

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

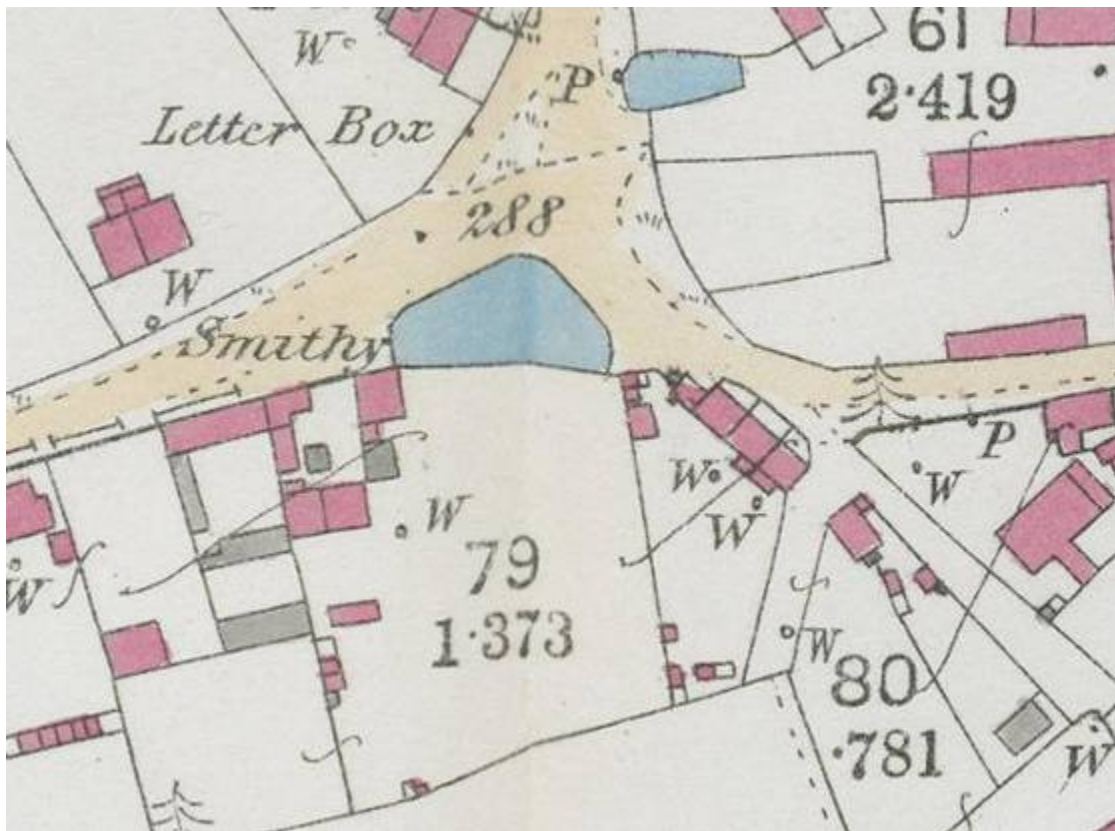


Figure 2 – Map circa 1900



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 90th 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

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-----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?

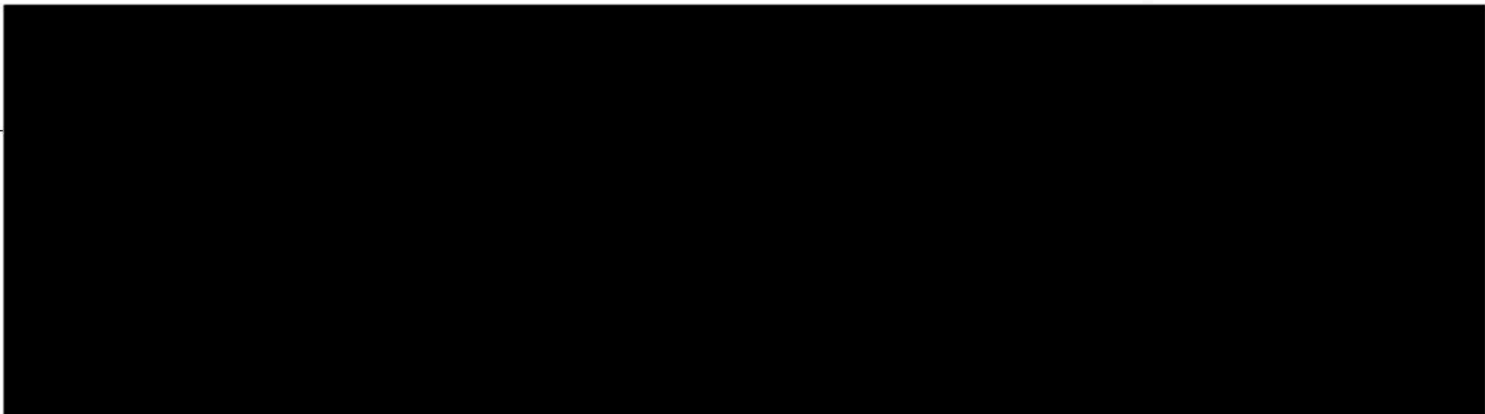
>

>Thanks

>

>Malcolm Reeves

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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,

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