

**APPENDIX 6 – Further comments from Blake Morgan LLP, 2nd March 2017
(including Further Opinion from Gregory Jones QC, 27th February 2017) on
behalf of Cooper Estates Ltd**

Subject: Application to Register Land as Town or Village Green - Royal Wootton Bassett [BMG-Legal.FID38930313]
Attachments: FURTHER OPINION.DOC
Importance: High

Dear Ms Green

Thank you for your letter of 10 February and enclosed comments.

I attach a further written Opinion from Gregory Jones QC which makes it clear that nothing in Mr Gosnell's letter seriously challenges anything in Mr Jones' original Opinion.

As a matter of fact, the trigger events have occurred before the making of the application and that matter is not in any dispute. Section 15C (1) of the Commons Act 2006 excludes the right to apply when a trigger event has occurred within the planning system in relation to that land. I would also refer you to the Guidance to Commons Registration Authorities In England on Sections 15A to 15C of the Commons Act 2006 published by the Department for Environment Food & Rural Affairs in December 2016. Paragraph 60 confirms that 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. This rule applies whether or not the trigger event occurred prior to the commencement of Section 15C (para 67).

As a result, the Council must now reject the application and I look forward to your confirmation shortly.

Yours sincerely

Guthrie McGruer
Partner
For and on behalf of Blake Morgan LLP



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FURTHER OPINION

Re: Validity of Village Green application made against land at Vowley View

1. I have read the consultation responses from Mr Richard Gosnell, dated 9 December 2016, Royal Wotton Bassett Town Council 14 November, 2016; and Cllr Chris Hurst, 5 October, 2016.
2. It is only Richard Gosnell's letter which purports to deal with elements contained to my Opinion. The key issue is whether a trigger event occurred before the submission of the application to register a village green. Nothing in Mr Gosnell's letter seriously challenges anything in my Opinion. I do not know whether the Council purported to check whether any trigger events had occurred. It does not matter whether or not it did. The key question is whether a trigger event has in fact occurred prior to the application having been made. For the reasons set out in my opinion the trigger events have occurred before the making of the application.
3. Mr Gosnell states that it is "arguable that the Core Strategy referred to [in my Opinion] does not apply to existing developments, rather being aimed at new green field sites adjacent to the types of settlement referred to in 10-11 [of my Opinion]. The site in question is an amenity forming part and parcel of a long-existing residential estate, therefore I suggest it is not a target for development under the core strategy provisions."
4. I do not accept that the site is part of an existing residential estate. However, the question is irrelevant. The key question as I identified is whether the local plan "*identifies the land for potential development.*" [Underlining added]. Consistent with paragraphs 154 and 157 bullet point 7 of the NPPF, CP2 states *inter alia*

"Within the limits of development, as defined on the policies map, there is a presumption in favour of sustainable development at the

Principal Settlements, Market Towns, Local Service Centres and Large Villages.” [Underlining added]

5. The site is within the limits of development in the policy as defined and indeed goes even further than simply identifying a “potential” site for development but carries within it a presumption in favour of the development of the site for sustainable development.

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27 February, 2017