

APPLICATION TO BRISTOL CITY COUNCIL TO REGISTER LAND AT STOKE
LODGE AS A TOWN OR VILLAGE GREEN

FURTHER DIRECTIONS

I am issuing these further Directions after the very helpful pre-inquiry meeting which I held in the Council offices at on 5 February 2016.

At the meeting I raised the possibility of whether the parties might be able to agree some sort of settlement to their mutual benefit and thus avoid the need for a public inquiry. Cotham School, who are likely to be the first mover in this (if there are any such proposals), said they would be considering the position in this regard. Obviously if there were to be a settlement, it would best be achieved sooner rather than later. It will be helpful to know at once if the dates fixed for the inquiry fall to be vacated.

After discussion, I gave the following directions:

By 4pm on 19 February 2016 the Applicant shall identify for the benefit of the objectors (i) the boundary of the land which he seeks to have registered as a town or village green and (ii) the locality or neighbourhood on which he relies¹.

By 4pm on 9 March 2016 each Objector will state (i) whether they are relying on the sign erected in the grounds of the adult education centre as demonstrating (either by itself or with reference to other evidence) that use of the land after its erection was not as of right; and (ii) whether they are taking any point on neighbourhood or locality.

By 4pm on 3 May 2016 each party will deposit with the Registration Authority, 7 paper copies of the evidence on which it seeks to rely at the public inquiry together with its Statement of Case.

No material in rebuttal of the case of any party shall be served after 4pm on 6 June 2016.

For the purpose of hearing evidence, the inquiry will sit on 20 - 24 and (if necessary) on 27 – 28 June 2016, with closing submissions on 29 June 2016. It will be helpful for advocates to give me on 29 June 2016 a copy in writing of the submissions to which they will speak. The inquiry will sit from 10 am to 5pm with the usual breaks. If it becomes apparent at the hearing that progress is slow, I will consider sitting from 9 30 to 5 30. The venue of the inquiry is to be arranged and will be communicated separately to the parties as soon as possible. The procedure will follow the normal pattern, with the Applicant calling his evidence first. Thus I will expect short opening statements by the parties, followed by the Applicant's evidence in chief, cross-examination and re-examination. Then the process will be reversed – the Objectors can agree among themselves the order in which each objector gives evidence (unless they come together to present a joint case). Unless they are very lengthy, I find it helpful for witness statements to be read. Experience shows that it may be necessary to interpose witnesses i.e. call them to give evidence not in accordance with the

¹ This has now happened.

prescribed order. It is appropriate for an inquiry to be flexible about this, but the more that the usual order can be stuck to, the better. The Objectors can agree among themselves the order of their closing speeches; the Applicant will have the last word.

The Applicant has requested² that there should be an evening session on the first and second days of the inquiry so that the inquiry can receive evidence from witnesses who otherwise would not be able to attend because of work commitments. I am sympathetic to the request for an evening session or sessions subject to the availability of the venue, although holding one on the first day may not be ideal. I propose leaving the matter in this way. It will be helpful if on 3 May 2016, the Applicant identifies which of its witnesses will not be able to give evidence at an inquiry session between 10 am and 5 pm. This will give me some idea of whether the relevant evidence might be heard in one evening session or whether a further evening session or sessions might be required. For the time being I would be grateful if the parties could “pencil in” possible evening sessions on 21 and 22 June. It is likely that if there are evening sessions on those days, I should look to conclude the afternoon session at a time earlier than 5 pm.

Evidence will not be on oath because I doubt the power of an Inspector to take evidence on oath at a non-statutory public inquiry.

The evidence of the Applicant shall be in a red file or files, the evidence of the City Council as landowner shall be in a blue file or files, the evidence of Cotham School shall be in a green file or files, the evidence of Bristol University shall be in yellow file or files and the evidence of Rockleaze Rangers FC shall be in a white file or files³. The material in the file or files shall be paginated in one sequence but divided into three sections, namely (i) the statements of witnesses whom it is proposed to call; (ii) the statements of witnesses whom it is not proposed to call; and (iii) documentary evidence. The idea is that the files should contain everything relevant to the inquiry. This will mean in appropriate cases reproducing statements and documents that have already been submitted; in certain cases, new material will supersede earlier material and it will be helpful where this happens for this to be explained.

The pre-inquiry meeting sought to identify the issues, which will of course be subject to further clarification by 9 March 2016 and the exchange of statements of case. Obviously it is in everyone’s interest that the focus of the inquiry should be on matters that are in dispute.

At this stage it will be helpful if I flag two matters which emerged.

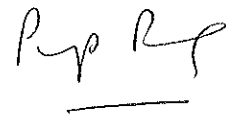
First, as regards arguments relating to statutory incompatibility, it is, depending on what is the appropriate test in law, relevant for the inquiry to be informed about what the owner/occupier’s intentions were at any particular time in respect of the land. More particularly, I think that in the relevant 20 year period there have been proposals for changes in the way the land is used and for its development (and there may in fact have been actual changes and developments). It will be helpful to have material for me to understand as clearly as possible the factual background to legal arguments about statutory incompatibility.

² This is a matter that has been raised after the pre-inquiry meeting on 5 February 2016.

³ Any party is free to agree a different colour with the other parties, so long as it is a colour distinctive from those of the others.

Second, as regards the sign in the adult education centre, if the issue is in play, I know that part of the Applicant's argument is going to be that most people did not access the land via this entrance. Where this leaves the matter if there is no specific evidence about it must be a matter for me in due course in the light of legal submissions but we do now know that the issue **does** arise and thus all the parties have a good opportunity to address it in evidence if so advised.

I hope that it may be possible for the matter to move forward to inquiry without further directions but in cases of this kind there must always be "liberty to apply" so that the parties can seek further directions. I myself might have some questions following exchange of evidence. If necessary a further pre-inquiry meeting may be convened.



PHILIP PETCHEY
Inspector
3 March 2016