether a “trigger event” has been reached, it being a matter about which you must satisfy yourselves. I am, however, at your disposal to answer any further questions you might have.*

*Balmedie, 29A Seagry Road, Lower Stanton St Quintin, SN14 6DB*

*18/01108/FUL - New direct access to highway for vehicles and pedestrians over verge to class C*

*road in 30mph limit – REFUSED and APPEAL DISSMISED 03/10/18*

[\*https://unidoc.wiltshire.gov.uk/UniDoc/Document/Search/DSA,884688\*](https://unidoc.wiltshire.gov.uk/UniDoc/Document/Search/DSA,884688)

*15/08031/FUL - Conversion of Bungalow to a House by Adding a Second Storey and New Roof –*

*PERMISSION 07/10/15*

[\*https://unidoc.wiltshire.gov.uk/UniDoc/Document/Search/DSA,854630\*](https://unidoc.wiltshire.gov.uk/UniDoc/Document/Search/DSA,854630)

*The Willows, 29 Seagry Road, Lower Stanton St Quintin, Wiltshire, SN14 6DB*

*17/03213/FUL - Retrospective boundary fence – REFUSED 13/06/17*

[\*https://unidoc.wiltshire.gov.uk/UniDoc/Document/Search/DSA,874457\*](https://unidoc.wiltshire.gov.uk/UniDoc/Document/Search/DSA,874457)

*29 Seagry Road Lower Stanton St Quintin Chippenham Wiltshire SN14 6DB*

*18/07473/FUL - Erection of New Dwelling Following Removal of Existing Outbuildings and Swimming*

*Pool – PERMISSION 26/11/18*

[\*https://unidoc.wiltshire.gov.uk/UniDoc/Document/Search/DSA,890866\*](https://unidoc.wiltshire.gov.uk/UniDoc/Document/Search/DSA,890866)

**Spatial Planning** (Wiltshire Council) – 07/12/18

*“I confirm that a trigger event has occurred but a corresponding terminating event has also occurred on the land.*

*Application for full planning permission (ref: 18/01108/FUL) submitted 01/02/2018 for new direct access to highway for vehicles and pedestrians over verge to class C road in 30mph limit.*

*Application was refused on 07/03/2018, terminating the trigger event.”*



**Application no.2019/01 - Consultation dated 30<sup>th</sup> April 2019:**

**Planning Inspectorate** – 17/05/19

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

*The land is part of a site allocation plan which is with our Local Plans/Development Plans Team and still under consideration as part of the Wiltshire Council Local Plan. I would suggest discussing with the relevant Team/Programme Officer at Wiltshire but I think the Trigger Event might be para 3 of Schedule 1A of the Commons Act 2006.”*

**Development Control** (Wiltshire Council) – 07/06/19

*“As previously advised, the only planning application received and determined on this piece of land is 18/01108/FUL. Following being refused planning permission an appeal was lodged and was subsequently dismissed.”* (Appeal decision attached to e-mail).

**Spatial Planning** (Wiltshire Council) – 30/05/19

*“I have reviewed the above site and can respond as follows:*

*A trigger event (listed under schedule 1A of the Commons Act 2006) occurred in relation to the land at Seagry Road, Stanton St Quintin, where a planning application (re 18/01108/FUL) for “new direct access to highway for vehicles and pedestrians over verge to class C road on 30 mph limit” was registered on 01/02/2018. The application was refused in a decision issued by Wiltshire Council on 07/03/2018, terminating the trigger event. An appeal was lodged against the decision on 10 July 2018 but was later dismissed in a decision issued 03 October 2018, effectively re-commencing and terminating the trigger event.*

*Having regard to the recent Cooper Estates vs Wiltshire Council judgement I can confirm that the land in question is outside the defined limits of development established by the adopted Wiltshire Core Strategy, meaning that the presumption in favour of sustainable development does not apply at this location. To the best of my knowledge, there are no extant or emerging development plan documents, neighbourhood plan at a sufficiently advanced stage, or development orders that identify the land for potential development. Consequently no other trigger events*

*listed under schedule 1A of the Commons Act 2006 have occurred in relation to the above land.”*

**Spatial Planning** (Wiltshire Council) - 07/06/19 (in response to Planning Inspectorate reply)

*“I think PINS must be referring to the Wiltshire Housing Site Allocations Plan (WHSAP) which was submitted for examination on 31<sup>st</sup> July 2018. The WHSAP is a site specific plan and does not propose any allocations for development at Lower Stanton St Quintin. As far as I understand it, this means no trigger event in relation to the land has occurred.”*

**Commons Act 2006 – Sections 15(1) and (2)**

**Applications to Register Land as Town or Village Green – Land adjacent to Seagry Road, Lower Stanton St Quintin**

**Application no's 2018/01 & 2019/01**

**Appendix 13 – Documents Relied Upon**

**Applications:**

- 1) Application no.2018/01 dated 18<sup>th</sup> April 2018 and received by Wiltshire Council on 30<sup>th</sup> April 2018 in the form of Form 44 and statutory declaration, including:  
Statement from Hilary Creasy  
Title plan map  
Exhibits A and B
- 2) Application no.2019/01 dated 18<sup>th</sup> April 2019 and received by Wiltshire Council on 26<sup>th</sup> April 2019 in the form of Form 44 and statutory declaration, including  
Reference to Statement from Hilary Creasy (as 2018/01)  
Map Exhibits A and B
- 3) Supplementary Information ref Planning Application no.18/01108/FUL (14<sup>th</sup> February 2018 - Mr M Reeves) (**Appendix 8**)
- 4) Objections received prior to formal consultation period (11<sup>th</sup> June 2018 – Mr M Reeves) (**Appendix 8**)

**Objections (Appendix 6):**

- 5) Representations of objection (x 8):
  - i) Jennifer Cowley – 22<sup>nd</sup> September 2020
  - ii) Olwyn & John Kelly – 21<sup>st</sup> September 2020
  - iii) James Reeves – 20<sup>th</sup> September 2020
  - iv) Jonathan Reeves – 20<sup>th</sup> September 2020

- v) Josephine Reeves – 21<sup>st</sup> September 2020
- vi) Kathryn Reeves – 23<sup>rd</sup> September 2020
- vii) Malcolm Reeves – 23<sup>rd</sup> September 2020
- viii) Wessex Water – 22<sup>nd</sup> September 2020

**Representations (Appendix 7):**

- 6) Other representations (x 23):
  - i) Paul Aviss – 15<sup>th</sup> August 2020
  - ii) Cadent and National Grid – 13<sup>th</sup> August 2020
  - iii) Malcolm Barrington & Tracy Warne – 18<sup>th</sup> August 2020
  - iv) Michael Childs – 8<sup>th</sup> August 2020
  - v) Liz Cullen – 17<sup>th</sup> August 2020
  - vi) Peter Cullen – 11<sup>th</sup> August 2020
  - vii) Martin Davis – 13<sup>th</sup> August 2020
  - viii) Keith Garrod – 12<sup>th</sup> August 2020
  - ix) Gigaclear – 10<sup>th</sup> August 2020
  - x) Cllr Howard Greenman – 3<sup>rd</sup> August 2020
  - xi) Mary Haines – 11<sup>th</sup> August 2020
  - xii) S R Jackson – 6<sup>th</sup> September 2020
  - xiii) H W Jolly – 22<sup>nd</sup> September 2020
  - xiv) LinesearchbeforeUdig Ltd – 10<sup>th</sup> August 2020
  - xv) Doreen Pattison – 25<sup>th</sup> September 2020
  - xvi) Graeme Pattison – 8<sup>th</sup> September 2020
  - xvii) Malcolm Peal – 7<sup>th</sup> August 2020
  - xviii) Scottish & Southern Energy Networks – 10<sup>th</sup> August 2020
  - xix) John & Glynis Seale – 15<sup>th</sup> August 2020
  - xx) Mike Smith – 19<sup>th</sup> August 2020
  - xxi) Roger Starling – 10<sup>th</sup> August 2020
  - xxii) Mervyn & Sue Stephens – 11<sup>th</sup> August 2020
  - xxiii) Wales & West Utilities – 24<sup>th</sup> September 2020 & 10<sup>th</sup> August 2020

**Applicants Comments on the Objections (Appendix 9):**

- 7) Applicants comments on the objections (revised) - 10<sup>th</sup> December 2020

**Objectors Comments on the Applicants Comments on the Objections (Appendix 10):**

- 8) Objectors Comments on the Applicants Comments on the Objections (x 4):
- i) Mr M Reeves and Mrs K Reeves – 5<sup>th</sup> January 2021
  - ii) Mr M Reeves - 19<sup>th</sup> January 2021
  - iii) Mr M Reeves and Mrs K Reeves – 2<sup>nd</sup> February 2021
  - iv) Mrs O Kelly and Mr J Kelly - e-mail dated 26<sup>th</sup> January 2021

**Other Documents Relied Upon:**

- 9) Additional evidence submitted by applicants – April 2021 (**Appendix 11**)
- 10) Trigger/Terminating event consultation replies – (**Appendix 12**):
- i) **2018/01** - Planning Inspectorate - 06/06/18
  - ii) **2018/01** - Development Control (Wiltshire Council) – 09/05/18
  - iii) **2018/01** - Spatial Planning (Wiltshire Council) – 30/05/18
  - iv) **2018/01** - Planning Inspectorate – 28/02/19
  - v) **2018/01** - Development Control (Wiltshire Council) – 05/12/18
  - vi) **2018/01** - Spatial Planning (Wiltshire Council) – 07/12/18
  - vii) **2019/01** - Planning Inspectorate – 17/05/19
  - viii) **2019/01** - Development Control (Wiltshire Council) – 07/06/19
  - ix) **2019/01** - Spatial Planning (Wiltshire Council) – 30/05/19
  - x) **2019/01** - Spatial Planning (Wiltshire Council) - 07/06/19
- 11) Officers report regarding extent of highway – 2019 (**Appendix 18**)

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**Commons Act 2006 – Sections 15(1) and (2)**

**Applications to Register Land as Town or Village Green – Land off Seagry Road, Lower Stanton St Quintin**

**Appendix 14 – Summary of Witness Evidence**

	Name	Locality	Years used / Known	How used	Events	Comments
1	Paul & Alison Avis	[REDACTED] LSQ				Support registration of land in its entirety
2	Malcolm Barrington & Tracy Warne	[REDACTED] LSQ	2009	Meeting place	VE day 2020 – a neighbour and myself turned the land and the area opposite into a VE day display by parking a WW2 jeep and 3 WW2 motorcycles.	Village green a focal point of village, no pub and not many places where people can gather for fun.
3	Michael Childs			Picnic site (my family)	2020 VE day – small display of WW2 vehicles in the absence of any formal event due to covid 19. Local free library on site. Seen a number of others use it as picnic site	Small village with very few amenities, not even telephone box anymore. For many geographical centre of Lower Stanton St Quintin.
4	Hilary Creasey	[REDACTED] LSQ			When we were children pond had been filled in, we had fetes on the pond. There were fancy dress competitions and picnics. Church services. Also other celebrations. 2 benches on the pond, one in memory of a villager, people sit there in the summer months.	The village green is on the opposite side of the road in front of Spider Cottage. The Pond was dug out by the farmers so their cattle and horses could drink. They also put carts through the water to swell spokes so metal bands on wheels didn't fall off. Where the wall is now there were trees, weeping willows and smaller trees. There was a Reading Room to the right of the pond (near access to bungalow and house), where our parents and grandparents played games, cards, dominoes, whist, crib etc.



						Reading Room, Methodist chapel, shop and all farm yards now gone. Pond is the only original landmark of village that is left. It there was an access to house onto the road here would be dangerous.
5	Liz Cullen	██████████, LSQ	26 years		<p>Several open air church services/ Numerous national celebrations with “bring and share” food and drink, eg. Queen’s jubilee, Royal weddings and most recently VE day with display of vintage vehicles.</p> <p>May 2018 – a group of adults helped village children plant wildflower seeds to establish small community garden (photo 1).</p> <p>June 2019 – book sale to raise finds for “Wee Free Library” (photo 2). Wee Free Library where people could exchange books, paid for by an anonymous local person – books purchased to start the venture, very well used especially in lockdown months when shops and libraries closed. Library opened by local poet (photo 3).</p>	<p>Community asset.</p> <p>Public notice board gives information about PC meetings, church services and local events.</p> <p>Bench seat and picnic bench used by residents as pleasant place to meet, picnic and chat.</p> <p>PC have maintained the area for many years, paying for regular grass cutting and tree surgery.</p> <p>Vast majority of villagers in favour of applications.</p>
6	Peter Cullen	██████████ LSQ	26 years		<p>Focus for village celebrations including street parties, most recently VE day in May.</p> <p>Church services.</p> <p>Book sales.</p> <p>Many more informal gatherings of locals.</p> <p>Benches on the green used daily at least in summer by residents and also walkers and cyclists passing through the village.</p> <p>Little library used at least daily and well received.</p>	<p>It gives a great deal of pleasure to village residents, visitors from the locality and those passing through.</p> <p>Trees and grass maintained at PC’s expense from time I have lived in LSQ and I believe well before I arrived.</p> <p>Valuable asset and focus of enjoyment for the local community and others.</p>
7	Martin Davis		Oct 1997		Increasing use, particularly with social distancing the coming together of families	The space has played a part in bringing the village together on many occasions.

					in sensible surroundings to maintain a healthy life balance. Royal celebrations. Most recently VE day celebrations with historical military vehicles and a village gathering to celebrate.	We have met and made strong friendships which would not have developed if the green space not available to use. Not many places in village where people gather for fun. Today all too many people live in isolation and this has brought out people who would never socialise and has made them and the village stronger because of it. Living memorial for a number of families who have dedication benches installed.
8	Keith Garrod	LSQ		Grandchildren play on the green when they visit	A place to sit and enjoy the peace and tranquillity. A place to meet and chat with the local community who are not immediate neighbours but still members of the village. Ideal location to meet and keep social distancing.	Essential part of our community.
9	Cllr Howard Greenman Wiltshire Councillor for					Support this application and can confirm its legitimacy.
10	Mary Haines				Opportunity for people to sit for a few minutes or to visit the Wee Free Library.	PC have looked after the Green very well and it is a credit to the village.
11	S R Jackson	LSQ				Support for both applications.
12	H W Jolly	LSQ	About 30 years		Many events for the community have taken place on the land which I have thoroughly enjoyed.	Always considered it as being a village green.
13	Doreen Pattison		32 years (Before living in LSQ lived within RAF camp at other end		Many social events held, I have helped organise several in the past few years. Good to have a space to gather and the majority of the village attend. We put up bunting to celebrate national and even some local events such as a wedding. At Christmas there are some lights.	Throughout time in LSQ and at RAF camp, regarded this as the village green.

			of the village)		<p>Wee free library (greatly appreciated particularly when library closed). I received permission from the PC several years ago to install small picnic bench. We involved local children when we planted wild flower seeds. Only open space for children to play. Small but spread out community, village green in point of connection.</p>	
14	Graeme Pattison	<p>LSQ</p>			<p>Used by villagers as a green for many decades and to my knowledge since spring 1977. Events have taken place on many occasions and only Covid 19 situation prevented VE and VJ day celebrations recently. Only piece of land available to the residents. Facility is appreciated and frequently used by a wide range of people passing through the village as a resting point and/or to have refreshment such as lunch or coffee.</p>	<p>Land was originally pond filled in many years ago as considered dangerous for children of the village. PC has maintained land and paid for tree surgery when required. PC funded grass cutting and paid for other amenities such as table and benches as well as village notice board. 2 benches installed with PC approval as memorials to villagers.</p>
15	Malcolm Peal	<p>LSQ</p>				No objection.
16	John & Glynis Seale	<p>LSQ</p>			<p>For past 50 years the Village Green has provided the only community land focal point on which residents can celebrate notable historical and commemorative events. Proven community value through both historical and current use and an asset to rural village life. No other similar community land asset exists in LSQ. Value of Village Green further enhanced by siting of a commemorative tree and plaque; picnic bench and small residents' lending library.</p>	<p>Land maintained by PC for last 50 years. Map appears to show pathway across green, do not support any such future development across the Village Green.</p>

					Land provides "home" for PC notice board for residents.	
17	Mike Smith	LSQ	1997		Since 1997 in continual use as a green by residents throughout this period. Mature trees, village notice board, 2 picnic tables and a 'wee free' library box, all regularly used by residents of the village and visitors.	No driveway across the green, no evidence of vehicle access at this point. The extent of the green area encompasses both sides of the Seagry Road and a more realistic registration would encompass all of these areas, not just piece to the south of Seagry Road.
18	Roger Starling	LSQ			Focal point at the heart of small village. There for all to enjoy and meet up on special occasions with neighbours and new arrivals alike. Only green space within safe convenient walking distance for parents with younger children. Attractive visual amenity.	Identified as green space in draft neighbourhood plan which contributes to the wellbeing of all. Deserves to be protected.
19	Mervyn & Sue Stephens	Stanton St Quintin				In favour of registration. It would protect this site for current residents of the village as well as providing an opportunity for future residents.
20	Serena Parker	Stanton St Quintin			Villagers and visitors can congregate and come together to relax and have community events.	The land has been used as a village green for many years, ever since the former pond was filled in. During this time the PC has maintained the land by cutting the grass, general maintenance, tree cutting. This is the only village green in the Stanton Villages, there is no other suitable space to hold village events.
21	Adrian Andrews	LSQ			The wee free library is used daily and has been a meeting point (keeping up Social Distancing).	I have been in the village for 12 years.
22	Stanton St Quintin Parish Council				2 Royal weddings and VE day (75 years) in last 12 years. Many other events including a church service. Social gatherings and informal events.	Listed as village green in the Neighbourhood Plan. Village have paid for upkeep, most recently a tree surgeon and trees regularly maintained on previous occasions, grass

						cutting for over 14 years and notice board maintained. Extracts from Parish minutes back to 1983.
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**Commons Act 2006 – Sections 15(1) and (2) – Applications to Register Land as Town or Village Green – Land off Seagry Road, Lower Stanton St Quintin**

**APPENDIX 15 – Summary of Objectors Evidence**

<b>Objector</b>	<b>Knowledge of land</b>	<b>Frequency</b>	<b>The Land</b>	<b>Use of the land by local inhabitants for lawful sports and pastimes</b>
Jennifer Cowley	Born [REDACTED] – visited house next to land owned by Grandmother then parents throughout childhood.	Various times of year and day– New Years Day, Easter Sunday, birthdays, weekends and regularly during summer holidays – she had swimming pool. Lunchtimes at weekends, after school, evenings and sleepovers.	Played in front drive area looking onto land.	At no point since 1991 has the land been used to host village events. If there had been fetes outside Nana’s front garden I would have known and attended. Nana would have mentioned any events. Only ever seen the odd person walk over it on a dog walk or gentle stroll.
Olwyn & John Kelly	My husband, children and I regularly stayed with property owner and various times of year 1987-2010. My mother and father visited at other times as did two of my brothers.		In earlier years grass was always long and overgrown, so the one bench on the land then could not be used and we commented on that. Trees grew thickly and never an open space which invited anyone to use it for sports or pastimes.	At no time during these visits, which were of often for a week at a time, did any of us witness anyone using the land for sports and pastimes. Would have attended any events directly in front of house.
James Reeves	Grandmother moved into house in 1987 when very young, visited her often until moving away 2006.	Sunday roasts, BBQ’s, birthdays, swim in her pool during summer. Sometime brother and I would bike over and stay the weekend.	Land too narrow for athletic activities, cluttered with trees and slopes towards the road, making ball games impractical. Whilst I was growing up the grass was long and unkempt.	Do not recollect the verge ever being used for sports, pastimes of any sort. Grandmother never mentioned it. Claim of vibrant village green not credible.
Jonathan Reeves	Since early childhood made trips to visit Nana	Went swimming in the summer. Other regular visits for Easter egg hunt,		At no point did I notice the area of land being used for sports or recreation. In fact more aware of how empty it was when

**Commons Act 2006 – Sections 15(1) and (2) – Applications to Register Land as Town or Village Green – Land off Seagry Road, Lower Stanton St Quintin**

**APPENDIX 15 – Summary of Objectors Evidence**

	by car and by bicycle when older as lived nearby. 1990-2010 when moved away.	birthday parties and more. Some overnight stays in a room with window facing the land.		visiting. Some sort of event of gathering would surely have attracted my attention. Even after moved away kept in contact with Nana, she never mentioned any activities of the land and family remained in area continued regular visits, never mentioned it either.
Josephine Reeves	Visited grandmother regularly throughout childhood. Continued to visit frequently during adulthood. 1988 – 2014.	Sunday lunch, sleepovers and the use pool. Frequently on weekends and during school holidays when events most likely to have taken place, impossible not to have noticed.	As a child walked along the wall, but had to jump down several times as trees were so low and overgrown that branches stuck out over the wall. Impossible to play on as the trees prevents sport or games that involved running around. Grass was weedy and overgrown. If the land was suitable for games I would have used it as grandmothers garden had flower beds and small lawn.	Have never seen land used for any events, sports or activities. Grandmother never mentioned events, if something going on outside her house, odd that she never mentioned it. In 30 years never saw events advertised. Always deserted, no-one making use of the space. Google street view Oct 2011 and May 2009 show one bench and noticeboard and long grass which would prevent ball games.
Kathryn Reeves	Known land for over 34 yrs, mother in law purchased plot. Took possession of the house in 2015.		Until recently grass not mown and neglected. In 2015 older bench unusable due to condition and other one neglected. PC intend posts blocking fire service route to my property if it becomes TVG.	It has not been used for regular sports and pastimes. May have been odd time when village gathering occurred , but rare for me not to have seen or heard about them. June 2016 – Queens 90 <sup>th</sup> gathering witnessed by me was sparse, no more than 12 people including myself and husband. No other event until May 2018 after the application – protest event held directly and only outside our house.
Malcolm Reeves	34 years personal knowledge. My late mother purchased	Visited mother for Sunday lunch, Easter egg hunts etc. By 1998 regular visitors in	The rights and freedoms of others are not affected by whether this land is TVG or not, it is my opinion that the land is	Vexatious – The Parish Council claimed to own the land from 1982 until 2016 when they had to admit this claim was false. Bias in the Parish Council's



**APPENDIX 15 – Summary of Objectors Evidence**

	<p>plot and had house built in 1986/87. Took possession of the house in 2015. 2016 started remodelling the house.</p>	<p>the summer months as 4 children and the house had a pool, during the week after school as well as weekends. Builders started work in Feb 2016, on site every day, other than holidays, until mid Aug 2016 and I was on site too as labourer and project manager.</p>	<p>legally highway verge. There is nothing to prevent people gathering on highway verge, nor would I wish there to be. Admitted highway and documented history of the central area as highway. It is the Highway Authority’s duty to protect the use of this waste land as highway, which is incompatible with allowing it to become a TVG which has more restricted public rights. The Highway Authority would be failing in its duty to allow that. Additionally, use of the central land is a right given by the highway act and therefore to “as of right” legal test fails. The pond started life as a ford and was therefore part of the highway.</p>	<p>application, it does not claim all of the grass but just the land under which my services run, a breach of human rights and thus an unlawful action by the Parish Council. All current services would become criminal and the aim of the application is to disadvantage myself and my family. Meagre evidence provided which in no way supports a claim based on 15(2), but supports the central area as highway and fact which contradict this evidence. Royal Wootton Bassett case, similarities and difference between this case which was ultimately disallowed by the Court, this precedent applies to the SSQ application. Planning Inspectorate trigger event statement that a 15C exclusion does apply. In an FOI request not one Council has ignored the Planning Inspectorate saying that TVG applications were excluded, only Wiltshire Council has done that. The planning application for the remodelling of the property adjacent to the land was granted in 2015 and is currently under way and so meets the exclusion at Schedule 1A of the Commons Act 2006 as a planning permission “in relation to the land”. There is clearly a relationship between my planning permission and the land as my development needs this land for the services. Development is more than just building a house, there are roads and services needed too, the land used for those is part of the development even if it is not part of the householder’s property. If TVG status is granted, utility services using the</p>
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**APPENDIX 15 – Summary of Objectors Evidence**

				<p>land are criminal.</p> <p>The Parish Councils claim of use as a TVG for the past 50 years, but it does not say how it has been used as a green and presents not evidence of use. For the Commons Registration Act 1965 the PC reported to the County Council that there were no commons or reputed commons in the parish, this is at odds with the PC's claim that in 1968 the former pond was an established village green.</p> <p>A significant part of the PC statement is about how they maintain the grass and trees. No evidence is provided to support this claim and I dispute this and it is not a sport or pastime.</p> <p>Another part of the Councils case is about the benches and notice board, which is nothing to do with sports or pastimes and is irrelevant. It is claimed that villagers use these benches, the most frequent use I have observed is walkers passing through, utility workers and cyclists taking a break. There is no evidence to shown the frequency of use by villagers. Their poor condition belie the claim that they were in regular use up to 2018. No proof of the claimed may community events and celebrations, when they occurred or the number of attendees.</p> <p>Mrs Creasey's evidence of use of the pond being filled in and use of the land after that is outside the relevant user period 1998-2018 (i.e. in the 1960's). Mrs Creasey says that there were church services and other celebrations but does not specify what or when. There used to be a chapel opposite the land so it is likely church services were associated</p>
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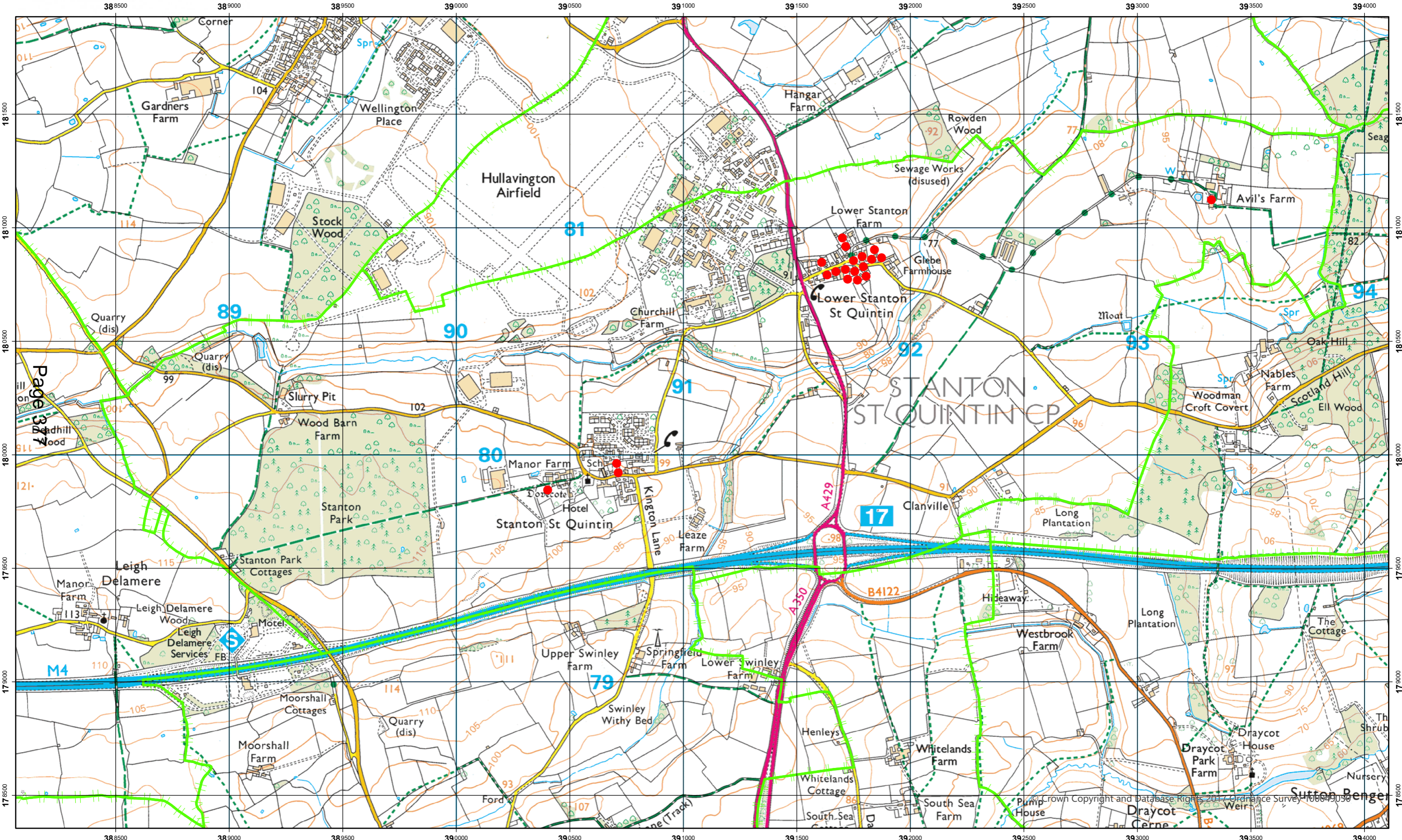
**APPENDIX 15 – Summary of Objectors Evidence**

				<p>with that, the planning application to demolish the chapel dated 1999, so it is unlikely church services fall within the relevant dates 1998-2018.</p> <p>At no time when visiting my mother have I ever seen anybody using the land for sports or pastimes, nor have I ever seen any events taking place, nor have I ever seen any boards, flyers or posters advertising events on this land. Had there been regular events on this land, even from 1987, it is impossible that I would not have seen an advert for at least one of them and I should have seen nearly all of them.</p> <p>At no time did my mother tell me about any sports or events taking place on the land, nor any planned events. We visited all local fetes, it is inconceivable that she would not have mentioned events taking place in front of her house.</p> <p>2016 works on scaffolding, giving aerial view of the claimed land until mid Sept 2016 – I saw nobody undertaking sports and pastimes on the land and just one event for the Queens 90<sup>th</sup> birthday which was a small gathering, perhaps a dozen people, no formal arrangements, no cake stall, beer tent, games of chance, music as one would find at a typical fete. No tables or chairs set out, the majority of the village attended private parties. I do not think this meets the requirements of s.15(2) and this is the only candidate event I have seen or hear about in the whole period up to 2018.</p> <p>Regular Stanton St Quintin fete (and dog show) held every year but never on this land.</p>
Wessex Water	Wessex Water is		Existing foul sewer and water meters	Wessex Water would like to register its concerns

**APPENDIX 15 – Summary of Objectors Evidence**

	<p>not the owner of the land, but it has assets beneath the surface and rights of access through surface of the land – “statutory easement”. As such 20 year user period may not be met, at any time the indulgence could have been halted by the service of the requisite notice under s.159 and 168 of the Water Industry Act 1991.</p>		<p>indicative of water supply pipes running beneath the land. Wessex Water in making these observations does not object to the use of the land for sports and pastimes. Wessex Water simply wishes to record the need for careful consideration of Wessex Waters statutory obligations in deciding how to approach the future designation of the land.</p>	<p>regarding the registration of the land as a TVG on Wessex Waters ability to meet its statutory duties as appointed sewerage and water undertaker. Powers conferred by s.159 and 168 of the Water Industry Act 1991 to enter an carry out works in land other than a street, subject to the service of prescribed periods of notice on the owner and occupier of the land the Victorian statutes create criminal offences as regards causing injury, interruption of use as a place of recreation or disturbance of soil of TVG’s. Designation as a TVG has the potential to frustrate Wessex Water’s ability to maintain, extend and improve its assets which could have significant impact on immediate locality and residents – no provision to seek authorisation from the Secretary of State as with works to common land. Designation of land as TVG seems at odds with the notion that Wessex Water enjoys rights of easement over the land.</p>
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**Commons Act 2006 – Sections 15 (1) and (2) – Applications to Register Land as Town or Village Green – Land Off Seagry Road, Lower Stanton St Quintin**

**Appendix 17 – Photographs of Activities Taking Place on the Land**



Liz Cullen – with e-mail 17/08/20:

*“In May 2018, a group of adults helped village children plant wildflower seeds, to establish a small Community garden.”*



Liz Cullen – with e-mail 17/08/20:

*“In June 2019, a book sale was held to raise funds to provide a ‘Wee Free Library’ where people could exchange books.”*





Liz Cullen – with e-mail 17/08/20:

*“Opening of the library by local poet...”* No date of photograph given but believed to be June 2019.



In “Parish Council Comments of Objections & Additional Evidence (10<sup>th</sup> December 2020)” – with e-mail from Liz Cullen 15/11/20:

*“Opening of Wee Free Library June 2019 (something that has been very well used in both Lockdowns and I have a letter thanking us for it from some visitors).”*



As above.



E-mail from Cllr A Andrews 07/04/21 (13:47) – forwarding e-mail from Mary Haines 07/04/21:

Cllr Andrews: *“The Village green today”*

M Haines: *“Pictures of the green for you...”*

4 x photographs of the application land showing current condition of the land including notice board and benches present on the land – April 2021.



As above.



As above.



As above.



E-mail from Cllr A Andrews 08/04/21 (15:39) – forwarding e-mail from Liz Cullen 08/04/21 (15:32):

L Cullen: *“Seed planting on the Village Green May 2018”*





E-mail for Cllr A Andrews 08/04/21 (15:40)  
– forwarding e-mail from Liz Cullen  
08/04/21 (15:33):

L Cullen: *“Book sale June 2019 to raise funds for Wee Free Library”*



Mr M Reeves Correspondence 23/09/20:

*“Figure 25 – Bench 1 – 21 Nov 2017”*

*“Figure 26 – Bench 2 – 21 Nov 2017”*

*“...as the pictures below show, at the end of 2017 these benches were in a very poor state, covered in mould and lichen. You would only use these benches if you had something to sit on or were already in dirty working clothes. These pictures belie the claim that these benches were regularly used in the years leading up to 2018. If they were then the mould and lichen would not have got established.”*



As above.



Mr M Reeves & Mrs K Reeves  
Correspondence 05/01/21:

*“Figure 1 – VE 75 Celebrations – 8 May 2020”*

*“...the 8 May 2020 is after the TVG application was submitted so is outside of the 20yr period, plus the VE 75 celebration did not actually use the TVG claimed land as the photo in figure 1 shows. If anything this proves that highway verge can be used for events as we have stated, and therefore the TVG is not needed to “protect” the land.”*





- 1.5 The Council's 'working copy' record of HMPEs is known as "the highway record" and also forms part of the List of Streets held pursuant to s.36(6) of the Highways Act 1980. In the case of this area the document is derived from Wiltshire County Council's original Highway Record. This is a series of Ordnance Survey maps of the scale 1:10560 coloured to show the extent of HMPEs that are roads. The area of land being investigated is not shown coloured in this record:



Area of land being investigated

- 1.6 This record was drawn up in 1929 as a result of the Local Government Act 1929 which transferred the maintenance liability for rural roads from the Rural District Councils to the County Council. It is known that in 1929 surveyors the Rural District Councils (in this case Calne and Chippenham Rural District Council) came into the offices of the County Council and completed plans showing the extent of HMPEs. These maps are known as 'Takeover Maps' and the area of land being investigated is not shown coloured as an HMPE in this record:



Area of land being investigated



## 2. Considerations for the Council

- 2.1 It is clear that from at least 1929 the area of land being queried has not been recorded as HMPE by the highway authority.
- 2.2 Neither the Highway Record nor the List of Streets is conclusive in law as to the information it contains (unlike the definitive map and statement) and whilst it is reasonable for the Council to rely upon these records, where reasonable query or evidence is raised it is considered reasonable for officers to investigate the matter. However, the Council is under no duty to 'prove' the Highway Record and the burden of proof rests with the person questioning its validity.
- 2.3 Mr Reeves has carried out some historical research and has adduced a paper entitled "Land in Lower Stanton St Quintin – Historical Arguments". See **APPENDIX B**
- 2.4 The common law principle of "once a highway, always a highway" permits the Council to look beyond its records and to consider historical documents relating to the creation of the highway in order to verify whether the current records are correct. This is further supported by section 32 of the Highways Act 1980 which enables any court or tribunal to do the same. It is noted however that whilst public highway rights may exist over land the maintenance liability is a separate matter. In other words, public highways are not necessarily maintainable at public expense even though the majority are.

## 3. Officers comments on Appendix B

- 3.1 **i) 1834 Survey** This document appears to relate to the Tithe Commissioners survey arising from the 1836 Tithe Apportionment Act but it is not clear how the physical similarity and apparent purpose of the document came to precede the Act by 2 years. The purpose and provenance of the document is not clear but it appears to be a detailed land survey in the form of a map and register. As later tithe award documents do, parcels of land are numbered and listed in the register (or apportionment). The style of the map suggests that inhabited buildings are coloured red, outbuildings grey, roads coloured sienna and unnumbered and water features coloured blue, though there does not appear to be a key.
- 3.2 The land in question is shown coloured blue as a water feature or pond. The highway is shown coloured sienna as per the current and historic highway records. No ownership is recorded for the highway, the pond or for say, the plot to the east of the highway.
- 3.3 Whatever the purpose of the map (which is considered likely to be tithe related) it is highly unlikely to have been to determine the extent of HMPEs as tithes related to land capable of agricultural production and not to public rights or maintenance liability.
- 3.4 **ii) Inland Revenue 1910 Survey** Comments on this document are contained within Appendix A.
- 3.5 **iii) Parish Council Minutes** The parish council suggested to Wiltshire County Council that the pond be filled in and road drainage diverted in 1949. The pond had not been filled in by 1955 and the parish council recognised that the Calne and Chippenham RDC had no powers to deal with the matter but could assist with surplus material from a nearby housing development. The pond appears to have been filled in by 1965 and the Divisional Surveyor from the RDC agreed to cover the site with soil 'as and when it became available' and to sow it with seed. This had still not happened in 1966.
- 3.6 Although Mr Reeves considers the actions of the RDC to be an admission that it was highway maintainable at public expense it appears to have been carried out as a gesture of

goodwill to the Council “thus assisting the Parish Council in dealing with the nuisance”. It must also be borne in mind that the RDC was not the highway authority at that time.

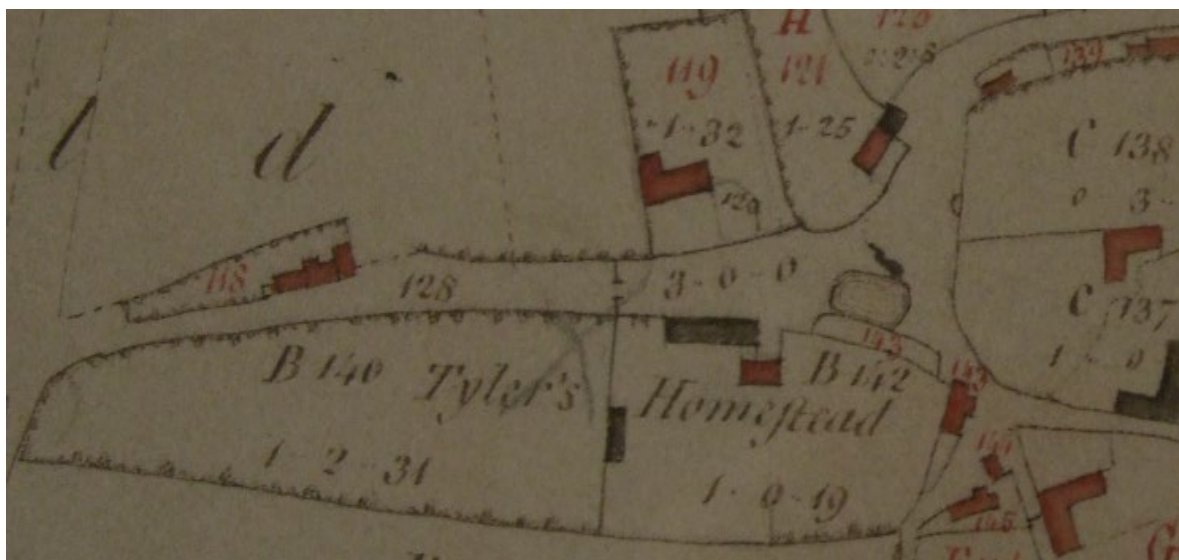
- 3.7 Contrary to Mr Reeves’ contention that the Council owned the land or took over its ownership in the 1950s there is no evidence to support this and records relating to enclosure of the parish in 1783 (see additional research below) demonstrate that it is unlikely that either the RDC or the County Council in their capacity of highway authority would ever have owned the land. Infact, to the contrary, research demonstrates that the land has been attached to a nearby property.

#### 4. Additional research

- 4.1 **Stanton St Quintin Inclosure Award 1783** This is held at the Wiltshire and Swindon History Centre as document EA24 and map 490/1072.
- 4.2 The award arises out of an Act of Parliament (An Act for Dividing and Inclosing the Open Common Fields and Commonable Places within the Parish of Stanton Saint Quintin in the County of Wilts). The Act gives commissioners the power to create new roads and private and public paths across the parish and in so doing to cause the division of the former commons into allotments or parcels of land better suited to modern agriculture. These boundaries form the basis for modern day registered titles. Arising from Acts of Parliament inclosure awards are viewed as legal events and carry high evidential weight (where due process has been followed) and are usually only re-butted by another legal event. Amongst other powers Commissioners had the power to extinguish rights over existing highways and to create new ones, both private and public.
- 4.3 The accompanying map shows the effect of the division of the parish. Roads are laid out and numbered and allotments are also laid out and numbered. The road in Stanton St Quintin bordering the land in question is shown numbered 128 and is described in the award as:

*“One public Road of the breadth of forty feet beginning at the west end of a lane in the village of Stantion St Quintin and extending from thence westward in the usual course to a small tenement in the posession of Isaac Fry and after passing to the south side of the said tenement and two other small tenements and the gardens therof of its usual breadth thence continuing in the like course to the East side of the turnpike road”*

- 4.4 The award map shows the area as below:

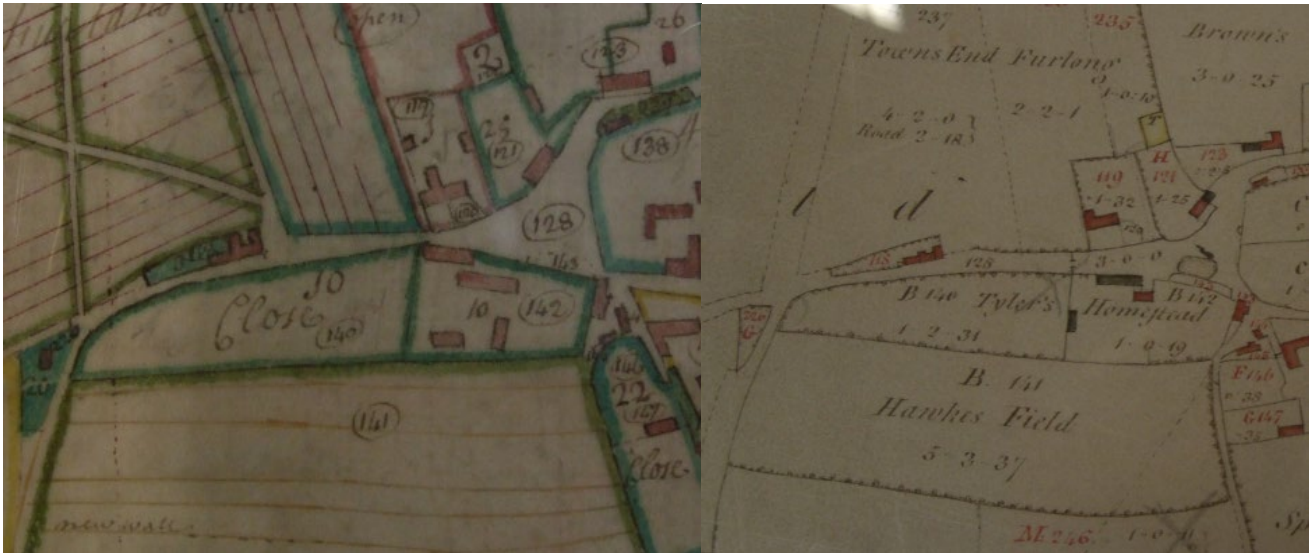


- 4.5 It is noted that an area possibly representing the pond is shown and part of the land in question is numbered 143 in the same way as the nearby red coloured property (a dwelling) is also numbered 143. On the balance of probability this land forms part of property 143, probably its garden.
- 4.6 Officers consider that on the balance of probability the shaded area (that may be a pond) forms part of property 143 and this is supported by modern day records which show this area of land combined now the pond has been filled in.
- 4.7 The relationship of this area of land is clearly with property 143 and not the highway (128) or the property to the south, number B142.
- 4.8 **Map of the Manor of Stanton St Quintin 1719** This is held at the Wiltshire and Swindon History Centre as document 490/1071.
- 4.9 The map is entitled "The Manor of Stanton St Quintin in the County of Wilts Survey for Sir Edward D'es Bouverie Barr by John Edgar 1719". It is a well drawn coloured map drawn at the scale of 24 perches to one inch. The map has two schemes of numbering and one scheme accords with the inclosure award. The red coloured property (dwelling) to the south east is not numbered 143 as per the inclosure map and may or may not relate to it. However, other small roadside dwellings are numbered (i.e. number 144 and 145 nearby) and it would seem that on the balance of probability the un-numbered one is number 143 and hence related to the area of land south of the highway. The map does not distinguish a pond or other clear feature within this land and shows it roughly defined by pecked lines.



- 4.10 The map of 1719 shows the landscape of Stanton St Quintin before inclosure but has a number of proposed changes marked upon it in pecked lines. In one instance a pecked line is annotated "new wall" and further pecked lines are consistent with changes later made at inclosure. The pecked lines surrounding parcel no. 143 would therefore appear to be a proposed addition to the adjoining property, in effect, taking a part of the former highway and allotting it to a nearby dwelling. It is useful to compare the two maps side by side. See 4.12.
- 4.11 Further examples can be seen whereby 'Close' number 10 is also labelled no. 140 in accord with the later inclosure map and 'Close' number 22 is subdivided into a number of properties numbered 146 and 147 and 149 in the inclosure map.

4.12 There can be no doubt that the map of 1719 shows both the landscape before inclosure and the effect of inclosure. It is certainly possible that in preparing for the process of inclosure part of the 'planning' process was drawn onto this earlier map which probably was the most accurate survey of the manor that was available at that time. Certainly no others have survived in the county archive. The effect of inclosure is clearly shown below with old roads extinguished and new field and property boundaries created.



## 5 Conclusions

- 5.1 The plot of land numbered 143 and the pond (i.e. the land excluded from the highway record) were clearly created at Inclosure and related to the nearby dwelling house (which may or may not still exist). The area of land was created out of what was possibly historic highway but the effect of the inclosure award (as enabled by the Act of Parliament) was to extinguish existing highways and to create new ones. We can see good examples of this in the top left hand corner of the extracts above. Here, old highways have ceased to exist and new ones have been formed to allow for the new division of the land. The road in the village is no different to this and the new highway, no 128, was created as the new road. The inclosure award did not specifically include the pond or the parcel of land numbered 143, which, on the balance of probability, also included the pond area.
- 5.2 Village ponds are not uncommon features in villages and have historically been used to produce fish, house ducks, soak cartwheels, wash clothes and provide water for animals. The purpose and use of Lower Stanton St Quintin's pond is not known. If it was formed in the highway it would have formed an obstruction to the highway and although it remains lawful to drain the highway onto adjoining land it is not lawful to drain adjoining land onto the highway.
- 5.3 Whatever the history of ownership of this land since 1783 it is irrelevant to the matter of whether highway rights were subsequently acquired. It is not possible to acquire highway rights through a pond and since the pond has been filled in (the mid 1960s) the Council has no evidence to suggest that a highway right to pass and re-pass has ever been acquired by any member of the public either on foot, horseback, cycle or with a mechanically propelled vehicle. Even in the event that they had been acquired in this way it is even less likely that the way would be maintainable at public expense.

- 5.4 Officers consider that the extent of highway maintainable at public expense is correctly recorded at this location. Even if the extent of highway had included the pond area the area directly south of the pond, parcel number 143, was clearly allotted to a property distinct from the road.

Sally Madgwick  
Team Leader Definitive Map and Highway Records

01 February 2019



01 May 2018

# APPENDIX A

Mr Malcolm Reeves

██████████  
Sutton Bengier  
Chippenham  
SN15 ████████

Rights of Way and Countryside  
Waste and Environment  
County Hall  
Bythesea Road  
Trowbridge  
Wiltshire  
BA14 8JN

Your ref:

Our ref: SM/SSQ

Dear Mr Reeves

## Land at Lower Stanton St Quinton

Thank you for your letter and e.mail dated 23 April 2018 regarding land at Lower Stanton St Quinton that you would like to see added to Wiltshire Council's record of highways maintainable at public expense ("the highway record"). I understand that you have been in correspondence with my colleague Jane Hughes on the matter and that you seek to demonstrate to the Council that the land, a former pond, forms part of the highway maintainable at public expense and should be recorded as such.

I have looked at the Council's records and can find no evidence to support that this land has ever been viewed as public highway by Wiltshire Council. I accept that the area of land is shown by the Ordnance Survey with a brace causing it to be measured with the adjacent highway and that the area is uncoloured on the working copy of the Finance Act 1909/1910 map, however, neither of these facts on their own form a sufficiency of evidence to suggest that on the balance of probability the public have acquired a right to pass and re-pass over the land or that the land forms part of the highway maintainable at public expense.

You state that the land has been "walked over by the public for over 50 years". Even if evidence of this was adduced by you (rather than just as a statement) it could not cause the land to be recorded as public highway maintainable at public expense, the highest right that could be recorded would be as a footpath and, if the walking over was more of a wandering over the land, it could not even be recorded as that. Use such as that may support registration of land as a town or village green (subject to a number of legal tests) but not as a highway.

As the Highway Record is an internal document (albeit required by law under s.36(6) Highways Act 1980) there is no formal process for application to amend it and no prescribed process for appeal. You may apply to register the land as a town or village green under s.15 of the Commons Act 2006 or to record a highway that is a byway open to all traffic, restricted byway, bridleway or footpath under s.53 of the Wildlife and Countryside Act 1981 (which has a prescribed appeal process contained within Schedule 14). A guidance booklet is enclosed.

If you wish to maintain your claim that the area is part of the publicly maintainable road and has been omitted from the highway record by mistake I can only suggest that you present all of your evidence along with a statement explaining the case to me at the above address. However, I have not yet seen anything substantive that would cause the Council to consider changing its records.

Yours sincerely

Sally Madgwick  
Acting Team Leader Rights of Way and Highway Records  
Direct Line: 01225 713392  
[Sally.madgwick@wiltshire.gov.uk](mailto:Sally.madgwick@wiltshire.gov.uk)

11 May 2018

Mr Malcolm Reeves  
[REDACTED]  
Sutton Bengier  
Chippenham  
SN15 [REDACTED]

Rights of Way and Countryside  
Waste and Environment  
County Hall  
Bythesea Road  
Trowbridge  
Wiltshire  
BA14 8JN

Your ref:  
Our ref: SM/SSQ

[REDACTED] Mr Reeves

### Land at Lower Stanton St Quinton

Thank you for your e-mails of the 4<sup>th</sup> and 8<sup>th</sup> May. I must make it clear to you that the Council maintains two types of records in respect of public rights of way and of public maintenance liability. Public rights of access are recorded in the definitive map and statement, details of how to apply to have this modified have already been forwarded to you. Public maintenance liability is recorded in the Council's highway record or List of Streets. To be recorded in this record the way must either be an ancient highway (pre 1835) or the subject of formal adoption at some point thereafter. It is the officer's view that nothing in your recent e-mails or previous correspondence adduces any evidence to support that this applies to the pond area at Stanton St Quintin.

However, you ask for some explanation of the interpretation of historic documents. The following may assist:

- 1) The 'hedge to hedge' presumption is rebuttable by other evidence (Have v Norfolk County Council [2000] EWCA Civ 290).
- 2) The evidence of the Ordnance Survey rebuts with regard to a number of factors:
  - i) Parcels and bracing : There are minimum thresholds. See page 57 JB Harley Ordnance Survey Maps a descriptive manual.  
*"...for example where a lake, pond, reservoir....is less than one tenth of an acre it will be braced..." "...the selection of parcels and the use of braces is governed by practical convenience in measuring: the parcels have no significance whatsoever in regard to property ownership."*
  - ii) Shading. See Rights of Way Law Review pages 107 – 118 "Roads on OS 1:2500 plans 1884 – 1912" by Yolande Hodson. Ordnance Survey instructions to surveyors required them to 'shade' (that is use a thickened line) to the south and east of the highway boundary to indicate road categories. Accordingly the Second Edition of the OS 1:2500 (and 1:10560) maps show the highway boundary as being a thickened line along the northern edge of the pond. The pond is not included in the highway. This is entirely consistent with the RDC and WCC records of the extent of maintainable highway. These maps are available for public viewing at the Wiltshire and Swindon History Centre.
- 3) There are a number of reasons why land was excluded from taxation in the 1909/1910 Finance Act. These include minimum sizes for land, association with a dwelling house and so forth. Although s.35 is probably the reason why most public highway land was excluded there is no supporting evince here that the pond area was highway land in the first place. Even the RDC confirmed that the existing road was wide enough when the parish council wanted to make it wider by filling in the pond and including that.

Owing to resources it is no longer possible to look any further into these records unless to address a statutory duty in line with Schedule 15 of the Wildlife and Countryside Act 1981 or in response to substantive evidence that has not previously been adduced.

Yours sincerely

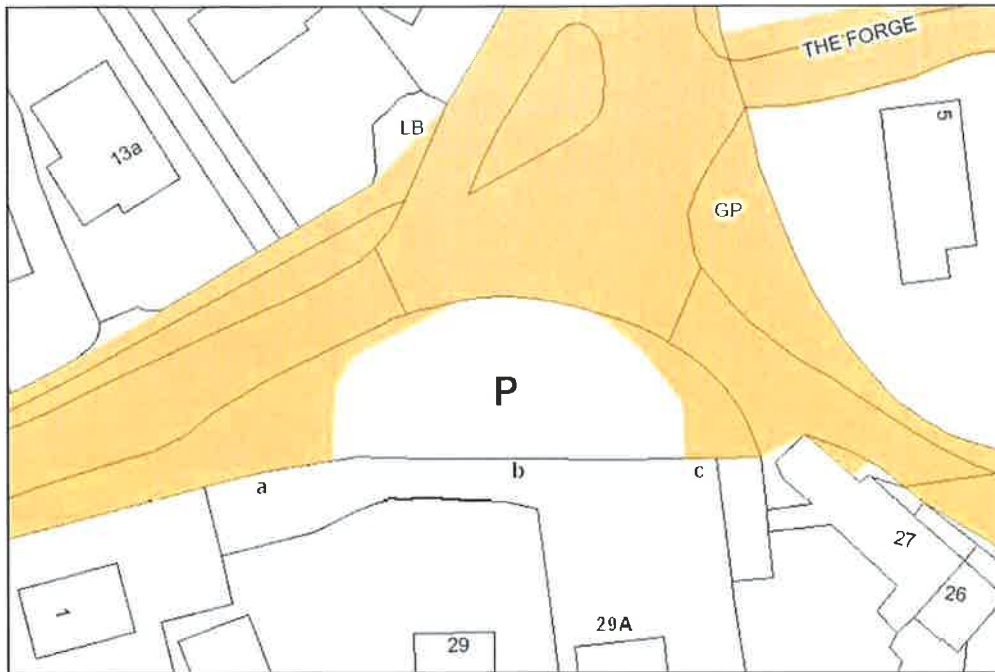
Sally Madgwick  
Acting Team Leader Rights of Way and Highway Records      Direct Line: 01225 713392





## Land in Lower Stanton St. Quintin – Historical Arguments

The land in question is a grassed area in front of [REDACTED] Lower Stanton St. Quintin. The Highways Records map of 9 March 2018 is shown below in figure 1 and on this map the land is the white area P.



**Figure 1 - Highways Map 9 March 2018**

Also for convenience, the relevant extracts of the documents referred to in the discussion below are included in this document. The original, full page copies are available on request.

### **1834 Survey**

The Wiltshire and Swindon Historical Centre has an 1834 survey of this parish with tenants' names, field names, cultivation and acreage. Even the roads are included in this survey. The survey comprises a map where each plot is numbered and a book listing tenants and acreages. A section of this map is reproduced below in figure 2 which shows the plot of 29/29A was numbered 125. The pond is not numbered so there are only 2 possibilities for the pond, either it is part of the road land or it is part of plot 125.

Shown in figure 3 is the top of page 1 of the survey book, with the date, and below an extract of the page with the entry for plot 125. Plot 125 is described as "Cottage Garden & Buildings". No mention of including a pond. The size of this land is given as 0, 2, 23 (acres, roods, perches). As there are 4 roods to the acre and 40 perches to a rood this works out as 0.64 acre  $((2+23/40)/4)$ .

In figure 4 is a screenshot of online Wiltshire Planner Explorer tool measuring the area of the land of [REDACTED]. In other words the area of plot 125 of the 1834 survey. As can be seen from figure 4 the result is also 0.64 acre. This is conclusive proof that the pond is not part of plot 125 and therefore must be part of the road parcel as the pond does not have its own number.

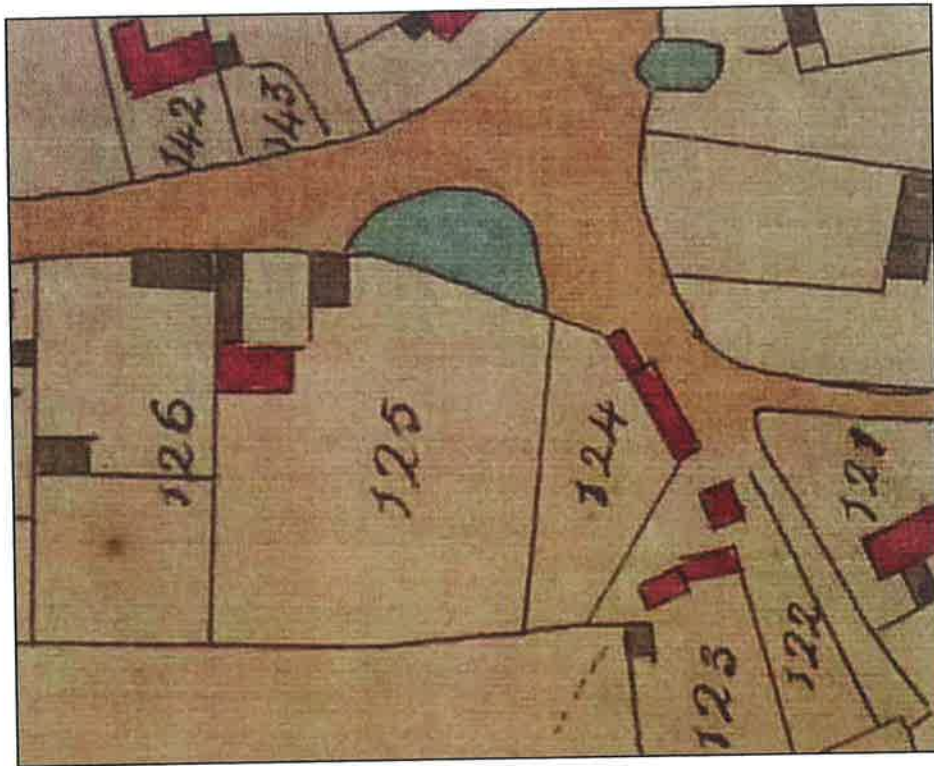
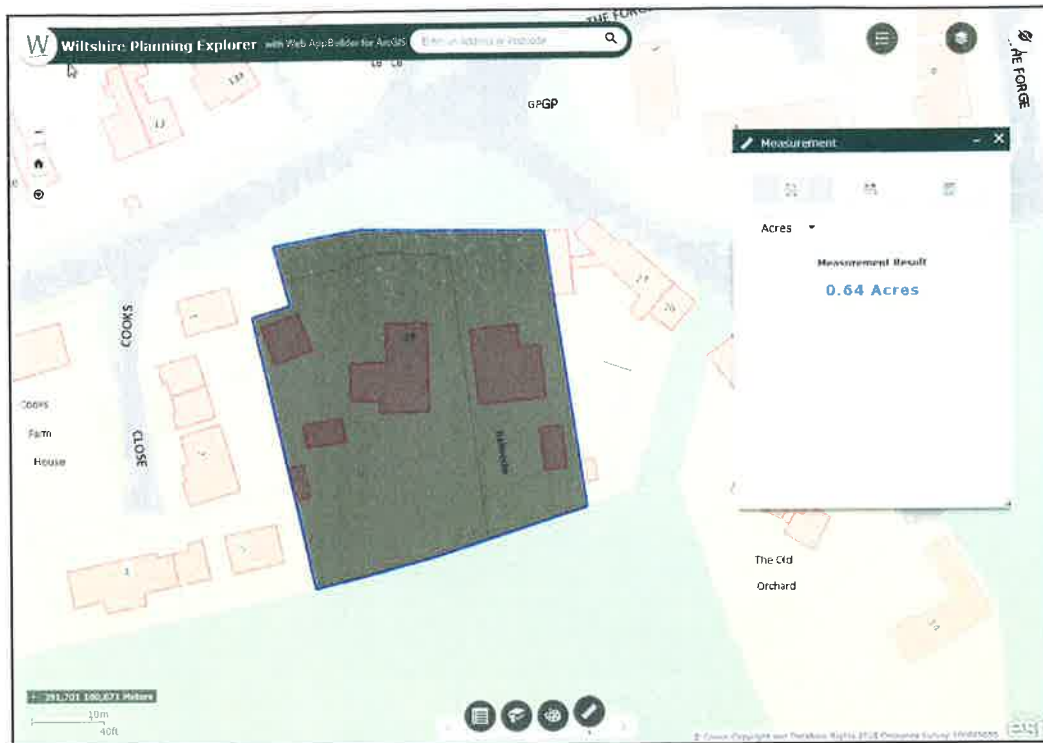


Figure 2 – Extract of 1834 Survey Map

*Survey of the Parish of Stanton St Quinton  
in the County of Wilts 1834*

No.	Tenants Names	Names of Fields	Culture	Measure		
				r	f	l
<i>The Earl of Radnor</i>						
1	In hand	Stanton Wood	Wood	258	1	57
2	James Munday	Wood Lane	Meadow	10	1	8
121	John Miles one Cottage	Two Cottages and Garden		0	0	31
122	Joseph Allrop (Lifehold)	Cottage and Garden		0	0	16
123	Sarah M <sup>rs</sup> Miles (Lifehold)	Two Cottages & Garden		0	0	20
124	James Woodman (Lifehold)	Three Cottages & Garden		0	0	28
125	Robert Jones	Cottage Garden & Buildings		0	2	25
126	John Miles	Garden & Buildings		0	1	19
127	Robert Jones Copyhold	Cottage & Garden		0	0	24
128	John Miles	Cook's Close	Arable	0	0	0

Figure 3 – Extracts from page 1 and Entry 125 page of 1834 Survey Book



**Figure 4 – Screenshot of Wiltshire Planning Explorer Measuring the Area of 29/29A**

### ***Inland Revenue 1910 Survey***

This survey was conducted by the Inland Revenue for the 1910 Land Duty Valuations. These registers or Record of Valuations were made by the Commissioners of Inland Revenue under the Finance Act, 1910, for the levy of duties on land values. Accompanying the record book is a map, 1900 OS 25in, which has been coloured for the parcels of taxable land. An extract of this map is shown in figure 5 below. Parcel 241 (i.e. 29/29A today, 125 on the 1834 survey) is coloured but the pond has been left white. White areas indicate non-taxable land, usually local authority land which is why the road is also white. A smaller pond in what is now called The Forge is coloured showing that ponds are taxable land so this survey confirms that the pond was not part of the adjacent field, i.e. parcel 125, 29/29A today.

Highway Records have suggested that the thickened line around the pond shows that the pond was not part of the road. This suggestion is flawed in that Ordinance Survey record only what is on the ground and not ownership boundaries. If this thickened line is indicating a metalled road in good repair then it would be on the edge of what the surveyor considered the road, even if the pond was legally highway. The surveyor would have no means of telling from the features on the ground that the pond was Highways.

Also many of the lines have a similar thickening, the houses being an obvious example where some sides are thicker than others. Also the thickening is on the small pond in what will be The Forge, just NE of the main pond. This thickening looks more like an artefact of the printing or map production rather than something meant to impart information. Plus I read that the thickened line for road boundary should be accompanied by shading too. Thickening was a feature that was alternately added and not added to maps so it cannot be said for certain that this map should or would have used it.



The brace symbol shows the OS survey lumped the pond with the road for their figure of the area which contradicts the thickened line too so you can prove either point by picking a symbol. The facts of the matter are that neither thickening nor braces are conclusive since the OS only record ground features, not ownership.



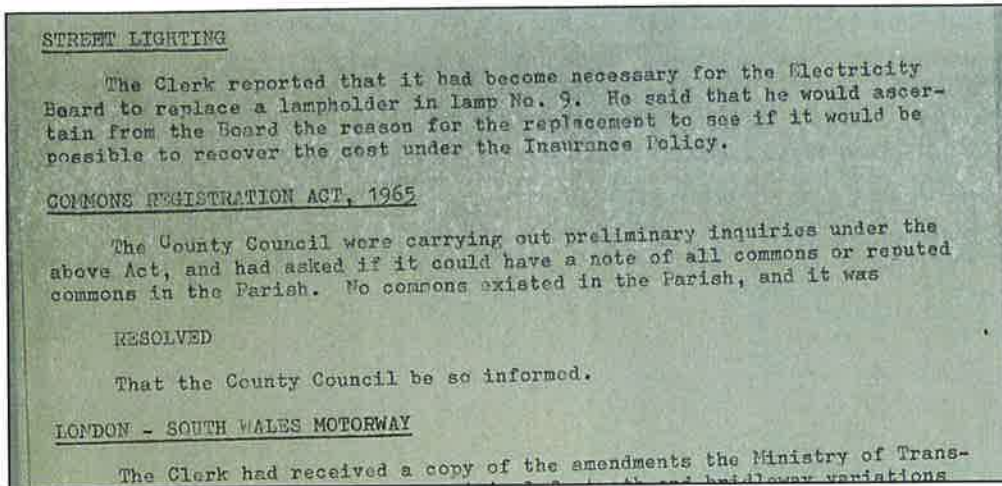
Figure 5 – Inland Revenue 1910 Land Survey Map

### **Parish Council**

The Parish Council has claimed this land to be village green until recently, including the parts that are registered as highway land as well as the area of the former pond, P. This claim seems to have started in 1982 and persisted until 2016. In 2016 the parish council were asked to prove their claim of ownership land since the land was not listed as an asset in the parish council accounts nor shown as generating wayleave income. The parish council replied:

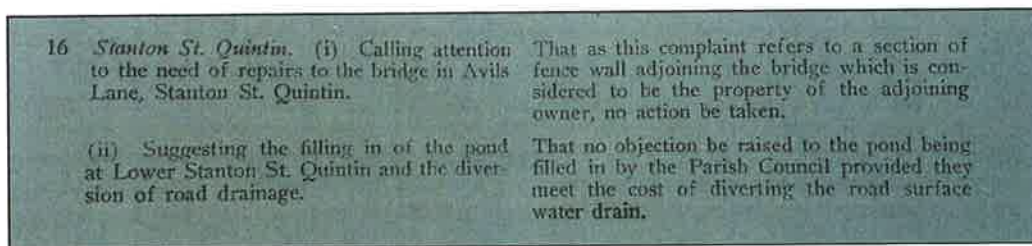
*After extensive research into the ownership of the village green in Lower SSQ, Malcolm, it would appear that, although the Parish Council over decades has taken responsibility for its upkeep & paid for trees to be planted there & the grass to be cut, the land itself is regarded as manorial waste or common ground & as such has no body or person claiming ownership.*

From this statement, all that can reliably be taken is that the land is not owned by the parish council and never has been. The parish council clearly has not done the research I have so are not qualified to comment on whether the land is manorial waste or common. They do not even seem to know that when the parish council was asked about common land in the parish back in 1966 the parish council then replied there was no common land I have included the relevant extract of the minutes for the meeting 31 October 1966 in figure 6 below. This land is not on the current register of common land, naturally given the reply in 1966. And this fact was reported to the parish council in 1982 by the county solicitor. The current register of common land is available online now so the parish council could at least have checked that before sending the inaccurate email I have quoted above.



**Figure 6 – Extract of Parish Council Minutes for 31 October 1966**

In fact the Parish Council in the past seems to have considered the pond to be highway land. They wrote to the Roads and Bridges Committee suggesting that the pond be filled in as shown in the extract from the minutes of Wiltshire County Council Roads and Bridges committee meeting, 4 November 1949, reproduced below in figure 7.



**Figure 7 – Extract of Roads and Bridges Committee Minutes for 4 November 1949**

The extract in figure 7 also makes it apparent that the pond was at the end of a drain (drainage ditch) for the road. In other words it was more a soakaway in its function. This is also supported by other documents and maps.

The wording of the Parish Council's request in figure 7 is consistent with the pond being part of the road and thus "owned" by the Roads and Bridges committee. Had the land been "owned" by the Parish Council they would have said something more like the Parish Council proposed filling in the pond, did the Roads and Bridges committee have any objection? And in any case previous documents have shown that the Parish Council stated the (former) pond was not common land (figure 6) and other documents (figure 2, figure 3, figure 5) have shown the land has never had any private owner, as the parish council admitted in 2016, reversing what they had claimed for the past 34 years since 1982.

The reason for the Parish Council wanting to fill in the pond in the 50s is that the Public Health Act 1936 section 260 had made Parish Councils responsible for ponds and ditches prejudicial to health. This meant that the Parish Council was responsible for all sanitation issues. The pond was a problem then since at this time cows regularly used the road, depositing their dung, which then washed into the pond via the ditch.



The minutes for 22 March 1950 record that in 1950 the precept was £34 as shown in the extract in figure 8 below. Later minutes on 6 November 1950 show the estimate for cleansing the pond was £70 as shown in figure 9 below (70hrs @ £1/hr). Given that cow dung would be washed in daily the Parish Council could not afford the repeated cleansing costs needed to keep the pond sanitary.

CHEQUES.

Resolved that cheques be drawn and signed in respect of:

(a) Hire of Church Hall	...	£1: 0: 0d.	
(b) Clerk's salary	...	£4: 14: 10d.	

PRECEPT FOR YEAR COMMENCING 1st APRIL 1950.

Resolved that a precept be served on the Calne and Chippenham R.D.C. for £34-0-0d.

Figure 8 – Extract of Parish Council Minutes for 22 March 1950

STANTON ST. QUINTIN POND.

It was reported that following a meeting between the Chairman of the Council and the Divisional Highway Surveyor and the Senior Sanitary Inspector of the Calne and Chippenham R.D.C. the County Surveyor had written stating the Roads and Bridges committee were of the opinion that the matter of cleaning the pond was largely a sanitary one and not the responsibility of the highway authority. The committee were therefore unable to recommend the County Council to contribute towards the cost of the works suggested.

The Clerk reported that tenders for cleaning the pond had been received as follows:-

G. W. Harrison (Contractors) Ltd.  
New High Street,  
Headington,  
OXFORD.

£1 per machine hour (estimated 70 hours required to complete, assuming depth to be 3 feet at deepest point)

Hygienic Conservancy Ltd.  
16 Ingram Street,  
Malmesbury.

15/- per 750 gallons of liquid sludge. Solids to be manhandled on a cubic yard basis, which would depend on the depth required.

Resolved that no tender be accepted at present and that the matter be considered at a later meeting.

LORD MAYORS THANKSGIVING FUND.

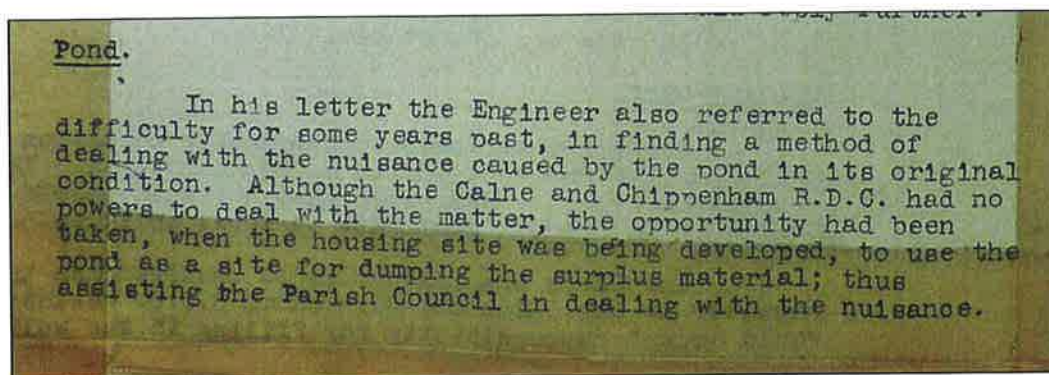
Resolved that no action be taken to organise events to provide money for this fund.

Figure 9 – Extract of Parish Council Minutes for 6 November 1950



However sensible it would have been to fill in the pond this was an expensive undertaking (and shown in other minute pages) and the Parish Council could not afford that either. The Roads and Bridges committee refused to help stating the road was adequate for the traffic, hence they could not justify widening it (also suggested by the parish council to the committee), and since it was a sanitation issue it wasn't legally their responsibility which meant they could not legally pay for the pond to be filled in, even if they had wanted to.

This status quo continued for a few years with the parish council repeatedly requesting that the Roads and Bridges committee consider filling the pond, widening the road, or paying for the cleansing, and the committee repeatedly replying that they consider it a sanitation issue and thus not their responsibility. The building of council houses in Lower Stanton St. Quintin led to a way out of the impasse as the waste material from the build was used to fill in the pond as reported in the parish council AGM minutes for 1 June 1955 the relevant extract from which is in figure 10 below.



Pond.

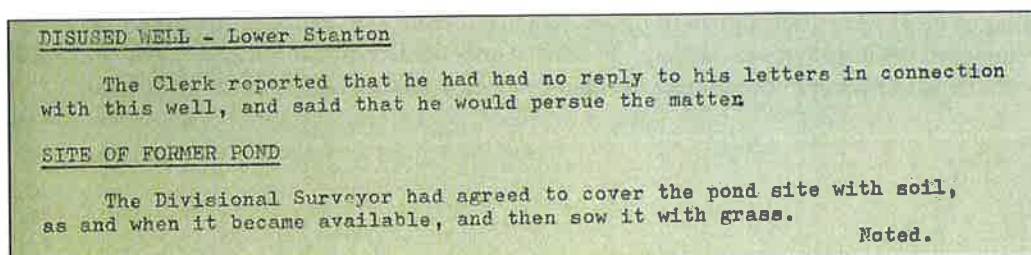
In his letter the Engineer also referred to the difficulty for some years past, in finding a method of dealing with the nuisance caused by the pond in its original condition. Although the Calne and Chippenham R.D.C. had no powers to deal with the matter, the opportunity had been taken, when the housing site was being developed, to use the pond as a site for dumping the surplus material; thus assisting the Parish Council in dealing with the nuisance.

**Figure 10 – Extract of Parish Council AGM Minutes for 1 June 1955**

This scheme would have saved the Rural District Council money as they would not have needed to pay for the waste material to be disposed at a tip. Hence it was a win all round. The RDC could legally do this as it was cheaper and the parish council got the pond filled in removing the sanitation issue and costs.

Using the pond as a tip establishes that the pond was council land, or at the very least that the RDC claimed it as council land in 1955. If it was not council land what was the RDC doing fly-tipping on someone else land? Either the land is highway or the RDC committed an offense.

Following the pond being filled and then levelled the minutes for meeting after the AGM on 17 March 1965 report that the Divisional Surveyor had agreed to cover the land with soil and seed it. This is shown in the extract of the minutes of 17 March 1965 shown in figure 11 below.



DISUSED WELL - Lower Stanton

The Clerk reported that he had had no reply to his letters in connection with this well, and said that he would pursue the matter

SITE OF FORMER POND

The Divisional Surveyor had agreed to cover the pond site with soil, as and when it became available, and then sow it with grass. Noted.

**Figure 11 – Extract of Parish Council Minutes for 17 March 1965**

In the parish council meeting on 28 March 1966 the clerk was instructed to chase the seeding as shown in the extract in figure 12 below. Also included in the extract in figure 12 is a report of holes in the road. Note the report is directed to the Divisional Surveyor so it is clear this is what we would today call the Highways department.

FORMER POND SITE

The seeding of this site promised by the Divisional Surveyor had never been carried out and the Clerk was instructed to inquire as to the present position in this matter.

5 LOWER STANTON

It was reported that the occupier of the above property had had trouble with his drainage since the laying of the water main through the village. It appeared that the drain had been fractured or had become silted up, the drainage water now seeped up in the garden. The Clerk was instructed to inform the North Wilts Water Board of the foregoing and request that the matter be investigated.

HOLES IN ROADWAY

It was reported that the patching of holes in the roadway opposite Newbourne Gardens was quickly displaced and the Clerk was instructed to inform the Divisional Surveyor and ask if a repair of a more permanent nature could be carried out at this spot.

Figure 12 – Extract of Parish Council Minutes for 28 March 1966

MATTERS ARISING FROM PARISH MEETING

(i) Former pond site

The Divisional Surveyor had informed the Clerk that re-seeding of this site would be carried out when conditions were more suitable. In addition he had pointed out that it was being used for unauthorised parking by visitors to the chapel.

(ii) Holes in Roadway

The Divisional Surveyor had informed the Clerk that these had now been repaired.

Figure 13 – Extract of Parish Council Minutes for 31 May 1966

The reply from the Divisional Surveyor (aka Highways) is recorded in the parish council minutes of 31 May 1966 shown in figure 13 above. Note that his reply also states the land is being used for unauthorised parking. In other words the Divisional Surveyor (aka Highways) is claiming to exercise control over the land by saying parking has not been authorised.

## ***Conclusions***

The 1834 survey and the Inland revenue survey are both primary documents and both show that the pond had no private owner. The 1834 survey also included roads in its breakdown of the land parcels so if the pond was not private then it clearly has to have been part of the road. Land that later became legally highway under various acts. The parish council's claim to own this land only started in 1982 as part of their objection to a planning application. They dropped their claim in 2016 when asked for proof. And in 1966 the then parish council stated the land was not common land.

The evidence from the 1950s is also compelling in its own right. The Divisional Surveyor, what would be Highways department today, agreed to spread topsoil and seed the land. They would not and indeed legally could not, have done this had the land not been highway. Likewise there is the evidence of control in the Divisional Surveyor's letter. Plus they could not have legally used the land as a tip for the council house build had not the pond been owned by the council. At the very least the council took ownership of the land when they used it as a tip in the 50s.

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