

# Save Stoke Lodge Parkland

## Chairman's sixth Annual Report on behalf of the Committee

To be presented at the AGM on Thursday 10<sup>th</sup> March 2016

I am pleased to submit my sixth Chairman's report on behalf of the Committee.

Ours is a voluntary Community Group ruled by its Constitution and I must firstly thank the Committee for their ongoing work and support and secondly thank the Membership for their continued support and responses to the calls for their help and involvement.

My Report will be in four parts: -

1. Firstly the Town or Village Green Application
2. Secondly the Children's Play Facilities
3. Thirdly the upkeep of the Parkland
4. Fourthly the sustainability of the House and Gardens

### 1. The Town or Village Green Application

The Application was issued on behalf of the Community on 4<sup>th</sup> March 2011. The Application (600 pages) addressed all of the qualifying criteria detailed in the 2006 Commons Act.

The application went out to public consultation in July 2011 and this prompted objections from 4 parties i.e. Bristol City Council, The University of Bristol, Cotham School and Rockleaze Rangers. These initial objections were issued to us in November 2011 and we submitted our initial response of contra arguments (187 pages) on 30<sup>th</sup> January 2012.

Our initial response prompted revised objections from the University of Bristol and Rockleaze Rangers which were issued to us at the end of February 2012 and we issued our second response containing our contra arguments (197 pages) on 31<sup>st</sup> March 2012.

On 12<sup>th</sup> September 2012 we received revised objections from Bristol City Council. We issued our third response containing our contra arguments (30 pages) on 5<sup>th</sup> October 2012.

In August 2012 the Registration Authority appointed Philip Petchey as an Independent Inspector to review our Application and the subsequent documentation and present his recommendation of whether or not the Application for Registration should be granted or not. In September we received the Inspector's Draft Directions confirming that:-

- a. It was agreed that the majority of the qualifying criteria had been accepted
- b. The only issue remaining in dispute was 'as of right', which is described in law as 'without force' 'without permission' and without secrecy', with the Objectors claiming that Community use was 'with force' and 'with permission' i.e. conflicting arguments.
- c. A Public Hearing was still contemplated
- d. The Inspector set out a timetable and issued a list of submissions he required

We responded on 17<sup>th</sup> September 2012.

On 6<sup>th</sup> December 2012 we received the Inspectors Directions confirming:-

- a. That the only issue in dispute continued to be 'as of right'

(importantly this included a request for BCC to clarify how they were going to maintain their argument that Community use was both 'with force' and 'with permission' at the same time?

- b. That a Public Hearing was no longer contemplated because the evidence provided was sufficient to make the need for a hearing unnecessary
- c. His timetable for future events and a list of further submissions he required
- d. That he should decide his recommendation on the 'papers' only, because the only remaining issues in dispute were based on points of law, not matters of evidence

On 21<sup>st</sup> December 2012 Bristol City Council issued their second revised objection confirming that they were now acting on behalf of all the objectors and that they had withdrawn their objection based on Community use 'with force' and that their objection was now limited to Community use 'with permission' and their assertion that Registration as a Town or Village Green would put their Statutory Duty at risk. On 31<sup>st</sup> January we issued our fourth response containing our contra arguments and our legal statement (102 pages).

On 21<sup>st</sup> February 2013 the Inspector made his site visit to Stoke Lodge and during that meeting he confirmed that he intended to issue his recommendation by the end of April 2013. We responded on 10<sup>th</sup> March 2013 to the questions that were raised by the Inspector during the site visit.

On 22<sup>nd</sup> April 2013 the Inspector issued his Report in 24 pages, importantly in his Conclusion at paragraph 75 the Inspector recommended Registration of Stoke Lodge Parkland as a Town or Village Green. As part of his Conclusion he invited comments from the parties. This document is in the public domain and is available for inspection.

Upon receipt of the Inspector's report Bristol City Council (BCC) as Landowner and objector confirmed that they did not agree with the recommendation and they would issue a critique highlighting where they considered that the Inspector's report and recommendation to be flawed.

Save Stoke Lodge Parkland (SSLP) obviously confirmed that they agreed with the recommendation.

On 08.07.13 the Public Rights of Way and Greens Committee (PRoW&GC) met but were unable to consider their decision with regard to Stoke Lodge Parkland because of the announcement by BCC to make further submissions.

On 22.07.13 Cotham School unexpectedly issued their further submission for consideration by the Inspector.

On 31.07.13 SSLP issued their response to the Cotham document setting out where they considered it to be flawed and/or irrelevant. (14 pages)

On 29.07.13 BCC submitted their further submission for consideration by the Inspector.

On 26.08.13 SSLP issued their response to the BCC document setting out where they considered it to be flawed and/or irrelevant. (27 pages)

On 16.09.13 The Inspector issued his response to these latest objections and responses in the form of Further Directions, Importantly:-

- a. He has not changed his recommendation
- b. He has dismissed some of the proffered arguments
- c. He has requested further clarification of certain arguments to better understand what the objectors case is and what they are seeking
- d. He has set down a timetable for submission of this further clarification
  - i. BCC and Cotham make their submission by 29.10.13
  - ii. SSLP respond to i. above by 10.12.13, which we complied with, (49 pages)

On the 30<sup>th</sup> January 2014 the Inspector issued his response in the form of additional "Further Directions" requesting further responses from all the parties by 14<sup>th</sup> February 2014, and we responded as requested.

The documents listed above since the Inspector's Report dated 22.05.13 were not in the public domain and remained Private and Confidential and we were prevented from distributing them, or discussing the detail, beyond our Committee, and our legal advisor, by a "gagging order".

We continued to object to the "gagging order", please see below an extract from the response from The Registration Authority to our letter dated 13<sup>th</sup> February 2014:

"In your letter of 13 February, you indicated that:

*"The Registration Authority has issued all recent documentation (objections, reports and directions) with the heading of "Private and Confidential". When we sought clarification we were advised that we could not distribute the contents of the documentation beyond our Committee and our Legal Advisor. It would appear to us that the objectors' have made wider consultation to gather further evidence to enable them to prepare their submissions. We therefore consider that we are being disadvantaged in that, whilst the objectors have been permitted to continue to formulate objections, the gagging order has prevented us from distributing the contents of the objector's submissions, Inspector's Reports and Directions and from consulting the local community further on these issues. We therefore request that the Gagging order be removed to put this matter on a fair footing".*

The Commons Registration Authority issued the 'parties' submissions, directions and reports as 'private and confidential', because the case is still part of a quasi-judicial decision making process. There is no intention to 'gag' the parties in any way or to prevent them from formulating their respective cases. In the event that you wish to share any documentation more widely please let me know and I will check with the inspector to ensure that this is acceptable.

I hope this clarifies the situation

Yours sincerely

Tom Dunsdon, Solicitor, Legal Services, Bristol City Council"

We continued to push for the "gagging Order" to be lifted.

Whilst I was not permitted to disclose the details of the latest objections, our responses and the Inspector's Further Directions I did consider it important to share some of the overriding principals contained in the Further Directions dated 16.09.13:

- a. The Inspector is considering if the objectors can re-introduce arguments that they previously accepted as made in our favour
- b. This may potentially reintroduce the need for a Public Inquiry
- c. The Inspector is considering the objectors request that his recommendation for registration should be put on hold pending the result of the Newhaven Appeal
- d. If the Inspector agrees to this request it could delay further consideration until after the hearing of the Appeal and the publication of the subsequent findings which could be in 2015

On 10<sup>th</sup> January 2014 Committee members: David Mayer, Alan Preece together with Richard Nosowski (representing Stoke Lodge Preservation Working Group) met with senior Cotham staff at their invitation. Cotham have difficulty distinguishing between the TVG group and SLPWG. They expressed general concerns including dog fouling and dogs not on leads which interfere with games sessions and alarm students. They hinted at wanting to commence improvements to the playing surfaces and changing provision but they were not forthcoming on details.

David expressed our concerns that they had not followed up our wish to be considered as an associate group in their co-operative academy framework. Richard informed them that they should be aware of the negative impact of some of the pronouncements of their partners from the university and the junior football clubs. Alan invited them to the next Stoke Bishop Forum meeting to give a brief presentation of their current concerns and future plans.

At the Stoke Bishop Forum on 29<sup>th</sup> January the Head, Dr Malcolm Willis, and the vice chair of governors, Sandra Fryer, attended. Dr Willis expressed Cotham's desire to work in harmony with the SB community but there was criticism from the floor of the tone of the school's written objections to the TVG application.

Speakers at the Forum stressed the need for continuing public access to Stoke Lodge but there was a sympathetic response to the problems of fouling and dogs off lead when Cotham pupils are using the pitches as well as to the poor state of the changing rooms. It was pointed out that the footprint of the building had been left out of the TVG application and so Cotham did have scope currently for their proposals to refurbish the changing rooms.

No firm proposals emerged from the Forum but the school representatives were given much food for thought as to their future interaction with the SB community. They cannot ignore our existence and determination and would be wise to involve us in their future plans.

The Headteacher of Cotham, Dr Willis, was subsequently invited to attend the next meeting of Stoke Lodge Preservation Working Group held on 18<sup>th</sup> March 2014 but he declined to respond.

On 27<sup>th</sup> March 2014 we received a copy of the Inspector's Further Directions dated 26.03.14 confirming that he would defer any further consideration of his previous recommendation until

after the Judgement on the Newhaven Case is handed down. The Appeal is scheduled to be heard on the 3<sup>rd</sup> & 4<sup>th</sup> of November 2014. Importantly, included in the covering e-mail from the Registration Authority, enclosing these Further Directions, Tom Dunsdon confirmed that the Gagging Order had been lifted.

On the 3<sup>rd</sup> & 4<sup>th</sup> November 2014 the Newhaven Case Appeal was heard by the Supreme Court. The Appeal sought to overturn the Recommendation to register the Beach at Newhaven as a Town or Village Green because it failed the test of use "as of right" and secondly it should be overturned because use of the Beach conflicted with the statutory obligations of a working harbour. David and Susan Mayer attended the hearing.

On 25<sup>th</sup> February 2015 the Supreme Court handed down its Judgement confirming that the Appeal was upheld on both counts, based on the particular circumstance at Newhaven.

On the 4<sup>th</sup> March 2015 Cotham Academy wrote directly to the Inspector requesting that he change his recommendation to register Stoke Lodge Parkland as a Town or Village Green based on the precedent set by the Newhaven Appeal success. We do not consider that the circumstances at Newhaven are relevant to the circumstances at Stoke Lodge.

On 6<sup>th</sup> March 2015 the Inspector issued his Further Directions requesting that the Objector's submit their representations by the 7<sup>th</sup> April 2015 and that the Applicant should submit his response(s) by 5<sup>th</sup> May 2015.

At the time of the last AGM we were preparing our response to the Cotham Academy letter dated 04.03.15 and awaiting the receipt of any further representations from the Objectors on the subject of Statutory Purpose and Statutory Incompatibility.

### **TVG Events since the Last AGM held on 27<sup>th</sup> March 2015**

On 25<sup>th</sup> April 2015 Mr Blohm QC, The barrister appointed by Bristol City Council, issued the submission from BCC setting out their arguments of what they considered the effect and impact of the Newhaven Judgement had on our TVG Application

On 28<sup>th</sup> April 2015 Mr Richard Ground, the barrister appointed by Cotham Academy, issued the submission from Cotham setting out their arguments of what they considered the effect and impact of the Newhaven Judgement had on our TVG Application.

On 14<sup>th</sup> June 2015 we responded (96 pages of argument) to the submissions issued by Cotham on (a) 4<sup>th</sup> March 2015 & (b) 28<sup>th</sup> April 2015 together with the submission issued by Bristol City Council on 25<sup>th</sup> April setting down our arguments why we considered that the Newhaven Judgement was not applicable to the particular circumstances at Stoke Lodge Parkland which we contend are crucially different from those at Newhaven. Highlighting the issues that were raised by the Supreme Court in the Judgement that supported our TVG Application and pointing out that there are no Bye-laws posted at Stoke Lodge Parkland as per Newhaven.

On 29<sup>th</sup> June 2015 Dr Malcolm Willis the outgoing Headteacher of Cotham Academy issued a submission requesting the Inspector to refuse our TVG Application.

On 10<sup>th</sup> July 2015 we responded (7 pages) to the submission by Cotham on 29<sup>th</sup> June pointing out that Dr Willis had merely submitted the same arguments which we had rebutted previously and set out why we considered each of the arguments to be flawed.

On 5<sup>th</sup> November 2015 the Inspector issued his Further Directions confirming his intention to hold a Public Hearing/Inquiry, setting down what he considered to be relevant to our TVG Application from the Newhaven Judgement, all of which we concur with, discussing the outstanding issues still in dispute and setting down what he expected the parties to provide and confirming that he would require the Commons Registration Authority to arrange a pre-hearing meeting as a precursor to Public Hearing/Inquiry. He also instructed that the parties should issue what they considered to be a “List of outstanding issues” seven days before the date of the pre-hearing meeting.

On 27<sup>th</sup> November the Commons Registration Authority confirmed that the pre-hearing meeting had been arranged for Friday 5<sup>th</sup> February 2016

On 28<sup>th</sup> January we issued our “List of outstanding issues” for discussion at the pre-hearing meeting. All other parties were late with their submissions or did not respond at all.

On 5<sup>th</sup> February 2016 we met for a pre-hearing meeting with the Inspector, the Commons Registration Authority and the other parties where it was confirmed that the Public Hearing/Inquiry will start on Monday 20<sup>th</sup> June for up to 8 days (venue to TBA), we also discussed the issues to be included at the Public Hearing/Inquiry, and the administration and procedural matters to be adopted including the timescale for the issue of the document bundles from all parties. The objectors have reneged on previous agreements and have opened up the matters to be included “as of right”, Safe-guarding of Cotham pupils and the “Law” impacting on “Lawful Sports and Pastimes” in addition to Statutory Incompatibility. Additionally we were required to clarify our TVG Application with regard to the “Neighbourhood” and the “Land” included within our TVG Application within 14 days.

On 14<sup>th</sup> February 2016 we issued our response to clarify our Neighbourhood and the Land included within our TVG Application

We are now heavily involved in preparing our “Final” submission making our arguments, collating the evidence to support our submissions, collecting more statements to support the 134 we have already submitted, concentrating on those to be “Heard” at the Public Hearing/Inquiry and preparing our Statement of Case. Not forgetting the preparation of our Bundle of Documentation which comprises 10 lever arch files (all paginated) and 7 copies of each required i.e. 70 files in all, together with electronic versions on DVD. This will require a mammoth effort, not to mention a lot of money to pay for the stationery, paper and printing.

Since June 2015 our web site [www.stokelodgetvg.co.uk](http://www.stokelodgetvg.co.uk) has been live where all the above documentation referred to above is available to read in full (click the “**TVG**” tab on the home page). There is also a contact e-mail facility to register for membership or make a comment. I must also record my thanks to all the team for their ongoing support and the help provided by the Open Spaces Society, in particular Nicola Hodgson their case officer.

## 2. The Children’s Play Facilities

The Play Facilities finally opened on the 1<sup>st</sup> August 2014 after a long and difficult battle; 19 years after the money to provide the facilities was paid to Bristol City Council by the developers for Queen’s Gate and Parry’s Grove as Section 106 Infrastructure Funds.

Despite the difficulties I must record that once the battle had been won the delivery team under the leadership of Tracey Morgan (Strategic Director) worked proactively and delivered

a first rate facility that is enjoyed by all the children (and adults) who now visit this part of the Parkland on a regular basis.

Bruce Quilter and his army of BS9 Mums and Dads have now taken on the role of custodians and I understand they are considering raising money to expand the facilities. Martin Bennett has indicated that they intend to apply to the Neighbourhood Partnership Well Being Fund for some older children's play devices for which there is space.

### **Children's Play Facilities - Events since the Last AGM held on 27<sup>th</sup> March 2015**

Bruce and Martin (together with the army of BS9 Mums and Dads) have been true to their word and have already secured £20k of additional funding for new equipment which is due to be installed in the Spring of 2016.

Additionally they have requested a further £4k for specialist play equipment which has been recommended by the Neighbourhood Partnership Environment working group and will hopefully be agreed at the Neighbourhood Partnership Committee Meeting on 7<sup>th</sup> March 2016.

These additional facilities will necessitate the perimeter fence being revised to provide more space.

On a day to day basis the Play Facilities continue to be enjoyed by our children and grandchildren and it is difficult to imagine it not being there or understand why the council fought so hard to prevent it for over 19 years. We are confident that the custodians or guardians of the facilities will continue in their quest. If you want to get involved we can put you in touch.

### **3. The upkeep of the Parkland**

Committee member, Prof Alan Preece continues lead the charge on getting BCC to eradicate the Japanese Knotweed infestations and other related matters such as bramble bashing and cutting back overgrown hedges etc, most notably the driveway to the rear car park in the Adult Learning Centre.

It has been possible to use Community Payback workers to tidy overgrown verges in the car park with good effect. The result of this and the improved space in the rear car park has been considerably enhanced car park facilities which continue to be fully used. We particularly need to thank Gary Brentnall (BCC services officer) for very wholehearted co-operation in seeing implementation.

We continue to liaise with, and support, the exceptional and valuable work undertaken by Stephanie French in her role as Neighbourhood Partnership Tree Champion for the Parkland and the wider Wards. The magnificent Cedar of Lebanon is a continuing worry and will probably have to be felled. A small consolation is that we should get a replacement Cedar of Lebanon from BCC. Other trees are being replaced throughout the Parkland.

### **The upkeep of the Parkland - Events since the Last AGM held on 27<sup>th</sup> March 2015**

**Knotweed:** Contractors have sprayed the two areas of knotweed in the car-park and SW corner on several occasions as required, but not very thoroughly as there are still missed plants popping up. This means that the contract will have to be extended beyond the usual 3

years needed to clear areas. For a centrally organised NP event, Gary Brentnall, the Parks Officer, and I made a short video of the problem which was used to show the other Neighbourhood partnerships the extent of the problem and what needs to be done. During the making of the video we did find extensive spread in an adjacent garden that the householder had not recognised. At the request of the NP Environment Working Group a simple leaflet has been produced and currently Gary Brentnall is seeking agreement from BCC to print and use this as an official document to offer to the other NP areas as well as distribute to potential affected houses around Stoke Lodge.

**Amenities:** During the Mayor's visit to our area we did manage to show what local groups are endeavouring to do to preserve and improve Stoke Lodge, particularly the car-park, trees, the play area and new money being sought for improvements, and the new plans to refurbish the old kitchen garden suggested by Sue Mayer. This in particular attracted enthusiastic support from the Mayor. The next step is to undertake a wildlife check, particularly for badgers, and that will be underway shortly.

Alan Preece 25/2/2016

#### 4. The sustainability of the House and Gardens

We understand that following the transfer of responsibility for the Adult Learning Centre from Libraries back into Education additional funds have been provided to undertake some of the long overdue maintenance to start the renovation programme on the Building Fabric

The new management team recognises the need to promote the service more proactively and the web site has been updated to encourage greater attendance on courses.

#### **The sustainability of the House and Gardens - Events since the Last AGM held on 27<sup>th</sup> March 2015**

We are pleased to confirm that the new management regime for the Adult Learning Centre is committed to a programme of works to bring the building back up to scratch predicated on wider and better marketing of the Facility increasing attendance and providing more income.

Additionally the suggested project to provide a sensory garden in the old kitchen garden has received a ringing endorsement from the management team in charge of the Adult Learning Centre and the George Ferguson personally endorsed the project during his recent visit to Stoke Bishop and even hinted that some money might be available from BCC.

*D Mayer*

**David Mayer**  
**Chairman**  
**Save Stoke Lodge Parkland**

10th March 2016