

In the matter of the Town or Village Green Application

At Stoke Lodge Parkland, Stoke Bishop Bristol BS9 1BN

Clarification on behalf of the Applicant; dated 12th February 2016

Identification of the “Neighbourhood within a Locality(s)” within the TVG Application

1. Following the debate on this issue at the pre-hearing meeting held on 5th February 2016 we confirm that within our Application dated 4th March 2011 [tab 5&6] we made an error of terminology and wrongly referred to the “Neighbourhood” as a “locality”.
2. However, we confirm that the Inspector correctly interpreted our intention within his Report and recommendation dated 22nd May 2013 [paragraph 73] and for the avoidance of doubt we clarify our Application below.
3. We also include, as a separate document, a revised extract from our original TVG Application document dated 04.03.11 “Evidence item 6” correcting our error in terminology.
4. At the time of the our TVG Application Stoke Lodge Parkland was located at the northern corner of the Stoke Bishop Polling District and was bordered on the north west by the Sea Mills portion of the Kingsweston Polling District and on the north east by the Westbury on Trym Polling District. [see Application evidence tab 6]
5. We confirm that these form our Locality and are: - *“an area capable of being defined by reference to some division of the country known to the law, for example a parish or other local government unit”*
6. Co-incidentally, since the date of the Application the Local Government Boundary Commission has changed the Polling District for Stoke Bishop to include the precise area of Sea Mills contained within the red line on our renamed Neighbourhood Plan.
7. For evidence please refer to the revised boundaries shown on the plan issued by the Local Government Boundary Commission included within our attached revised extract from our original Application document referred to above.
8. This has the effect of reducing our localities (*known to the law*) from 3 at the time of the Application to 2 as at today’s date.
9. We submit that the residents that form a Neighbourhood, as understood in Section 15, are not constrained or imprisoned by Polling District Boundaries when considering where to exercise or commune with Nature in *“lawful sports and pastimes as of right”*.

10. The survey of use, carried out in August 2010, indicates that 86% of use engaged in “*lawful sports and pastimes as of right*” was conducted by residents living within the area contained within the red line on the Neighbourhood Plan; which unsurprisingly puts Stoke Lodge Parkland at the centre of the area indicated.
11. We maintain that the area identified within the Neighbourhood Plan has “*a sufficient degree of cohesiveness...*”: -
 - a. Geographically – bounded by main roads and Natural boundaries
 - b. Common use of the TVG Application site
 - c. Neighbourhood identity made even stronger by the Polling District changes introduced by the Boundary Commission to include Sea Mills within Stoke Bishop Polling District.
12. Mr Petchey points out in his Report and Recommendation dated 22nd May 2013 paragraph 73 that: -

In *Oxfordshire County Council v Oxford City Council and Robinson*, Lord Hoffmann said that there could be reliance upon a neighbourhood within two localities⁵⁷. In the present case the application site is within the Stoke Bishop Polling District, but use comes not just from that polling district but the Westbury-on-Trym Polling District and Kingsweston Polling District. In *R (Mann) v Somerset County Council*, HH Judge Robert Owen QC held that two polling districts were capable of being localities for the purpose of section 15. In his application Mr Meyer identified with a red line an area within the three polling districts which he said identified where the great majority of users lived; he described this area as the locality on which he relied. It seems to me that in fact it represents the **neighbourhood** within the three identified localities on which he relies. As such, in *R (Cheltenham Builders) v South Gloucestershire Council*⁵⁸, Sullivan J said that to be a neighbourhood an area had to have a *sufficient degree of cohesiveness*⁵⁹. It is not suggested by the objectors that the neighbourhood identified by Mr Mayer lacks that necessary degree of cohesiveness and the objectors do not contest Mr Mayer’s application on this basis or of any failure to demonstrate a relevant locality or neighbourhood within a locality. I do not think that it is necessary for the registration authority – or for me on its behalf - to be astute to take any point on whether use has been by the inhabitants of a qualifying locality. The area identified by Mr Mayer evidently has some geographical coherence being drawn in relation to main roads and other natural boundaries and the fact that it might not be easy to determine the precise boundary of the neighbourhood would not be an objection to it⁶⁰. It is worth observing that when points are taken by objectors on the basis of locality or neighbourhood within a locality⁶¹, it rarely proves possible to sustain them.

13. We submit, therefore, that the principle of a Neighbourhood within multiple Localities is an established precedent and that the part of our TVG Application with regard to “*a Neighbourhood within a Locality(s)*” complies with the criteria set out to qualify for registration as a Town or Village Green included in the Commons Act 2006 Section 15.

Identification of the TVG Land included within the TVG Application

14. As requested at the pre-hearing meeting held on 5th February 2016 we attach an updated plan of the Land included within our TVG Application for use at the Public Hearing in June 2016.
15. On this plan we have excluded the land behind the existing pavilion as per the offer we made in our "List of unresolved issues" dated 28th January 2016, for discussion at the pre-hearing meeting, even though the land has been available for community use throughout the 20 year qualifying period and before. Please note we have retained the access route to the Parkland from the gateway at the end of West Dene as land included in the TVG Application.
16. We shall arrange to include A3 copies in the hard copy versions of our bundle of documents distributed to all parties scheduled for 3rd May 2016.
17. Please confirm if it is a requirement to submit a revised "Statutory Declaration in Support" to accompany this updated plan together with the endorsement on the plan.

David Mayer
12th February 2016