

AGENDA SUPPLEMENT (1)

Meeting: Northern Area Planning Committee

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

Date: Wednesday 25 May 2022

Time: 2.00 pm

The Agenda for the above meeting was published on 17 May 2022. Additional documents are now available and are attached to this Agenda Supplement.

Please direct any enquiries on this Agenda to Ben Fielding – Benjamin.fielding@wiltshire.gov.uk, of Democratic Services, County Hall, Bythesea Road, Trowbridge, direct line or email benjamin.fielding@wiltshire.gov.uk

Press enquiries to Communications on direct lines (01225)713114/713115.

This Agenda and all the documents referred to within it are available on the Council's website at www.wiltshire.gov.uk

6 **Planning Applications** *(Pages 3 - 22)*

DATE OF PUBLICATION: 23 MAY 2022

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**COMMONS ACT 2006 – SECTIONS
15(1) & (2) – APPLICATIONS TO
REGISTER LAND AS A TOWN OR
VILLAGE GREEN – SEAGRY ROAD,
LOWER STANTON ST QUINTIN**

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**AGENDA ITEM NO.6A
NORTHERN AREA PLANNING COMMITTEE:
25 MAY 2022**

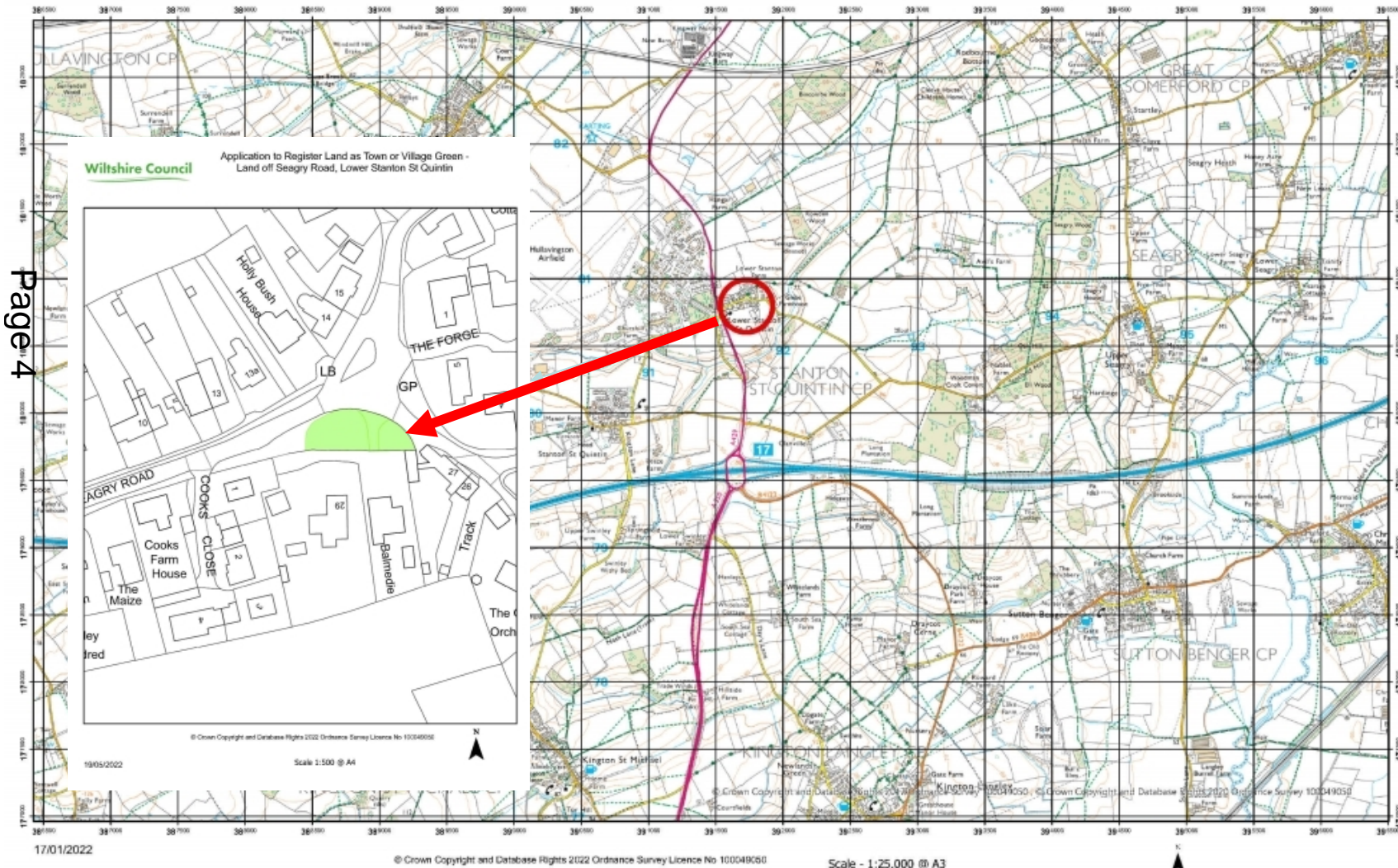
**JANICE GREEN – SENIOR DEFINITIVE MAP
OFFICER**

Agenda Item 6

Location Plan

Wiltshire Council

Commons Act 2006 - Sections 15(1) & (2) Application to Register Land as Town or Village Green - Land off Seagry Road, Lower Stanton St Quintin
Appendix 1 - Location Plan



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17/01/2022

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Scale - 1:25,000 @ A3



Planning Trigger and Terminating Events

Growth and Infrastructure Act 2013 Section 16 – insertion of Section 15C into Commons Act 2006 - the removal of the right to apply to register land as a town or village green (TVG) where specified planning “trigger” events have occurred, e.g:

- An application for Planning Permission in relation to the land is first publicised
- A Draft Development Plan which identifies the land for potential development is published for consultation
- A Development Plan which identifies the land for potential development is adopted

Right to apply to register land as TVG is revived where corresponding planning “terminating” events have occurred, e.g:

- Planning Permission is refused and all means of challenge by legal proceedings in the UK are exhausted and the decision upheld
- A Draft Development Plan is withdrawn, or adopted
- A Development Plan is revoked, or a policy contained in the document which relates to the development of the land in question is superseded

List is not exhaustive and a full list of planning trigger and terminating events is included at Schedule 1A of the Commons Act 2006 (as amended)

Application Plans – Land off Seagry Road, Lower Stanton St Quintin (Application no.2018/01)

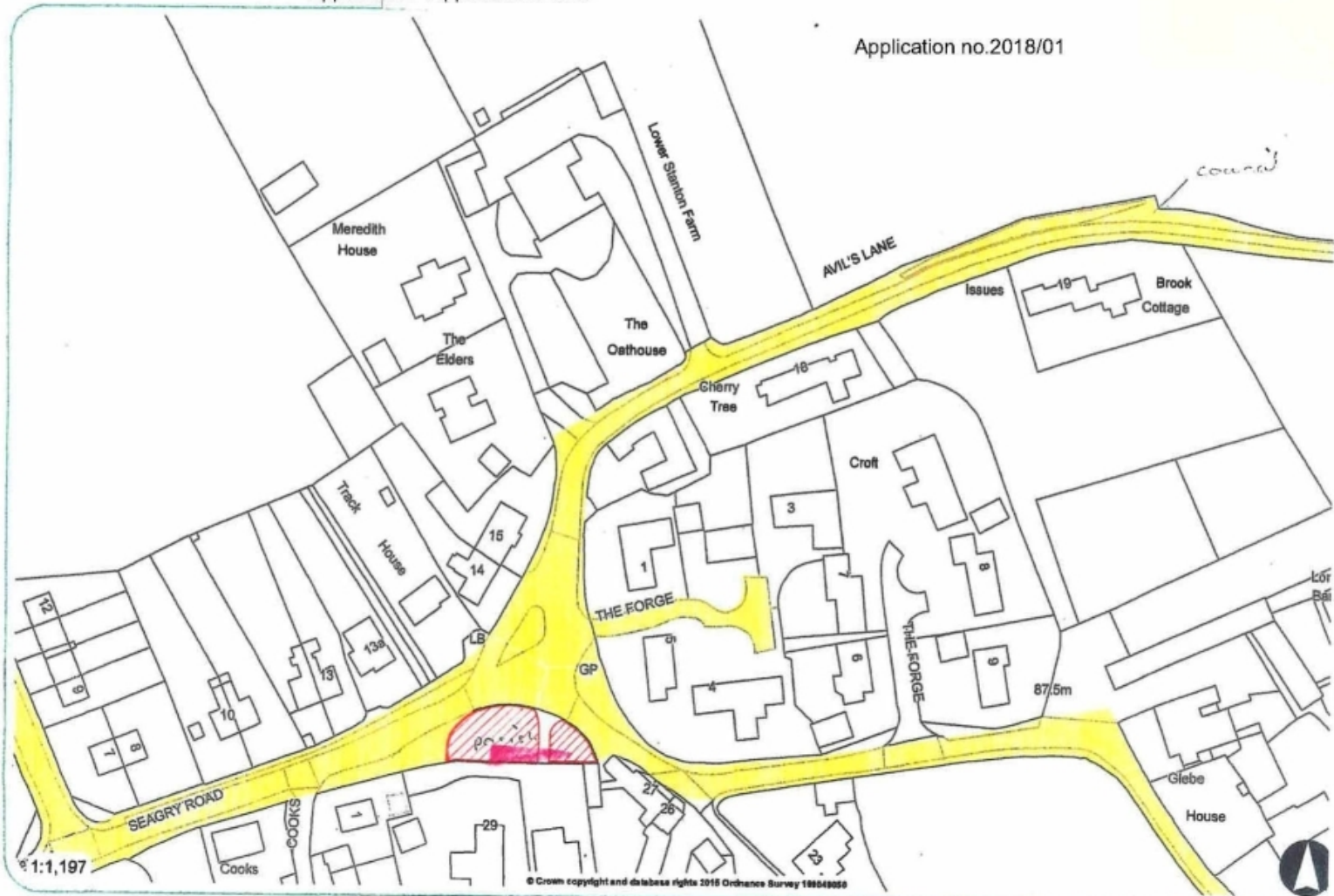
Wiltshire

Where everybody matters.

Commons Act 2006 - Sections 15(1) & (2) - Application to Register Land as Town or Village Green - Land off Seagry Road, Lower Stanton St Quintin

Appendix 2 - Application Plans

Application no.2018/01



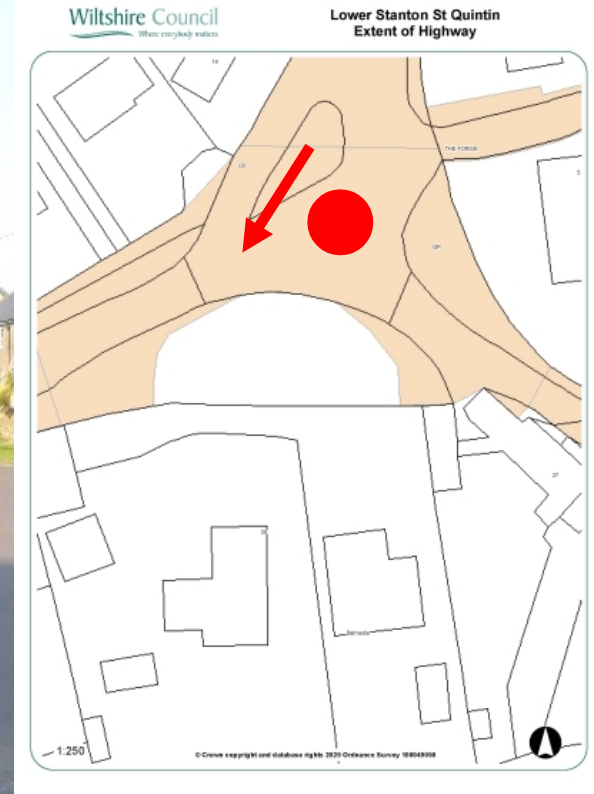
Application Plans – Land off Seagry Road, Lower Stanton St Quintin (Application no.2019/01)



Application land looking south-west from Seagry Road

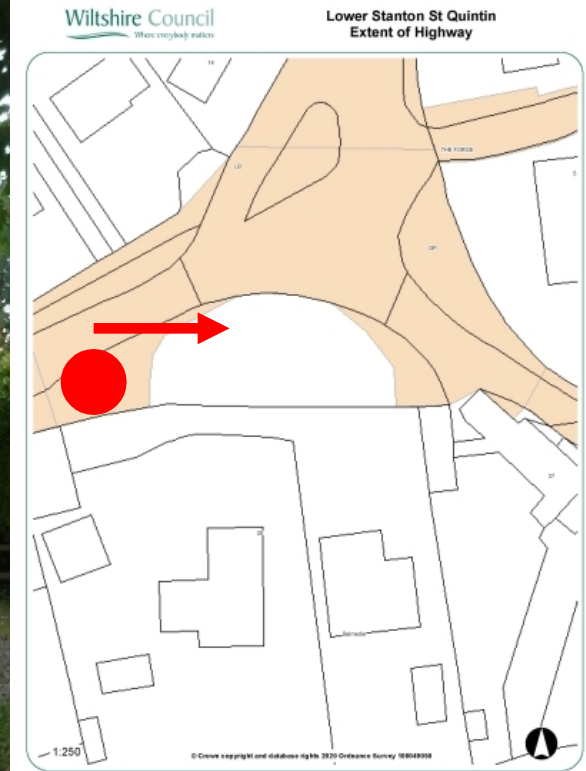


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Application land looking east

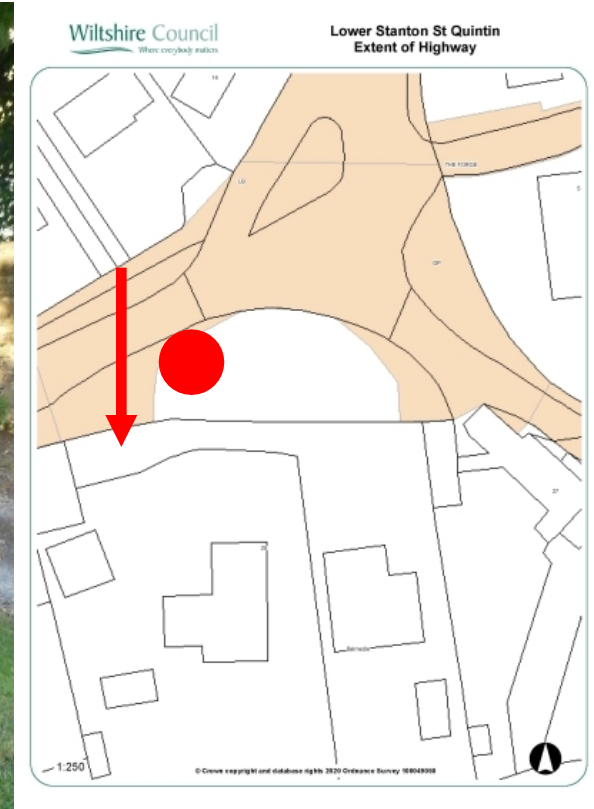
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The “Wee Free Library” located at the ~~eastern~~ western end of the application land



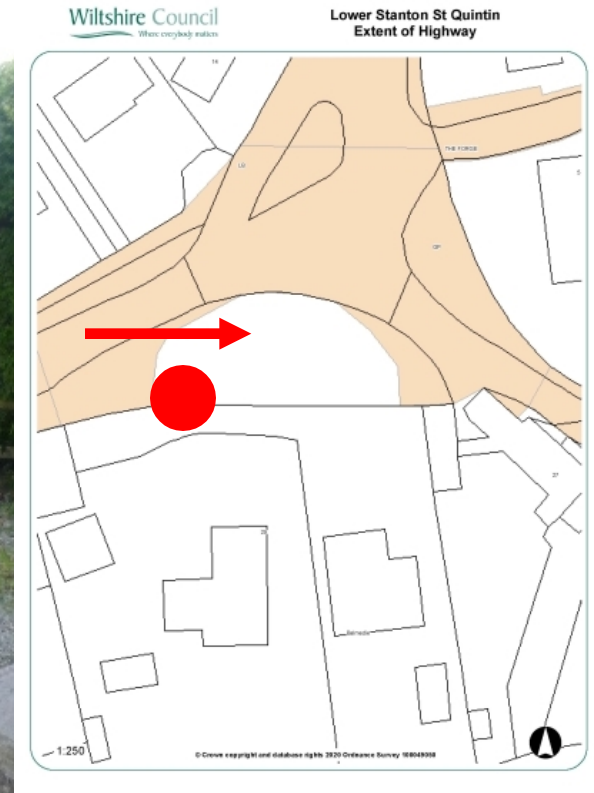
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The application land looking east



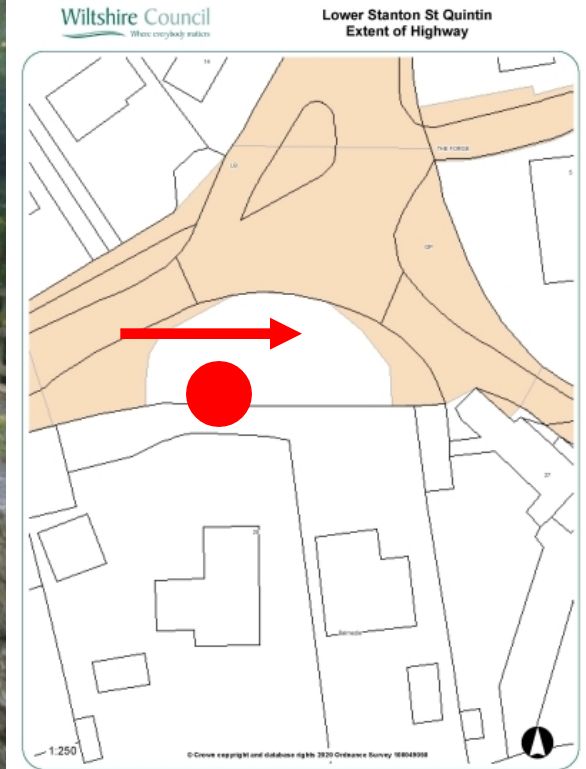
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The application land looking east



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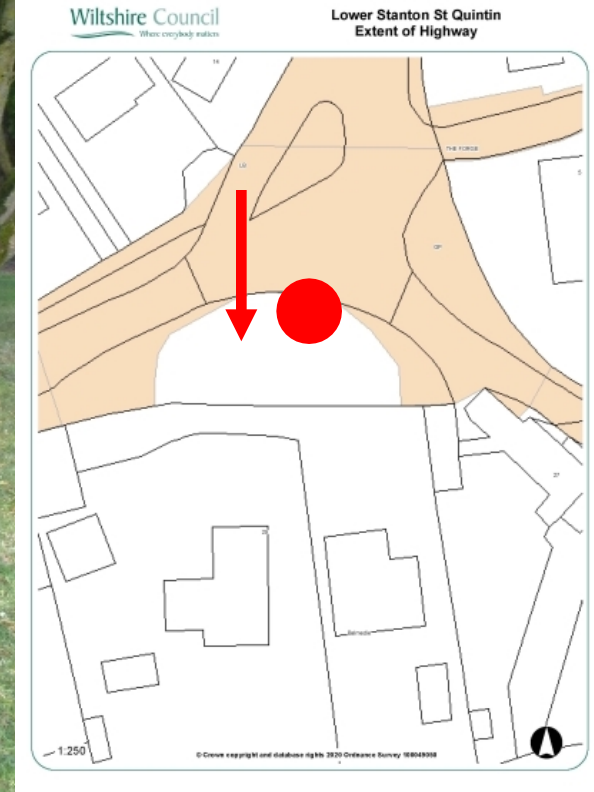


The application land looking south

There are two memorial benches; a memorial tree; table with benches; lending library and parish notice board located on the land



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The Legislation

The applications are made under Sub-sections 15(1) and (2) of the Commons Act 2006:

Page 14 Sub-section 15(1) of the Commons Act 2006 states:

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.

Sub-section 15(2) of the Commons Act 2006 states:

(2) This subsection applies where –

(a) 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

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

The Applications

- **The applications are made and supported by Stanton St Quintin Parish Council.**
- **The applications are date stamped as received by the Commons Registration Authority (CRA):**
 - Application no.2018/01 - 30 April 2018**
 - Application no.2019/01 - 26 April 2019**
- **The application land located off Seagry Road, Lower Stanton St Quintin, has no recorded landowner.**
- **21 witnesses have submitted statements in support of the applications.**
- **There are 8 objections to the applications.**

The Burden of Proof

- In order for an application to be successful each element of the legal test (Section 15(2) of the Commons Act 2006), must be satisfied, where it is no trivial matter for a landowner to have land registered as a green.

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The burden of proof lies with the applicant.

- The CRA has no investigative powers.
- The standard of proof is the balance of probabilities.

The Evidence

Evidence is key and no other matters may be taken into account in the determination of the applications.

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 at least 20 years, with use continuing at the time of applications, is in dispute.

The Objectors also raise a number of legal points regarding the application, including:

- **Planning Trigger Events**
- **The presence of services in the application land**

Non-Statutory Public Inquiry

- It is the duty of the CRA to determine the application in a fair and reasonable manner.
- It is open to the CRA to hold a non-statutory public inquiry where there is a substantial dispute of fact, which is likely to be resolved by hearing from the witnesses, or the matter is of great local interest:

R (on the Application of Whitmey) v Church Commissioners
[2004] EWCA Civ 951

- An Inspector appointed by the CRA to preside over the inquiry will hear evidence from all parties and produce a recommendation to the CRA, to assist in its determination of the applications. There is no requirement for the CRA to follow the Inspectors recommendation, however, any alternative decision must be supported by clear evidential reasons.
- Oral evidence provided at a public inquiry may be given weight where it is subject to cross examination.

Officers Recommendation


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.

Decision

- **The Committee is acting in its Regulatory function which requires the Committee to act in a quasi-judicial capacity.**
- **When a Committee acts in its quasi-judicial capacity, it must follow a proper procedure which accords with the requirements of natural justice and the right to a fair hearing.**
- **If the Committee uses its power to determine the application against the Officers recommendation to hold a non-statutory public inquiry, the Committee must give legally valid reasons for this determination, which must be supported by the evidence.**

TVG Application Land Also Recorded as Highway Maintainable at the Public Expense

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Extent of highway maintainable at public expense = 

TVG application land = Edged red

