

Response by Professor Alan Preece (Applicant)

Further to the report prepared by Robin Carr Associates 4th October 2024 on behalf of Bristol City Council

Regarding the Application for Definitive Map Modifications for Claimed Public Rights of Way at Stoke Lodge Fields, Stoke Bishop, Bristol

I concur with, and am grateful to, Inspector Robin Carr for his careful assessment of the four ROW claims I submitted in May 2018 on behalf of the community, and for his recommendation that the four routes should be considered by the PROW&G Committee for application of a Map Modification Order.

I have been a neighbour of Stoke Lodge, and a user of the claimed ROWs for 52 years, and at the time was Chair of the Stoke Bishop Neighbourhood Partnership and was asked to take steps to preserve the ability to cross Stoke Lodge as short cuts to the local shops and schools. In particular the Inspector helpfully annotated the routes in a more logical and useful way.

Section 1. Use of the routes and their destinations

In light of the contents of the Inspector's report and in direct response to the PROW Team's request, I have analyzed the witness statements to ascertain the origins and destinations of the use of each path to evidence the highway-to-highway use, which is summarized below, but detailed in a series of Excel spreadsheets attached to the end of this response as **Attachment 1. (pages 12-18)** I have also sought help from those involved with the recent TVG applications to see whether there was any evidence uncovered in the process that could be brought to the attention of the PROW team.

Route 1.

As set out in the application, **Route 1** (between Druid Hill roundabout and Cheyne Road) forms part of the Bristol Greenwalk route from Clifton Suspension Bridge to Penpole Lane, Shirehampton. It also facilitates access by residents of Cheyne Road, Stoke Paddock Road and Bell Barn Road (and roads further afield) to the main centre of Stoke Bishop at Druid Hill with its shops, Post Office, garage, restaurants and Village Hall. The reverse route is the main way that residents from that part of Stoke Bishop walk through to Trymside, Sea Mills and the Blaise Estate.

- **Identified by 52 Witness statements, using the route for an average of 24 years, of which 48 statements were for destinations outside Stoke Lodge and only 4 used it to access the field solely.**

Route 2.

As set out in the application, **Route 2** (between West Dene and Shirehampton Road) was originally the Cedar Park School route for children to get to the Old School Kitchen on the Lodge (the school kitchens were demolished prior to 1993). The path over the field connects via the car park of Stoke Lodge House to Shirehampton Road. This is a very popular route for children from the Coombe Lane, West and South Dene roads and surrounds to Stoke Bishop CofE school (formerly called Cedar Park School). It also provides access for local residents to the bus stop and recently-added pedestrian crossing which facilitates access to the school and Shirehampton Road shops. The reverse route connects to walking routes around Coombe Dingle Sports Complex, Canford Cemetery, Canford Park and the Blaise Estate.

- **Identified by 34 witness statements, using the route for an average of 27 years, of which 24 claims were from and to destinations outside the field, with further 10 using it to access Stoke Lodge House.**

Route 3.

As set out in the application, **Route 3** (between Cheyne Road and Shirehampton Road) is a much-used short cut from Cheyne Road, Stoke Paddock Road, Bell Barn Road and Coombe Bridge Avenue through to the bus stop and Stoke Bishop CofE school.

- **Identified by 18 witness statements of which 8 claimed to use it as a route to the highway, the remaining 12 were accessing either Stoke Lodge House or the Play Park, and for a lower number of years – 19. (Note: In recent years the Playpark has hugely increased the use of this route).**

Route 4.

As set out in the application, **Route 4** (between West Dene and Cheyne Road) connects Cheyne Road, Stoke Paddock Road, Bell Barn Road and beyond to both West Dene and Ebenezer Lane, including the no.3 bus route at the end of West Dene. It also provides access for residents of West and South Dene, Woodland Grove and Coombe Lane to the Shirehampton Road shops (including supermarkets, hairdressers, veterinary practice and Mill House pub).

- **Identified by 31 witness statements from users over an average of 21 years and mostly originating at West Dene end. All were travelling highway to highway, mostly to access shops, dentist, vets, river Trym and a one-time garden centre.**

Section 2. Additional commentary on signs requested by Officers

Officers have requested additional information about whether any actions were taken to prevent or deter the public from using the route as a public right of way during the relevant period of use for any of the claimed rights of way. This note and annexes will explain that no such action was taken and that signs put up in the mid-1980s (and a BCC sign in 2009) were not effective due to ambiguity and other factors. The note considers:

1. The Avon County Council signs
2. Routes 1, 3 and 4 – the Cheyne Road entrance
3. Routes 2 and 4 – the West Dene entrance
4. Routes 2 and 3 – the BCC sign
5. Acquiescence by Cotham School in the use of the claimed routes
6. Final comments

1. The Avon County Council signs

- 1.1 In the mid-1980s, signs were installed at the West Dene entrance and in the car park near Stoke Lodge house by the previous landowner, Avon County Council (ACC). The ACC signs stated (see annex 1):

**MEMBERS OF THE PUBLIC ARE WARNED
NOT TO TRESPASS ON THIS PLAYING FIELD**

In particular the exercising of dogs or horses, flying model aircraft parking vehicles or the use of motorcycles and the carrying on of any other activity which causes or permits nuisance or disturbance to the annoyance of persons lawfully using the playing field will render the offender liable to prosecution for an offence under section 40 of the Local Government (Miscellaneous Provisions) Act 1982.

***Requests for authorised use should be made to the Director of Education
COUNTY OF AVON***

- 1.2 The wording of the signs gives a warning not to trespass (it is not a prohibition), some commentary about activities that might, if they were conducted by people on the field and if they amounted to 'nuisance or disturbance' fall within the scope of section 40 of the Local Government (Miscellaneous Provisions) Act 1982; and a direction as to where to send requests for authorised use of the playing fields (such as hiring pitches for club sports). The wording

clearly contemplates that people will be on the field despite the initial warning. The wording does not suggest that walking a long-used path across the field is prohibited.

- 1.3 At paragraph 369 of his 2016 report, the TVG Inspector considered the ‘intrinsic ambiguity’ in the wording of the ACC signs and concluded that they were intended to indicate that five activities (the ‘exercising of dogs or horses, flying model aeroplanes, parking vehicles or the use of motorcycles’ plus causing or permitting nuisance or disturbance, were contentious activities. None of this indicates any objection to walking across the playing field in the manner that, with longstanding use, leads to the establishment of a right of way. The only relevant wording would be the general warning not to trespass, but users are likely to have considered themselves to be walking routes that were known to have been in public use for decades, rather than trespassing (see Mr Carr’s report at paragraph 10.9) and the ACC signs would not have been effective to interrupt their ‘as of right’ use. Mr Carr comments at paragraph 12.22 that it would be reasonable to conclude that the signs were insufficient to meet the requirements of section 31(3) of the Highways Act 1980. In addition, as set out below, they were not maintained by BCC as landowner.
- 1.4 In relation to the text of the ACC signs, the reference to section 40 of the Local Government (Miscellaneous Provisions) Act 1982, ceased to apply to Stoke Lodge Playing Field from 1 November 1996. Although it was replaced by similar provisions under section 547 of the Education Act 1996, from November 1996 the sign appeared to threaten users with an offence that was not applicable to them. In addition, from 1 April 1996 the signs were inappropriate in directing requests for pitch hire to the Avon County Council Director of Education, since Avon County Council no longer existed. By 1 November 1996 virtually all the wording on the ACC signs was inapplicable or inappropriate, as well as being ambiguous and ineffective in the current context.
- 1.5 Wider changes in education law are also relevant. Since 1 September 1987 control of, and decisions about, the use of school premises has been delegated to the governing bodies of maintained schools¹, subject only to any direction made by the local education authority. The minutes of the County of Avon Education Committee dated 23 January 1990 (annex 2) record that in preparation for the introduction of Local Management of Schools, the Education Committee made a direction that, subject to maintaining provision for adult education and other matters on a continuing basis, ‘Governing Bodies would be free to determine the use to be made of their premises’. ACC could have chosen to exercise control over community use of routes

¹ This is set out in section 42 of the Education (No. 2) Act 1986, subsequently section 149 of the Education Act 1996 and then section 40 of the School Standards and Framework Act 1998 (SSFA).

across playing fields in its direction but specifically chose not to do so, and left it for schools to make any decision on this matter.

- 1.6 Following the demise of Avon County Council (ACC), Bristol City Council (BCC) assumed legal responsibility for education and ownership of Stoke Lodge Playing Fields from 1 April 1996. It would clearly have been aware of legal restrictions on its powers to control the use of school premises, and that relying on the mid-1980s ACC signs that remained on the site was not a valid means by which it could legally exercise any control over the use of the site. Both ACC and BCC had the legal authority to direct Cotham School in relation to use of the claimed rights of way, but neither ACC prior to 1 April 1996 nor BCC as landowner from 1 April 1996 ever made a direction restricting or prohibiting use of any of the routes across Stoke Lodge Playing Fields.
- 1.7 In his report Mr Carr refers (at paragraphs 10.8 and 12.22) to the requirement that a landowner must 'maintain' signs in order for them to be effective, but BCC did not at any time maintain the ACC signs (according to the TVG1 evidence, the sign installed in the car park of Stoke Lodge house in June 2009 was introduced after the previous ACC sign had been missing for some time). It is worth noting that BCC did replace other ACC signage shortly after ACC was abolished. The minutes of the Leisure Services Committee for 24 September 1996 (see pages 2 and 6 of annex 3) record that the committee took a decision to update signage on children's playgrounds and play facilities around the city, noting that: 'There is a need to update signage regarding management. For safety reasons it is essential the public know exactly who to contact if there is a problem'. This decision was taken just six months after the change of control from ACC to BCC. No equivalent updating or maintenance of the ACC signs was ever undertaken by BCC. It was therefore entirely reasonable for users of the routes across Stoke Lodge to assume that the signs had no effect.
- 1.8 In summary, the ACC signs were not effective to interrupt use of the claimed routes. Their ambiguous wording meant that they were not effective to communicate to users that walking the claimed routes was anything other than 'as of right', and they were never maintained after installation by ACC or by BCC. As explained below, events that post-date the installation of the ACC signs demonstrate that the landowner and the school with control of the land did not object to or interrupt use of the claimed routes. From 1 April 1996 onwards, the landowner (BCC) made no effort to communicate anything to users of the routes, and in 2010 recognised that use of the land was 'unfettered' (see below at 4.3).

2. Routes 1, 3 and 4 – the Cheyne Road entrance

2.1 In relation to routes 1, 3 and 4 as referred to in the application and at Appendix 4a and b, evidence was produced as part of the TVG applications of two incidents when the Cheyne Road entrance was temporarily blocked. These incidents were not intentional on the part of the landowner and did not indicate any intention to disrupt use of the entrance or route.

2.2 First, in late 1989/early 1990 the entrance was blocked with pruning debris by groundsmen. The branches etc were subsequently removed and taken away by local residents. A newspaper report of the removal was included at Appendix 4a to the application. A dated version plus transcription for ease of reading is at annex 4. This article is from the Bristol Evening Post dated 8 January 1990, and includes the following statements:

‘This access to Stoke Lodge has been in use for at least 40 years... It is a favourite short-cut to Stoke Lodge, the shops and the playing fields. I have used it for 35 years since I played on the fields as a girl and others say it has been in use much longer. There was a stile there... We have seen a solicitor about this but it was taking so long to sort out.’

‘A spokesperson for Avon County Council, which owns the land, said there were worries about motorcycles being ridden onto the fields and a fence with a kissing gate is to be put up.’

A letter from an ACC officer, JR Blackmore, to Veale Wasborough solicitors (Appendix 4b to my application) dated 4 January 1990 refers to the same incident. It is understood that Mr Clarke (referred to in this letter) had approached Veale Wasborough about the registration of a public right of way across the field (again supporting that the route had already been in long use before early 1990). It is clear from this letter and the spokesperson’s comment that ACC did not object to pedestrian access to the fields. No fence or gate (as referred to in the article and letter) was in fact installed (perhaps because of the change in legislation referred to at paragraph 1.5 above); a bollard was installed sometime later to discourage motorcycles from accessing the field, without impeding pedestrians or buggies.

2.3 Evidence was provided to the TVG1 inquiry that a second blockage occurred when a very large branch fell off the oak at this entry point. One of its side branches blocked the entrance briefly; local residents cut off the side branch and moved it to restore access. This took place at some point from 1990 onwards. The branch knocked down part of the old fence, enlarging the entrance. This created a concern for neighbours about vehicles potentially accessing the field at that point; a wooden stave fence was put in place by local residents to bring the entrance back

to its previous look and size, although people needed to turn right - as they still do - to get round the main part of the fallen branch.

- 2.4 Evidence was produced in relation to the most recent TVG applications about the nature of use of the Cheyne Road entrance. Please see the witness statements of Ken Falcon dated 10 March 2023 (annex 5) and of Ian Creer dated 10 April 2023 (annex 6). Mr Falcon lived at Stoke Paddock House (1 Cheyne Road) from April 1984 until February 2007 and speaks of his 'as of right' use of the entrance to cross the field to West Dene, to Stoke Lodge or to Parrys Lane at the top of the field. Mr Creer has lived at 2 Cheyne Road since 1985 (and continues to do so) and speaks of his use of the entrance to walk to West Dene, Shirehampton Road or Parrys Lane. Numbers 1 and 2 Cheyne Road are directly adjacent to Stoke Lodge Playing Field and to the Cheyne Road entrance, as can be seen in the photos attached to Mr Falcon's statement.

3. Routes 2 and 4 – the West Dene entrance

- 3.1 In relation to routes 2 and 4, at paragraph 12 of the TVG Inspector's report he says:

‘There was originally a pedestrian gate here. There is no evidence to suggest that it was ever locked in the twenty year period down to 2011 and, if it ever was locked, it was probably not locked during the day.’

- 3.2 During the meeting of the Public Rights of Way and Greens Committee in December 2016 in relation to the TVG application, Councillor Abraham recalled an incident in which the gate at the entrance from West Dene was locked by a new caretaker acting without Council authority. This partial closure led to considerable public protest, as a result of which, after just three or four days, the ACC Education team instructed the grounds managers not to lock the gate. Use of the route was not subsequently interrupted or interfered with. These comments are recorded in the handwritten notes of the PROWG meeting (see the extract at annex 7), although the discussion was excluded from the formal minutes of that meeting.
- 3.3 Further details of this incident are set out in two witness statements, dating the brief and partial unofficial closure to late 87/early 88 (see annex 8). Any interruption of access was unofficial and short-lived, and would not have been evident to users generally. It was not an intentional interruption by the landowner; the caretaker's action was not official policy and was reversed almost immediately.

4. Routes 2 and 3: the BCC sign

- 4.1 In mid-2009 Bristol City Council erected one sign at the edge of the car park near Stoke Lodge house. This sign stated (see annex 1):

Private grounds***These grounds are private property and there is no right of public access.******Legal action will be taken against any trespassers.******Any request for the use of these grounds should be made in writing to the divisional director of Property and Local Taxation. The exercising of dogs on these grounds is forbidden.***

- 4.2 The wording of the 2009 BCC sign has clear differences from the ACC signs. It did not refer to playing fields or education; it did not cite a statutory prohibition against creating a nuisance on playing fields; instead, the sign was headed 'private grounds' and persons wishing to make requests for use of the grounds were directed to write to the divisional director of Property and Local Taxation, when in fact it is clear that the playing fields were education land under the management of Cotham School and subject to a transfer of control agreement with the University of Bristol. The Director of Property and Local Taxation would have had no ability to provide authorisation for use of routes across the playing fields (in the absence of BCC making a formal direction, as explained above). The sign was not commissioned or approved by Cotham School but was produced on the instructions of a BCC officer, as would be appropriate for a BCC-branded sign for Stoke Lodge house and its immediate surroundings. In Mr Havens' written statement dated 1 February 2016 he states that 'I specifically recall arranging for a new sign to be displayed in the grounds of the adult learning centre'. My understanding is that the sign could only have been intended by BCC to refer to the grounds of Stoke Lodge house, and this is reflected in the differences in wording between the ACC signs and the 2009 BCC sign.
- 4.3 It is also clear from the Cabinet Briefing Paper dated April 2010 (see annex 9) that was produced a few months later by the same BCC officer team that the sign was not intended to have any relevance to use of the playing fields and that officers considered that there were no restrictions on use of the fields or routes across them. At paragraph 2.41, it is stated that 'The playing field is currently unfenced and allows unfettered community access'. This report was written only 10 months after the installation of the 2009 sign; if the sign was intended to impact public use of routes across the field, it appears that no one in Cabinet - nor indeed the author of the report, Michael Branaghan, Service Manager for Capital, Assets and Access within CYPS - was aware of the fact.
- 4.4 The wording of the sign was also ineffective due to ambiguity. It refers to 'private grounds' but was originally sited at the edge of the public car park used by learners visiting the Adult Learning Centre at Stoke Lodge and would have appeared to be addressed to users of the car park. The statement that 'the exercising of dogs on these grounds is forbidden' appears to imply that other forms of use (e.g. walking through the car park) were not. As Mr Carr has stated at

paragraph 12.22, it would be reasonable to conclude that the sign was insufficient to interrupt use of the claimed routes.

5. Acquiescence by Cotham School in the use of the claimed routes

- 5.1 As explained above, the governing bodies of maintained schools have had control over the use of school premises (subject to any direction from the local education authority) from at least 1 September 1987. From 1 September 1999 onwards, the School Standards and Framework Act (the SSFA) has provided express statutory power for the governing bodies of maintained schools to control the occupation and use of their premises both during and outside school hours, subject to any directions given by the local education authority. Control of the land rested with the school using the land (Fairfield High School up to 1 September 2000, then Cotham School). The SSFA also provides power for a governing body to enter into a Transfer of Control Agreement with a third party to manage their premises 'if their purpose, or one of their purposes, in doing so is to promote community use of the whole or any part of the school premises'.
- 5.2 Cotham School entered into Transfer of Control Agreements on an annual basis from at least February 2004 onwards, with the final one (annex 10) dated 1 September 2010. Each of these agreements records in the schedule of services and service levels that 'the site is open, at present, to the public and dogs' (note that the language indicates that even in 2004 this was not a new situation, and implies both knowledge of informal use and acceptance of that ongoing use).
- 5.3 Following a public consultation in summer 2010, BCC's official view (having recognised the ongoing accrual of potential TVG usage in its Cabinet Briefing Paper) was that Stoke Lodge Playing Fields should remain open to informal community access. However, up to the date when the lease was agreed, BCC's policy and the SSFA provisions meant that it remained open to the governing body of Cotham School to decide otherwise. They did not do so. On 1 September 2010 Cotham School entered into a further year-long Transfer of Control Agreement with the University of Bristol in which it again stated that 'the site is open, at present, to the public and dogs'.
- 5.4 On Cotham School's conversion to academy status in 2011, it was granted two leases to continue to use the land and buildings it had used as a maintained school. These leases followed templates set by the Department for Education but the Stoke Lodge lease was altered by agreement between Cotham School and BCC such that the School's right as tenant to use the land is expressed to be 'subject to all existing rights and use of the Property, including use by

the community', which plainly includes accrued or accruing 'as of right' use of the claimed routes.

- 5.5 Cotham School took no steps whatsoever as a maintained school up to 1 September 2011 to permit or prohibit use of the claimed routes. Nor did it take any such action on or after 1 September 2011 as an academy school with a leasehold interest, until it erected updated versions of the ACC signs on 24 July 2018 (after the relevant date for these applications). Indeed, the School's Chair of Governors, [REDACTED] gave evidence to the TVG1 public inquiry in 2016 (recorded by the TVG Inspector at paragraph 279) that 'in the past the use of the playing fields had been satisfactory from the School's point of view'. Such use would include use of the four claimed routes.

6. Final comments

- 6.1 The evidence shows that use and enjoyment of the claimed routes 'as of right' was known to the landowner (and to the school users of the field). Both before and after the installation of the ACC signs, the landowner (ACC and later BCC) accepted public use of the claimed routes and did not seek to restrict or interrupt it, and the signs themselves were ineffective. As the user of the land from 1 September 2000, Cotham School likewise was aware of public use and did not seek to restrict or interrupt it.
- 6.2 As set out in this note, examples from 1987/88, 1990 and 2010 all underline the landowner's approach and support registration of the routes. The documentary evidence of Transfer of Control Agreements reached by Cotham School between 2004 and 2010 also supports registration of the routes, and the lease agreed between BCC and Cotham School on 1 September 2011 expressly states that the school's rights are subject to 'all existing rights and use of the Property, including use by the community'.
- 6.3 Finally, I note that Department for Education and Employment/Home Office guidance (published in December 1997) titled 'School Security: Dealing with Troublemakers' makes clear that rights of way can be acquired across school premises – see section 3.9 of the extract at annex 11. Both the landowner and Cotham School would have been aware of this guidance which points out actions that can be taken by schools to discourage this. No such actions were taken by BCC as landowner or by Cotham School.
- 6.4 The fact that public rights of way may be acquired in these circumstances is also recognised in regulations (as Mr Carr has pointed out) and it is a matter of public knowledge that such rights of way exist in practice (including, for example, across the playing fields of Harrow School). There is no statutory incompatibility to consider on this matter. Further, in the Harrow School

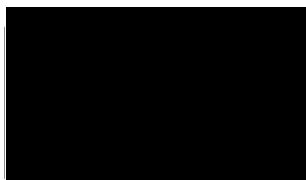
case, the path runs across tennis courts that had subsequently been built, and across marked out grass pitches. Harrow School applied for diversion of the footpaths under section 119 of the Highways Act but diversion orders were refused in 2017 after a six-day public inquiry (despite the potential benefits cited by the school) because of the negative impact that diversion would have on public enjoyment of the routes². Similar examples of public footpaths across school playing fields exist closer to home: for example, through the playing fields of the Collegiate School in Stapleton and the QEH sports ground at Failand.

Final Comments

The importance of achieving a MMO has been clearly demonstrated by events within 7 months (Feb 2019) of my application, with the erection of a 2m fence, using locked access points that did not align with most of the pathway entrances, and lockable gates. In particular, throughout the COVID pandemic, access to the field as a whole was denied, and the walking routes were all closed off. The Chair of governors refused to respond to my (and many others) request to allow us to meet government advice to exercise in open space as near to home and as far away from others as possible. Since that time even the gates were always locked at times when access to schools and shops would be useful. The fence and locked gates were forced on the public by the school despite DfE and Ofsted stating clearly that a fence was not a requirement for safeguarding as claimed, and confirmed this multiple times. This restricted public access to a narrow incomplete footway around the perimeter, was impeded by dangerously slippery mud and obstructed by brambles and nettles. There are numerous documented falls caused by this totally inadequate and unusable footway. Partial relief came when the TVG was registered, and much of the fence removed, but that is at threat now with Cotham's determination to spend public money to reverse the registration.

At this time, there is a palpable effect on mental well-being that having a green open safe route to the school and the shops promotes, compared to the impact of a longer traffic-ridden trudge along streets.

Submitted by



Prof. Alan W Preece 28/10/2024

² The decision is available at:

https://assets.publishing.service.gov.uk/media/5a82c92340f0b62305b9455c/fps_m5450_6_1_2_m5450_4_1_3_od.pdf

Attachment 1.

ROUTE 1 (Blue)(A - D) Cheyne Rd. to Parrys Lane (Druid Hill)

Postcode	From	To	Years	Home	Destination	File	Abbreviations
BS9 2DJ	2005	2018	13	SPR	Scouts, school. SB shops	Blue 1	BBR Bell Barn Rd
BS9 2DH	1999	2018	19	CR	SB Hall		BC Briarcliffe
BS9 2DH	1980	2018	38	CR	SB Garage,P.O.,The Grove		CBA Coombebridge Ave.
BS9 2DH	1985	2018	33	CR	SB Shops		CG Clover Ground
BS9 2DH	1991	2018	27	CR	SB Hall, Shops		CL Coombe la.
BS9 2DJ	1983	2018	35	SPR	SB Shops,		CR Cheyne Rd
BS9 2DH	2007	2018	11	CR	SB Shops,		DC Druid Close
BS9 2DH	2007	2018	11	CR	SB Shops,Restaurants, Hairdresser		DR Druid Rd
BS9 1ET	1971	2018	47	OSA	Sea Mills, Blaise, Trym, BBR	Blue 2	DSA Druid Stoke Ave
BS9 2LT	1993	2018	25	CBA	SB Shops		EC Ellebridge Close
BS9 1LH	1991	2018	27	DR	Trym, Blaise		KC Knoll Court
BS9 1SE	1994	2018	24	OSA	Stoke Lodge (access only)		LA Lyndale Ave
BS9 1SE	1994	2018	24	OSA	Stoke Lodge (access only)		MD Mariners Drive
BS9 1SE	1957	2018	61	OSA	Cheyne Rd, Pub		OSA Old Sneyd Ave
BS9 1RZ	1997	2018	21	DC	Trym,		PG Parrys Grove
BS9 2DH	2007	2018	11	CR	City Centre		PL Parrys Lane
BS9 1DA	1973	2018	45	SHC	Cheyne Road , SPR	Blue 3	QG Queens Gate
BS9 1DA	1973	2018	45	SHC	Trym, Dingle		RR Reedley Rd
BS9 1DJ	1987	2018	31	SPR	City, SB Shops		SB Stoke Bishop
BS9 1LH	1989	2018	29	DR	BBR Blaise		SD South Dene
BS9 1LH	1989	2018	29	DR	BBR Blaise		SHC St Hilary Close
BS9 2DF	1985	2018	33	BBR	SB Hall, Church		SL Sandyleaze
BS9 2DF	1985	2018	33	BBR	City Centre		SML Sea Mills La.
BS9 1QX	1999	2018	19	KC	CR Friend in Previous home		SPR Stoke paddock Rd
BS9 2DH	1999	2018	19	CR	Parrys lane		SS Sunnyside
BS9 1AN	2013	2018	5	PL	Bell Barn Road		WD West Dene

						Applicant's further Submissions	
BS9 1TT	1997	2018	21	PG	Blaise	WG	Woodland Grove
BS9 1LH	1991	2018	27	DR	Trym, Blaise		
BS9 1SE	1997	2009	12	OSA	Home via Dingle round trip	Blue 4	
BS9 1DD	1996	2018	22	DSA	Bell Barn Road		
BS9 2BD	2012	2018	6	WG	Friend Druid Hill	Mixed 1	
BS9 1QQ	1946	2018	72	MD	Visit to previous home CR		
BS9 2BD	1974	2018	44	WG	Druid Hill		
BS9 2LT	2000	2018	18	CBA	SB Shops, Scouts	Blue 2A	
BS9 2LT	2000	2018	18	CBA	SB Shops, Restaurants		
BS9 2DB	2002	2018	16	BC	SB Shops, Friends		
BS9 1BU	2002	2018	16	ELB	Stoke Lodge (access only)		
BS9 1BS	1997	2018	21	LA	Westbury Shops (??? Access)		
BS9 1BG	2010	2018	8	RR	Dentist on BBR		
BS9 1BQ	1997	2018	21	SS	CR as part of circular route		
BS9 1EH	1975	2018	43	DH	Family in BBR		
BS9 1EH	1975	2018	43	DH	Dingle. Blaise		
BS9 2TD	2002	2018	16	RR	Dentist on BBR		
BS9 1TT	2017	2018	1	PG	Trymside Shops	Blue 3A	
BS9 2DT	2011	2018	7	SH	Shop and Friends		
BS9 2DT	1980	2018	38	SH	Friends		
BS9 4UN	2010	2018	8	CG	OSA Friends		
BS9 2DH	1960	2018	58	CR	SB Shops	Mixed 1	
BS9 2DH	2013	2018	5	CR	SB Shops, Stoke Hill		
BS9 2DE	2015	2018	3	BBR	Post Office Stoke Hill		
BS9 2DE	2015	2018	3	BBR	Stoke Hill		
BS9 2DE	2012	2018	6	BBR	DSA		
52 Witnesses		Average	24.38	yrs use	48 through to highway		
		Max	72		3 access to field only		
		Min	1		1 indeterminate		

ROUTE 2 (Red)(E - J) West Dene to Shirehampton Road

Postcode	From	To	Years	Home	Destination	Note	File	Abbreviations	
BS9 2BD	2002	2018	16	WG	Stoke Lodge House (SLH)	access to SLH	Red 1	BBR	Bell Barn Rd
BS9 2BQ	1997	2018	21	WD	Shirehampton Road, Cedar Park			BC	Briarcliffe
BS9 2BQ	1997	2018	21	WD	SHR shops, Cedar Park Sch.			CBA	CoombebridgeAve.
BS9 2BQ	1969	2018	49	WD	SHR, SLH			CG	Clover Ground
BS9 2BQ	2010	2017	7	WD	Cedar Park School			CL	Coombe la.
BS9 2BW	1981	2018	37	SD	Cedar Park School, Shops			CR	Cheyne Rd
BS9 2BQ	1997	2018	21	WD	SLH	access to SLH		DC	Druid Close
BS9 2BQ	1997	2018	21	WD	Bus stop, Shops			DR	Druid Rd
BS92AY	1997	2018	21	CL	SLH	access to SLH		DSA	Druid Stoke Ave
BS9 1BS	1965	2018	53	LA	WoT, Library, Social			EC	Ellebridge Close
BS9 2BB	1981	2018	37	WG	SLH	access to SLH	Red 2	KC	Knoll Court
BS9 2BB	1988	2018	30	WG	SLH	access to SLH		LA	Lyndale Ave
BS9 2BB	1981	2018	37	WG	SLH	access to SLH		MD	Mariners Drive
BS9 2BB	1988	2018	30	WG	SLH, Shirehampton			OSA	Old Sneyd Ave
BS9 2BW	1972	2018	46	SD	SLH, Cedar park Sch, SHR shops			PG	Parrys Grove
BS9 2BW	1997	2018	21	SD	SLH, SHR shops			PL	Parrys Lane
BS9 2BL	1978	2018	40	CL	SLH	access to SLH		QG	Queens Gate
BS9 2BL	1978	2018	40	CL	SLH, SHR shops			RR	Reedley Rd
BS9 2BW	1972	2018	46	SD	SLH	access to SLH	Red 3	SB	Stoke Bishop
BS9 1DD	1996	2018	22	DSA	Coombe Dingle, Canford Park		Red 4	SD	South Dene
BS9 1DD	1996	2018	22	DSA	Coombe Dingle, Canford Park			SHC	St Hilary Close
BS9 1TZ	1949	2018	69	QG, WD	Cedar park Sch		Mixed 1	SL	Sandyleaze
BS9 2BQ	2000	2018	18	WD	SLH			SML	Sea Mills La.
BS9 1TZ	1980	2018	38	QG	Friend in WD			SPR	Stoke paddock Rd
BS9 1DE	2004	2018	14	DSA	WoT			SS	Sunnyside
BS9 2AY	1995	2006	11	CL	SLH	access to SLH		WD	West Dene
BS9 1BU	1979	2018	39	EC	WoT, Henlease			WG	Woodland Grove
BS9 2AY	2004	2018	14	CL	Croquet, Cedar Park				

BS9 2BW	2008	2018	10	SD	Cedar park School	
BS9 2BW	2008	2018	10	SD	Cedar park School	
BS9 1BS	1997	2018	21	LA	West Dene - relatives	
BS9 1BG	2000	2018	18	RR	SLH	access to SLH
BS9 0JW	2015	2018	3	SL	Cedar Park Sch	
BS9 1DN	1998	2018	20	SML	WoT shops and family	

34 Witnesses	Average	27.15	yrs use	24 claimed used through to SHR
	Max	69.00		10 claimed it as access to SLH
	Min	3.00		

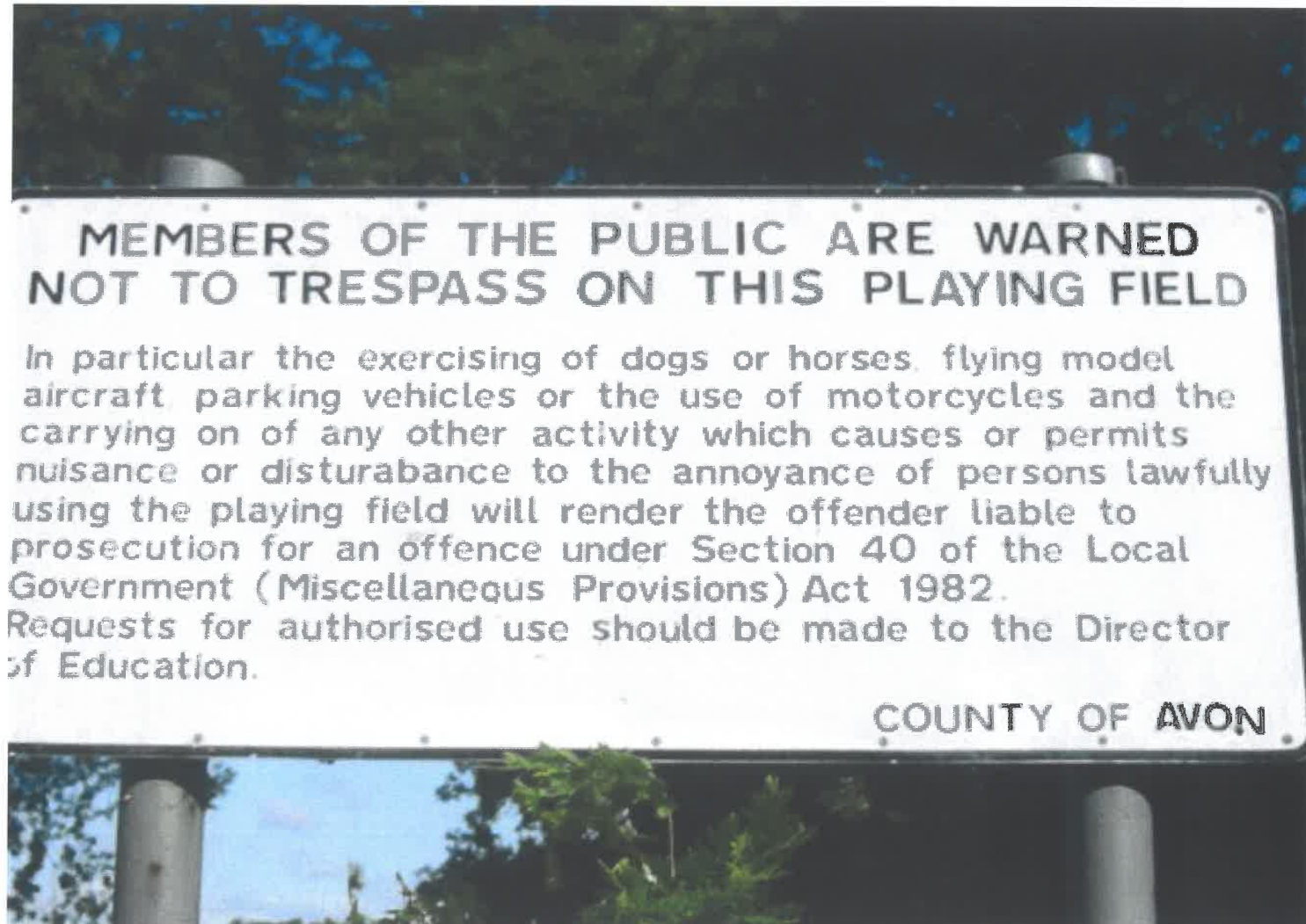
Route 3 (Green)(B-G) Cheyne Road to Shirehampton Rd

Postcode	From	To	Years	Home	Destination	Note	Abbreviations	
BS9 1SE	1994	2018	24	OSA	Shirehampton Road - Cheyne Road- Stoke Bishop		BBR	Bell Barn Rd
BS9 1SE	1994	2018	24	OSA	Shirehampton Road - Cheyne Road- Stoke Bishop		BC	Briarcliffe
BS9 2LT	1993	2018	25	CBA	SLH	access only	CBA	CoombebridgeAve.
BS9 1BS	1997	2018	21	LA	Shirehampton Road to Cheyne road circular		CG	Clover Ground
BS9 2DH	1991	2018	27	CR	SLH	access only	CL	Coombe la.
BS9 2DJ	1983	2018	35	SPR	SLH and to Shirehampton road for shops		CR	Cheyne Rd
BS9 2DH	2008	2010	2	CR	SLH	access only	DC	Druid Close
BS9 2DH	1980	2018	38	CR	SLH	access only	DR	Druid Rd
BS9 2DH	2005	2018	13	SPR	SLH	access only	DSA	Druid Stoke Ave
BS9 2DH	2005	2018	13	SPR	SLH	access only	EC	Ellebridge Close
BS9 1QX	1996	2011	15	CR	SLH	access only	KC	Knoll Court
BS9 2DF	1985	2018	33	BBR	SLH	access only	LA	Lyndale Ave
BS9 2DA	1982	2018	36	BBR	SL	access to field	MD	Mariners Drive
BS9 2DA	2010	2018	8	BBR	SL	access to field	OSA	Old Sneyd Ave
BS9 2DB	2002	2018	16	BC	SLH and Shirehampton Road		PG	Parrys Grove
BS9 2DA	2013	2018	5	BBR	SL	access only	PL	Parrys Lane
BS9 2DA	2015	2018	3	BBR	SL	Access only	QG	Queens Gate
BS9 2DA	2014	2018	4	BBR	SB shops		RR	Reedley Rd
							SB	Stoke Bishop
							SD	South Dene
							SHC	St Hilary Close
							SL	Sandyleaze
							SML	Sea Mills La.
							SPR	Stoke paddock Rd
							SS	Sunnyside
							WD	West Dene
							WG	Woodland Grove
18 witnesses		Average	19	yrs use	6 claimed pass through to CR or SHR			
		Min	2		12 were accessing either field or SLH			
		Max	38		18			

ROUTE 4 (Yellow) (B - H) West Dene to Cheyne Road

Postcode	From	To	Years	Home	Destination	File	Abbreviations
BS9 2BQ	2006	2018	12.00	WD	Trymside Shops, Vets	yellow 1	BBR Bell Barn Rd
BS9 2BQ	2006	2018	12.00	WD	Trymside Shops,		BC Briarcliffe Coombebridge
BS9 2BQ	1997	2018	21.00	WD	Shops. Vet, dentist, Pub	Yellow 2	CBA Ave.
BS9 2BQ	1997	2018	21.00	WD	Shops, station, pub		CG Clover Ground
BS9 2BQ	1969	2018	49.00	WD	SHR shops		CL Coombe la.
BS9 2BW	1981	2018	37.00	WD	SHR Shops, dentist		CR Cheyne Rd
BS9 2BQ	1989	2018	29.00	WD	SHR shops, BBR, Trym		DC Druid Close
BS9 1BQ	1989	2018	29.00	WD	SHR shops, Dentist		DR Druid Rd
BS9 2AY	1997	2018	21.00	WD	SHR Shops		DSA Druid Stoke Ave
BS9 2LT	1993	2018	25.00	CBA	Work via Parrys Lane & CBA		EC Ellebridge Close
BS9 2BW	1997	2018	21.00	SD	SHR Shops and Vets		KC Knoll Court
BS9 2BW	1972	2018	46.00	SD	SHR shops, vets, chip shop, garden centre		LA Lyndale Ave
BS9 1QX	1999	2002	3.00	CR	Elmlea school wv		MD Mariners Drive
BS9 1QX	1999	2002	3.00	CR	Elmlea school wv		OSA Old Sneyd Ave
GL3 9ED	1984	2016	32.00	CR	Westbury and Stoke Lane shops		PG Parrys Grove
BS9 2DJ	2005	2018	13.00	SPR	Coombe Dingle and Westbury		PL Parrys Lane
BS9 2DJ	2005	2018	13.00	SPR	Coombe Dingle S F		QG Queens Gate
BS9 2DH	1980	2018	38.00	CR	Shops and Social		RR Reedley Rd
BS9 2DH	2007	2018	11.00	CR	WoT, Reedley Rd church		SB Stoke Bishop
BS9 2DJ	1987	2018	31.00	CR	Henleaze		SD South Dene
BS9 2DH	2013	2018	5.00	CR	WoT for work	Mixed 1 2nd batch	SHC St Hilary Close
BS9 1DE	2004	2018	14.00	DSA	WoT		SL Sandyleaze
BS9 2AY	1990	2018	28.00	CL	Trymside shops		SML Sea Mills La.
BS9 2AY	1990	2018	28.00	CL	Trymside shops		SPR Stoke paddock Rd
BS9 2BW	2008	2018	10.00	SD	Trymside shops		SS Sunnyside
BS9 2BW	2008	2018	10.00	SD	Trymside shops		WD West Dene
BS9 1BS	1997	2018	21.00	LA	WoT for work		WG Woodland Grove

BS9 2DA	2014	2018	4.00	BBR	Child to nursery
BS9 3SN	1999	2018	19.00	RR	Trymside shops
BS9 2JR	1980	2018	38.00	SML	Stoke Lane shops
BS9 2DB	2010	2018	8	BC	West Dene
31 witnesses		Av	21.47	Yrs use	All witnesses used this way pathway as
		Min	3.00		through route between CR and WD
		Max	46.00		



14

B304



18

B305

COUNTY OF AVON
EDUCATION COMMITTEE

23RD JANUARY 1990

MEMBERSHIP:

a	Berry	P	J Norris
P	Dando	P	Pascoe
P	Mrs Davey	P	Mrs Perry
P	Davies	P	Power
P	Drew	a	Roberts
P	Easton	P	Singh
P	Fogg	P	Mrs T Smith
a	Fyfe	P	R Thomas
P	Mrs Gillard MBE JP	a	Mrs Underwood
P	Dr Grant	P	Vaughan
P	Greenfield	P	Mrs Wheadon
P	Hamilton	P	Pat Dunmore (substitute for Councillor Berry)
P	Jackson	P	Calway (substitute for Councillor Roberts)
P	John	P	Portch (substitute for Councillor Mrs Underwood)
P	Lingard	P	Turvey (substitute for Councillor Fyfe)
P	Mrs Miles		
P	Mrs Nicholls		
P	Nicoll		

Added Members

P Mr Earp
P Mary Feltham
P Mr Henderson
a Professor Jamieson
a Reverend Mason
P Mr McKerron
P Mr Nicholas
P Canon Protheroe

Also present

P Councillor Pat Hockey (ex officio)
P Councillor Wyatt (ex officio)

169 ELECTION OF CHAIR

RESOLVED - that Councillor V Jackson be elected
Chair for the duration of the
meeting.

(Councillor Jackson in the Chair)

170 ELECTION OF VICE CHAIR

It was agreed not to elect a Vice Chair for this meeting.

(b) whether the Premature Retirement Scheme be reviewed;

(c) whether actual salary or the current statutory limit should be the basis of the redundancy pay calculation.

185 LOCAL MANAGEMENT OF SCHOOLS - NON-SCHOOL USE OF SCHOOL PREMISES (Item 10)

The Committee considered a report which had also been presented to the Community Leisure Committee seeking consideration of policy issues relating to the use of school premises for non-school purposes, in the light of the introduction of the Local Management of Schools (LMS) in April 1990. In particular, the Education Committee was being requested to determine whether the Heat and Light Budget and Management of Lettings should be delegated to all Primary and Secondary Schools from April 1990.

The issues had been considered initially by the Joint Policy Advisory Sub-Committee on the Community Use of County Council premises prior to recommendations being made thereon to the Education and Community Leisure Committees. An update report of the Joint Policy Advisory Sub-Committee detailing comments and recommendations on the report was also considered.

The Committee was advised that the recommendations in the main report and the update report had received the approval of the Community Leisure Committee at its meeting on 22nd January 1990.

It was noted by the Committee that a further report would be prepared regarding the issues of procedures and charges for the lettings of playing fields.

RESOLVED -

- (i) that the Heat and Light Budget and Management of Lettings of buildings including caretakers' overtime costs be delegated to all Primary and Secondary Schools with effect from 1st April 1990;
- (ii) that the policy option 2 outlined in paragraph 5.9 of the report be directed to the schools proposed in paragraph 5.9.3 and the method of dealing with the budgets and charging as outlined in paragraph 5.11 of the report be approved;

- (iii) that the Resources Co-ordination Committee be requested to approve as appropriate to virement proposals within the Education Committee's Budget and Budget to the Community Leisure Committee's Budget as outlined in paragraph 5.11 of the report;
- (iv) that in respect of lettings, the charges be referred to the Resources Co-ordination Committee for approval, and also that it be noted that the Director of Education intends to include information in notes of guidance to be issued to schools on the following topics:-
 - (a) Membership and Terms of Reference of Community Sub-Committees;
 - (b) Specimen Terms and Conditions for lettings;
 - (c) Arrangements for political and other public meetings;
 - (d) Details of registered Youth and Community Groups and arrangements for lettings to new Youth and Community Groups;
 - (e) That it be noted that in future all expenditure and income from District Councils and other Bodies, for dual use/joint provision centres will be accounted for at school level;
 - (f) That support be given to the lobbying of Government Departments to clarify the law on School Governors' control of premises.

186 LOCAL MANAGEMENT OF SCHOOLS - RESPONSE OF SECRETARY OF STATE FOR EDUCATION AND SCIENCE (Item 11)

The Committee considered a report seeking to inform both this Committee and the Resources Co-ordination Committee of the response of the Secretary of State to the Authority's proposed LMS Scheme and also requesting the two Committees to consider appropriate variations to the

10

COUNTY OF AVON
COMMUNITY LEISURE COMMITTEE
22nd January 1990

EDUCATION COMMITTEE
23rd January 1990

LOCAL MANAGEMENT OF SCHOOLS : NON-SCHOOL USE OF SCHOOL PREMISES

Update Report of the Joint Policy Advisory Sub-Committee on the Community Use of County County Premises

1 Purpose of Report

To advise Members of the comments and recommendations of the Joint Policy Advisory Sub-Committee on the Community Use of County Council Premises on the report on Non-School Use of School Premises.

2 Background

The Joint Policy Advisory Sub-Committee at its meeting on 21st December 1989 was advised that the Education Committee on 23rd January 1990 was to consider a report on the Non-School Use of School Premises which would include recommendations on charges for 1990/91. The Sub-Committee decided that it should hold a meeting prior to the Education Committee meeting in order that it could consider the report prior to Education Committee making decisions on the issues on the report.

2 Comments of the Joint Policy Advisory Sub-Committee

2.1 The Sub-Committee considered the report at its meeting on 17th January 1990 together with an update report which was circulated at the meeting and is attached (Appendix 1) that outlined recommended standard charges to apply in 1990/91. The Sub-Committee sought clarification of various points in the report and received officers responses. As a result of these responses the Sub-Committee wishes to draw the following points to your Committee.

2.2 Fixing of Charges

The County Solicitor and Deputy Clerk (Acting) confirmed that as the County had in the past operated a Countywide lettings system the charges had always been approved by the Resources Co-Ordination Committee. Arrangements would be made for the Resources Co-Ordination Committee to approve the charges set out in the update report.

2.3 Dual Use Agreements

The County Solicitor and Deputy Clerk (Acting) reported on developments regarding the validity of the dual use agreements. He advised Members of an arrangement operated by another County Council in South Wales which would enable these schemes to continue to operate should the present arrangements be proved to be illegal.

Members endorsed the action proposed in recommendation 8.6 of the original report.

2.4 Proposed Directive

The Director of Education confirmed that in addition to the proposed directive he would be circulating to schools additional notes of guidance which would include reference to the following topics:-

- 1 Membership and Terms of Reference of Community Sub-Committees
- 2 Specimen Terms and Conditions for Lettings
- 3 Arrangements for political and other public meetings
- 4 Details of registered youth and community groups and arrangements for lettings to new youth and community groups.

3 Recommendation

The Joint Policy Advisory Sub-Committee on the Community Use of County Council Premises supports the approval of the recommendations in the original and update reports subject to:-

- 1 the charges being referred to the Resources Co-Ordination Committee for approval; and
- 2 it being noted that the Director of Education intends to include the information outlined in paragraph 2.4 above in notes of guidance to be issued to Schools

Authors

County Secretary and Deputy Clerk (Acting)

Background Papers

Report and Update Report to Joint Policy Advisory Sub-Committee on the Community Use of County Council Premises 17th January 1990

Any person wishing to inspect the background papers used in the preparation of this report should seek the assistance of the contact officer for the meeting who is Peter Langley and who is available by telephoning Bristol 290777 Ext 6384 or by calling at the office of the Chief Executive and Clerk, Floor 6, Avon House, Bristol (during normal office hours).

AGENDA ITEM No.

10

COUNTY OF AVON

JOINT POLICY ADVISORY COMMITTEE ON COMMUNITY USE OF
COUNTY COUNCIL PREMISES

17 January 1990

LOCAL MANAGEMENT OF SCHOOLS : NON-SCHOOL USE OF SCHOOL PREMISES

Purpose of Report

To request the Policy Advisory Committee to consider the attached report which is to be submitted to the Community Leisure Committee on 22 January 1990 and the Education Committee on 23 January 1990.

Considerations

- 2.1 The attached report makes recommendations regarding the policies for non-school use of school premises following the introduction of Local Management of Schools in April 1990.
- 2.2 The report recommends that for 1990/91 only, standard charges should apply for certain users of school premises. An update report will be presented to this Committee outlining the proposed standard charges.

Recommendations

The Committee is requested to:

- 3.1 Make recommendations to the Education and Community Leisure Committees regarding the attached report, and
- 3.2 Make recommendations to the appropriate Committees regarding the standard charges to apply to certain lettings of school premises during 1990/91.

C Saville
Director of Education

D W Liddle
Director of Community Leisure

D G Morgan
County Treasurer

A G Darg
Director of Property Services Acting Director of Administration & County Solicitor

Background Papers

None

COUNTY OF AVON

EDUCATION COMMITTEE
23 January 1990

COMMUNITY LEISURE COMMITTEE
22 January 1990

LOCAL MANAGEMENT OF SCHOOLS : NON-SCHOOL USE OF SCHOOL PREMISES

Purpose of Report

- 1.1 To request the Education and Community Leisure Committees to consider policy issues relating to the use of school premises for non-school purposes, in the light of the introduction of Local Management of Schools (LMS) in April 1990.
- 1.2 To request the Education Committee to determine whether the Heat and Light Budget and Management of Lettings should be delegated to all primary and secondary schools from April 1990.

Background : Previous Committee Considerations

- 2.1 The issues outlined in this Paper have been considered by the Education Committee on a number of previous occasions. On 13 February 1989, the Education Committee decided to undertake a consultation exercise about the future arrangements for community use of school premises following the introduction of Local Management of Schools. The detailed consultation exercise has not taken place, because it was felt that the issues outlined in the report of 13 February 1989 needed further consideration before any meaningful consultation could take place. That further investigation has indicated that several of the options outlined in that report could not be achieved in practice. This report concentrates on those options which can be achieved and delivered in the immediate future. Members should note, however that, as part of its consultation on LMS generally, the Education Committee invited Governors of all schools to comment on community use and LMS. The general feedback from that consultation was that Governors wished to have control over the lettings of their premises, and wished to be free to be able to determine their own lettings charges.
- 2.2 From April 1990, the Education Committee has agreed that 91 schools (30 secondary and 61 Primary) should have full Local Management status in accordance with the LMS Scheme. At its meeting on 14 October 1989, the Education (Policy Implementation) Sub-Committee considered the arrangements which were to apply from April 1990 for all primary and secondary schools which will not have full Local Management status at that date. The Sub-Committee agreed that those schools should have delegated to them all the Non-Staffing budgets from April 1990, with the exception of Heat and Light and Lettings. The Sub-Committee felt that the issue of the delegation of the Heat and Light budget and Lettings should be a matter for decision by the full Education Committee, as part of that Committee's consideration of the future arrangements for community use of school premises following the introduction of Local Management of Schools.

- 2.3 There has also been consideration at the Policy Advisory Sub-Committee on College Budgets regarding the relationship under the Education Reform Act between schools and adult/further education. At its meeting on 5 December 1988, the Policy Advisory Committee expressed its wish that Adult Education should not suffer as a result of the introduction of Local Management of Schools.
- 2.4 The Joint Policy Advisory Committee on the Community Use of County Council Premises at its meeting on 21 December 1989 made recommendations regarding the lettings charges to apply in all County Council premises from April 1990. The Committee excluded primary and secondary schools from the recommended charges pending consideration of this report. The Committee will consider this report on 17 January 1989 and make recommendations to these Committees.

3. Legislative Background

3.1 Education Reform Act 1988

As Members are aware, the Education Reform Act requires that all Local Education Authorities should produce a scheme for Local Management of Schools to come into operation from April 1990. There are two main aspects to the Local Management of Schools Scheme, namely

- (a) The introduction of Formula Funding for all primary and secondary schools from April 1990, which means that from that date each primary and secondary school will have its share of the Aggregated Schools Budget and its expenditure will need to be managed in accordance with that budget share
- (b) The delegation of control over the spending of that budget to the Governors of certain primary and all secondary schools, which must be in operation in all those schools by April 1993.

3.2 Education (No. 2) Act 1986

Section 42 of this Act requires that by the school's Articles of Government, the Governing Body of every County and maintained school should have control over the use of the school's premises at all times except during school hours, subject to any direction given to them on the matter by the LEA. The Governing Body must also, by statute, have regard to the desirability of the premises being made available for the community when not required by the school.

3.3 Implications

The aspects of the Education Reform Act 1988 relating to the introduction of Local Management of Schools, and the Education (No. 2) Act 1986 have significant implications for use of school premises by persons or organisations, other than the school itself. The main implications of the two Acts are summarised as follows

- (a) The Governing Body of a county school should have control over the use of the school's premises outside school hours, subject to directions which may be issued by the LEA, and having regard to the desirability of community use of its premises. The issuing of directions should not be tantamount to the LEA having control of the premises.

- (b) The statutory position with regard to Voluntary Controlled and Voluntary Aided schools, as set out in the 1944 Education Act remains unchanged. The Governing Bodies of these schools have control over the use of the school's premises outside of school hours, subject to certain limited directions which the LEA may give to those Governing Bodies as to the use of the premises on certain occasions for specified Education purposes.
- (c) Each primary and secondary school, regardless of whether it is locally managed, must receive its share of the Aggregated Schools Budget. The school's budget may not be used to subsidise community use.
- (d) LEAs may delegate the overall management of all non-school activities on a school site to the Governing Body.
- (e) If LEAs do not chose to do that, they must ensure that the individual school's budget is compensated in full for any non-school use.
- (f) LEAs may specify conditions to Governors on charging or lettings policies within the provision of the 1986 Act, but in doing so they must ensure that the school's budget shall not subsidise any non-school use.

These statutory requirements mean that the Education Committee must consider

- (i) Whether it wishes to delegate overall management of all non-school activities to the school Governing Body of a locally managed school, and if it does not
- (ii) The directions which it would wish to issue to Governors of locally managed schools with regard to charging or lettings policies, and whether these directions should differ between a locally managed school and a school which does not have full Local Management status
- (iii) The financial arrangements by which the Committee would wish to implement such directions
- (iv) The implications for current and future dual use and joint provision schemes.

Current Policies for Non-School Use of School Premises

1. The County Council and the Education Committee has a policy of encouraging community use of its premises within existing budgetary constraints and provided that the interests of the school are not adversely affected by such community use. When schools are used for purposes other than by the school itself, there may be additional costs incurred, primarily relating to heat and light, caretaking, cleaning, repair and maintenance and wear and tear on furniture and equipment. In the past, the costs of such use have been met from the Education Committee's budgets in these areas and they have not traditionally been divided between school use and non-school use.

4.2 Non-school use of school premises can take various forms.

4.2.1 Use of School Premises Outside School Hours

This mainly takes place under the aegis of the Education Committee's lettings policy. The current lettings system is complex; anyone wishing to hire school premises must first have the approval of the school Governing Body, and except in the case of certain voluntary schools they must pay the appropriate charge which has been set by the County Council. Charges are standardised throughout the County. Several years ago, the County introduced a system of multi-let sessions in certain schools on particular evenings. This was designed to encourage community use while keeping the costs of lettings to a minimum by concentrating use at certain times. These multi-let sessions were designed around adult education use of school premises, and on these occasions discounts are available to a wide range of community groups and registered youth groups. On the multi-let sessions, the discounts apply to each individual group regardless of the number of groups using the premises. This means that although the charges for lettings are standardised throughout the County, there can be significant variations in what is actually paid by any user group, depending on whether the use takes place on one of these multi-let sessions. The actual costs of such use at individual schools can vary considerably depending on the type of heating, the number of rooms in use and the hours of use. The County charges are based on an average assessment of cost throughout the year, and so they do not reflect the true cost of individual lettings.

The main types of use of school premises outside of school hours, which apply through the lettings policy are as follows:

(a) Adult Education

The Adult Education Service is the principal non-school user of school premises outside of school hours. Each individual adult education use is not charged on the appropriate lettings charge. Rather, there is a block recharge for adult education as a proportion of the expenditure on school buildings. This is not credited to individual school accounts. The level of the recharge has traditionally been considerably lower than the actual costs of such use. Therefore, the costs of adult education use have been largely hidden within the schools' expenditure on heat and light, caretaking and cleaning, etc.

(b) Voluntary Youth and Community Groups

These groups are the second main user category.

On multi-let sessions, these groups use school premises at discounted rates. For example, a registered youth group may use a school sports hall on a multi-let session for £19.50 per annum, although the standard charge for a sports hall is currently £19 per hour. On multi-let sessions, other users except for commercial users pay 50% of the hourly charge. On non multi-let sessions, youth and community groups are required to pay higher rates except in the case of sporting associations who use gyms and halls at the 50% rate, when no heating is required.

There is an appeal mechanism by which groups can appeal to the County against the charge.

(c) School Use

Within certain limits, schools also make use of their premises outside school hours and this is free of charge.

(d) Other County Council Use

There are other County Council users, for example, the County Youth Service and other Education use, such as holiday play schemes and weekend music centres. These are also subject to charge at reduced rates. There is also statutory use, eg elections, elected members surgeries, etc.

(e) Commercial Use

The final type of use outside school hours is by commercial organisations, and these are required to pay the full charge currently.

4.2.2 Use of School Premises During School Hours

With falling rolls and the requirement of the DES to remove surplus places from teaching use, a considerable amount of accommodation in schools has been closed for teaching purposes in recent years. There are two categories of such closure:

- (i) Those where the accommodation is declared surplus permanently to the schools use. In this case the current procedure is for the Education Department to seek other Education use, and if none materialises, the accommodation is passed to the Property Services Department to seek other County Council use. If no other County Council use is found, the Property Services Department disposes of the accommodation or leases it to an outside user.
- (ii) The second category of closed accommodation is where the accommodation has been closed for teaching purposes, but has not been declared surplus to the school's use. This could be because the accommodation is integral to the overall school accommodation, or because the closure for teaching purposes is only temporary pending an anticipated rise in pupil numbers.

The main users of closed accommodation are:

- (a) Playgroups/Mother and Toddler Groups, which are primarily, but not always, using accommodation which has not been declared surplus to a school's requirement.
- (b) Other Education use, for example the Education Committee's sponsored parents' meetings rooms, which take place in a small number of schools. Other examples of Education use of school premises are for adult education offices, Education Welfare Offices, Education Psychology Offices, etc. These other Education

users are primarily using accommodation which is permanently surplus to the school's requirements. In most of these cases, however, the heating system is such that the heating costs for this total accommodation are charged to the schools' accounts.

- (c) Other County Council users, for example Social Services Department and Community Leisure Department have offices in accommodation which has been declared surplus to schools' requirements. Again in most cases the heating system is such that energy costs are charged to the schools' accounts. Where other costs are separately identified, there are appropriated recharges.
- (d) Voluntary groups. A limited number of voluntary groups occupy surplus school accommodation, largely by virtue of a lease or a licence from the Property Services Department, although some community groups occupy accommodation which is still technically part of the schools accommodation, largely on the basis of a local agreement with the Head Teacher and Governors of the school.
- (e) A very limited amount of closed school accommodation is used by commercial organisations, primarily on a licence or lease basis from the Property Services Department.

4.2.3 Other Accommodation on a School Site

- (a) In a few schools, accommodation was specifically provided for adult education centres and in most of these cases the accommodation is heated through the schools heating system.
- (b) A similar situation applies in the case of Youth Wings which are provided in a number of secondary schools.
- (c) Another significant occupier of, and consumer of energy, on school premises is the School Meals Service and most school kitchens, where they are integral to the school accommodation, are not separately metered or fed from a separate energy source. Under the competitive tendering arrangements, the premises will remain a client side responsibility.
- (d) On a number of school sites, there are caretakers houses. With few exceptions these are quite separate from the school premises. In all cases, the energy costs are separately metered. The caretaker's house is not part of the school's accommodation for the purposes of this report.

4.2.4 Dual Use and Joint Provision Schemes

In a limited number of schools, agreements have been reached with District Councils, other minor authorities or external bodies, for the joint provision and dual use of certain specified facilities at schools. This applies mainly to sports centres, which are used by the school during school hours and then available for community use outside of school hours. These are the subject of management agreements under which the running of

the facilities out of school hours is carried out by a Management Committee comprising representatives of the School Governors (who may not be County Councillors), the District Council, the other bodies (if any) and the users. Decisions on both the use of the premises and the charges for that use are taken either by the Management Committee or by the District Council. As they are not separately metered, or the subject of separate heating systems, the school's heating bill, for example, includes both the cost of the centre, when in use by the school, and also when in use by the community. There is a system of recharges between the County and the appropriate district councils for such centres, with the recharge being based largely on floor area and hours of use. The proportion which is to be paid for by the District Council or other body is set out in the management agreement. These financial arrangements can be accommodated with relatively minor adjustment under Local Management of Schools. The legal basis on which these schemes operate has recently been called into question, because counsel has advised another LEA that S.42 of the Education (No. 2) Act 1986 does not permit Governors of schools to divest themselves of control of the premises to a body like a Management Committee of the type Avon establishes. That LEA - Gloucestershire - is proposing to lobby the Government with a view to clarifying the Law to permit such Committees, or similar bodies, to be established. If Members do not object, your officers propose to join that exercise. In the meantime, it is suggested that the status quo remain until it is beyond doubt that the system requires alteration.

Future Policy Considerations

5.1 Costing Non-School Use of School Premises

Given that the Education Reform Act states quite explicitly that a schools budget shall not subsidise non-school use, it is necessary for the costs of schools' use and the cost of non-school use of school premises to be clearly identified and for schools to be compensated in full for the costs of non-school use. The current practice of hidden subsidies cannot apply any longer. The Education Committee must therefore first determine the relative proportions of the various budgets which are applicable to school use and non-school use.

5.2 The main budget headings where expenditure could be attributable to non-school use are as follows:

- Heat and Light
- Caretaking
- Cleaning
- Lettings Income and Recharges
- Furniture and Equipment
- Repair and Maintenance

5.3 An analysis of historical expenditure on these budgets indicate that it is not possible to divide the furniture and equipment and repair and maintenance budgets.

5.4 The main budgets where it can be demonstrated that additional expenditure occurs as a result of non-school use are therefore heat and light, caretaking overtime and cleaning, and allied with these the income and recharges can also be analysed.

8

- 5.5 An analysis of the cleaning budget cannot be finalised until all the variations to the contract have been examined. It will be several weeks before this information can be provided.
- 5.6 An analysis has been undertaken of the 1989/90 budgets for heating and Caretakers' overtime and expenditure assessed to reflect:
- use during school hours by schools and non-school users including School Meals Service and permanent other users, and
 - use outside school hours by schools and non-school users.

The principle that underlies the analysis is that where currently Adult Education and another user are occupying the building during the same hours the costs incurred in opening the building have been attributed wholly to Adult Education.

This indicates the following breakdown of expenditure.

Budget Heading	Total Budget 1989/90	School Use In & Out of School Hours	School Meals Service	Youth Wings (CL Use)	Permanent Other Users During School Hours	Adult Education	Other Ed. Users Lettings	Nov '88 Prices Voluntary Youth & Community Lettings	Dual Use Centres
	£'000	£'000	£'000	£'000	£'000	£'000	£'000	£'000	£'000
Heat & Light and Caretaking Overtime	4,718	3,481	415	10	60	436	50	218	48
Income & Recharges	(271)					(78)		(193)	(48)
NET TOTAL	4,447	3,481	415	10	60	358	50	25	-

The proportion of the budgets relating to school use will be allocated to all primary and secondary schools from 1 April 1990 in accordance with the resource allocation formula. How the remainder of the budgets are dealt with is dependent on the Committee's decisions on future policies for community use.

5.7 Future Community Use Policies

Having identified the relative proportions of these budgets which are attributable to school use and non-school use, the Committee must decide its policy on delegation to school Governing Bodies of both locally managed and non-locally managed schools. It is appropriate to consider a single policy for both categories of primary and secondary schools.

There are essentially two options open to the Committee.

5.8 Option 1

5.8.1 The Committee could delegate the overall management of all non-school activities to school Governing Bodies, and with this delegation each school would receive two separate budget allocations.

- the school's budget share, in accordance with the LMS formula

- (b) the school's allocation from the "non-schools" budget.

Under this option the Governing Body would be free to determine how to spend its "non-schools" budget share, which would effectively be its community education budget. This would create community schools and would represent a significant change of policy for the Education Committee. This option is strongly supported by several of the LMS pilot secondary schools.

- 5.8.2 There would however be significant problems arising from the method of distribution of the "non schools" budget. If based on historical patterns of use, the "non schools" budget would be concentrated on a relatively small number of schools, mainly secondary schools. This would effectively freeze the existing patterns of use. Further development of adult education and community provision could prove difficult. It would also result in additional costs to the Authority in that a separate subsidy budget would have to be identified for all new or changed use. The alternative method of distribution would be to develop a formula or to base the allocation on applications from schools which would be required to draw up a programme of activities for approval by the Authority.

- 5.8.3 Whichever approach to distribution were adopted, this option would have far reaching implications for Adult Education and Community Leisure Department. It would require a lengthy process of consultations as it would involve a major policy change.

Option 2

- 5.9.1 The second option would be for the Authority to issue directions under the 1986 Act to schools regarding non-school use, whilst ensuring that schools were compensated in accordance with the 1988 Act for the costs of such use. This would mean that the net budgets identified in paragraph 5.6 together with the cleaning budgets when identified, would be transferred to the various services, eg the Adult Education Service and the Community Leisure Department. Those services would then use their budgets to ensure that schools were reimbursed for any costs incurred as a result of their use of school premises, ie Adult Education would pay schools for their use, Community Leisure would allocate support to Voluntary Youth and Community Groups to enable them to pay schools for their use. This option would be more consistent with the current policies of Avon LEA and the Committee is recommended to adopt this approach for the immediate future.

- 5.9.2 Section 42 of the Education (No.2) Act 1986 (with regard to the Governors control of use of school premises outside of school hours being subject to LEA directions) has been included in the Articles of Government for all County and Maintained Special Schools in Avon. The purpose of this section is understood to be to enable the Authority to fulfil its statutory responsibility for ensuring adequate further education provision within its area, and it allows the County Council to continue its policy of making available, so far as is possible, school premises for community use. Of particular importance is the availability of premises for the Authority's own services to the community, including

adult education and youth services. In issuing any directive, the Authority must recognise that it is the Governing Body which has responsibility for determining the patterns of use of school premises, subject to direction by the Authority and that schools must not be disadvantaged financially as a result of community use arrangements. It is therefore important a balance is struck, on the one hand between freedom to manage for school governors, and on the other hand, ensuring that the Authority's community use policy is protected and the following directive is proposed to ensure that this balance is maintained.

5.9.3 Proposed Directive

In exercise of its statutory responsibility to ensure adequate facilities for further education, the County Council requires school governing bodies to ensure that

- (a) Subject to the provision within the 1944 Education Act regarding voluntary schools, the school premises are available out of school hours when not in use for school purposes, for adult education, which will be provided under the auspices of the Education Committee; youth and community services, which will be supported under the auspices of the Community Leisure Committee; other educational activities of the Authority; and other statutory use, as defined in the Authority's lettings handbook
- (b) The premises be made available for such purposes on a cost neutral, ie at the economic cost only, to recognise that
 - i) schools' formula budgets should not be subsidising such use, and
 - ii) the Authority's policy is to encourage community use of County Council premises.
- (c) Arrangements for such use be agreed as far in advance as practicable to minimise interruption to activities and inconvenience by users.
- (d) A Community Sub-Committee is established by each Governing Body representative of the various services and users identified in (a) above and responsible for encouraging the wider community use of the school premises and managing and co-ordinating that use on behalf of the full Governing Body.
- (e) In respect of any facility provided by the Authority exclusively for further education in schools or any other County Council purposes, which is located on the school campus but outside the control of the school Governors, the Governing Body should ensure that access is afforded to the users of the premises. No net cost should fall upon the school budget as a result of this arrangement.

Except as outlined in this directive, Governing Bodies would be free to determine the use to be made of their premises and to establish appropriate charges.

5.9.3 Charging Policies

As can be seen from 5.9.3 (b), it is proposed that use of school premises for adult education, use by registered youth and community groups, for other Education and other County Council and statutory use be charged at the economic cost only. It will be necessary to establish the economic cost of such use at each school. Members should note that the economic cost of individual schools will vary according to their particular circumstances and therefore it will no longer be possible to have standardised lettings charges throughout the County unless the Authority is prepared to compensate each school for the difference between any standard charge and the true economic cost of use of that school.

However, it will not be possible to establish the economic cost of each individual school before 1 April 1990 and the DES has accepted that the Authority can make special arrangements for the first year.

Therefore, for 1990/91 only, it is proposed that the following arrangements apply for non-school use of all primary and secondary schools.

(a) Control of the heat and light budget, and management of lettings, including Caretakers' overtime costs, will be delegated to all primary and secondary schools from April 1990.

(b) Based on the 1989/90 Budget at November 1988 prices,

i) Schools Use

Primary and secondary schools will be allocated £3,481,000 on the appropriate formula basis as the schools' share of the heat and light and Caretakers' overtime budget.

Other Users

ii) Schools will receive an additional allocation based on assessed costs for the School Meals Service (£415,000) permanent other daytime Education and other County Council users (£60,000)

iii) A sum of £358,000 will be vired to Adult Education for adult education lettings.

iv) A sum of £50,000 will be held for other Education use and lettings to include music centres, holiday playschemes, playgroups, etc, and statutory use.

v) A sum of £35,000 will be vired to the Community Leisure Committee's budget for assisting voluntary youth and community groups lettings of school premises and the use of Youth Wings by the Community Leisure Department.

vi) The cleaning budget will be treated in the same way, once the relative proportions have been identified.

(c) The Adult Education Service is already committed to its programme of activities for the remainder of the 1989/90 academic year which will

cover the period April-July 1990. The costs of this programme will be analysed, and deducted from the sum which it is proposed to vire to Adult Education. Schools will then receive direct reimbursement for the cost of adult education in the summer term 1990 when they receive their final formula allocation in March 1990.

- (d) For the period September 1990 - August 1991, the Adult Education Service will be expected to pay schools a standard charge for their lettings, based on the County average of the economic cost of making school buildings available for non-school use.
- (e) For the period April 1990 - March 1991, the Youth Service, Registered Youth Groups and registered Community Groups, other Education Department and County Council uses and statutory users will be required to pay schools for lettings on the basis of the appropriate County standard charge.
- (f) Governing Bodies of all primary and secondary schools will be free to determine the charges to be applied to all other users, provided that they do not use their schools' budget to subsidise such use.

5.12 From 1 April 1991, the users specified in 5.11 (e) above will be required to pay the true economic cost of their use to individual schools and this will apply in the case of Adult Education from September 1991.

5.13 The Policy Advisory Sub-Committee on Community Use of County Council premises at its meeting on 15 December 1989 has made recommendations regarding the charges for 1990/91 for all County properties except for primary and secondary schools. If the proposals in paragraph 5.11 are accepted it will be necessary for Members to agree the standard charges which should apply to primary and secondary schools for the period April 1990 - March 1991. An update report on proposed charges will be presented to the Policy Advisory Sub-Committee on 17 January 1990 and to the Community Leisure and Education Committees on 22 and 23 January 1990 respectively.

6. Dual Use and Joint Provision Schemes

As stated earlier in this report, the Education (No. 2) Act 1986 and the Education Reform Act 1988 have implications for Schemes of dual use and joint provision of facilities between the County Council and District Councils or other bodies. As shown in paragraph 4.2.4, the 1986 Act may have changed the legal position and clarification is now urgently required. As far as the 1988 Act and in particular the introduction of LMS is concerned, the major implications are for the funding of such schemes. As a matter of principle, it is proposed that all expenditure and income from the District Council should be accounted for at school level. This may have implications for the detail of the management agreements, but this is of relatively minor concern against the more major questions raised by legal interpretations of the 1986 Act. In considering the funding of dual use schemes, it must be remembered that the schools' budget should not be subsidising the costs of the community use of such premises and it may be appropriate to consider the feasibility of installing separate meters for these facilities, given that they are relatively few in number.

7. Playing Fields

The position regarding the lettings of playing fields is complicated by the phased introduction of the Competitive Tendering arrangements and the fact that commitments have already been entered into for the summer 1990 cricket season. It is therefore proposed that the existing arrangements apply for the summer term 1990 and a further

report be presented on the procedures and charges to apply for the remainder of the 1990/91 financial year.

RECOMMENDATIONS

The Education Committee and Community Leisure Committee are requested to:

- 8.1 Agree that the heat and light budget and management of lettings of buildings including Caretakers' overtime costs be delegated to all primary and secondary schools with effect from 1 April 1990. (Education Committee only).
- 8.2 Approve the policy option 2 outlined in paragraph 5.9, the directive to schools proposed in 5.9.3, and the method of dealing with the budgets and charging as outlined in paragraph 5.11, and if so agreed
- 8.3 Request the Resources Co-ordination Committee to approve as appropriate the virement proposals within the Education Committee's Budget and from the Education Committee Budget to the Community Leisure Committee's Budget as outlined in paragraph 5.11.
- 8.4 Consider the recommendations from the Joint Policy Advisory Sub-Committee on Community Use of County Council Premises regarding standard charges to be applied to certain lettings in primary and secondary schools during 1990/91
- 8.5 Note that in future all expenditure and income from District Councils and other bodies, for dual use/joint provision centres will be accounted for at school level be noted.
- 8.6 Support the lobbying of Government Departments to clarify the law on school Governors' control of premises.

C Saville
Director of Education

D W Liddle
Director of Community Leisure

D G Morgan
County Treasurer

A G Darg
Director of Property Services

J Orton
Acting Director of Administration & County Solicitor

Background Papers

Education Act 1944

Education (No. 2) Act 1986

Education Reform Act 1988

Circular 7/88 Local Management of Schools

Education Department Lettings Handbook

Director of Education's Files on Community Use and LMS

AGENDA ITEM NO 23

LEISURE SERVICES COMMITTEE
24TH SEPTEMBER 1996

CAPITAL PROGRAMME - CHILDREN'S PLAY
(Report of the Director of Leisure Services)

Purpose of Report

- 1 To seek the Committee's approval to the proposals for capital expenditure 1996/97 on children's playgrounds.

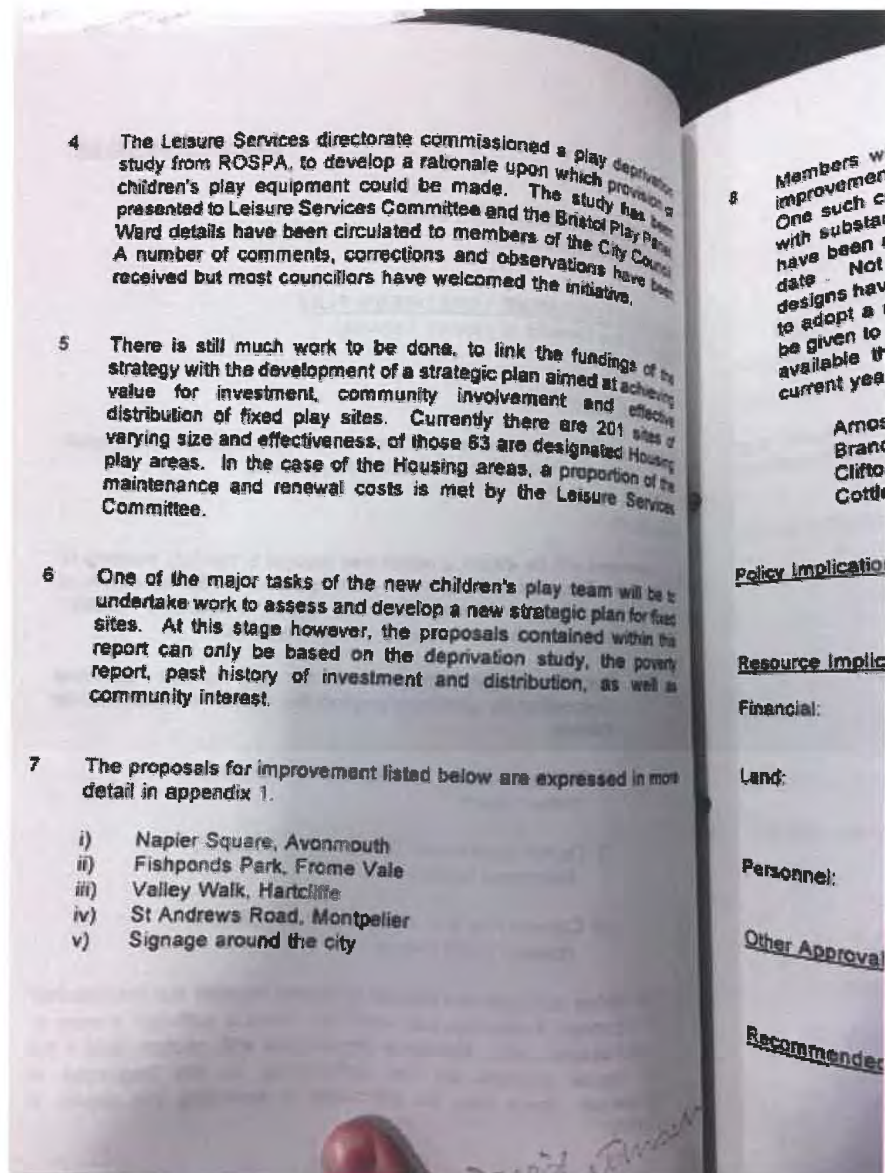
Background

- 2 Members will be aware a report was brought to the July meeting of Leisure Services committee to seek approval for the allocation of resources for the Leisure Services capital programme 1996/97 (minute number 65.6/96 refers). It was resolved:

(2) that the capital programme for the Leisure Services Committee for additional projects for 1996/97 be approved as follows:

- | | |
|--|----------|
| (i) Children's Play - subject to a further report | £100,000 |
| (ii) Tourist Information Centre - telephone system | £15,000 |
| (iii) Colston Hall box office - (subject to (3) below) | £35,000 |

- 3 The above amounts are subject to capital receipts but the Director of Corporate Resources has confirmed there is sufficient money to cover design costs. Members should note with caution, that if the full capital receipts are not forthcoming by the beginning of November, there may be difficulties in spending the capital in 1996/97.



Members will be aware that the past allocation of resources on improvements to play areas have been made against other criteria. One such criterion has been the presence of a fund raising group with substantial funds to invest. In some cases phased schemes have been adopted as a way of developing playground services to date. Not all such schemes have been completed even though designs have been done. Whilst mindful of the committee's decision to adopt a more needs based approach some consideration could be given to completing these schemes should the decision to make available the £100,000 be too late to ensure expenditure in the current year. Uncompleted phased schemes are those at:

Arnes Park	High Kingsdown
Brandon Hill	Hillfields
Clifton Down	St Andrews Park
Cottle Road	Springfield Road

Policy Implications

There are no specific policy implications affecting this report.

Resource Implications

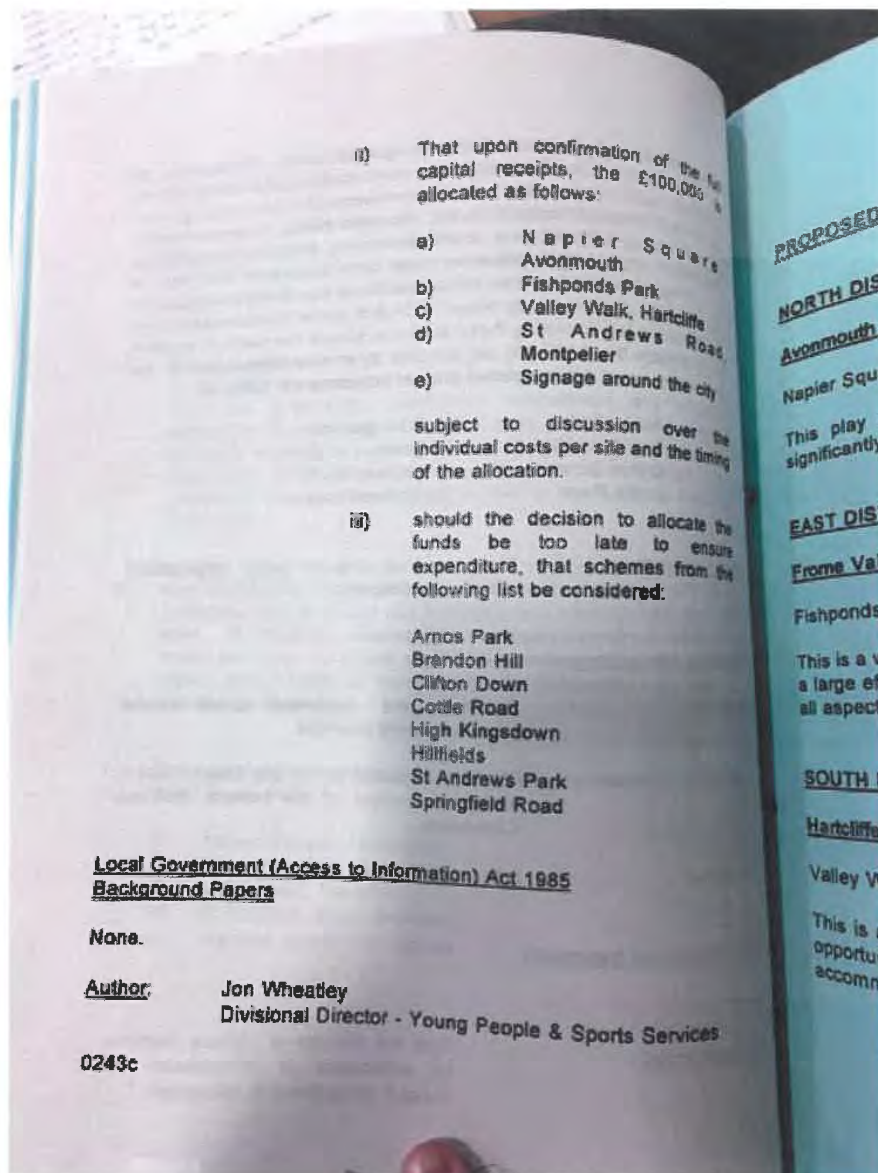
Financial:	Schemes are dependent upon capital allocation being available.
Land:	The land is owned by the City Council and is under the control of the Leisure Services Committee.
Personnel:	Nil.

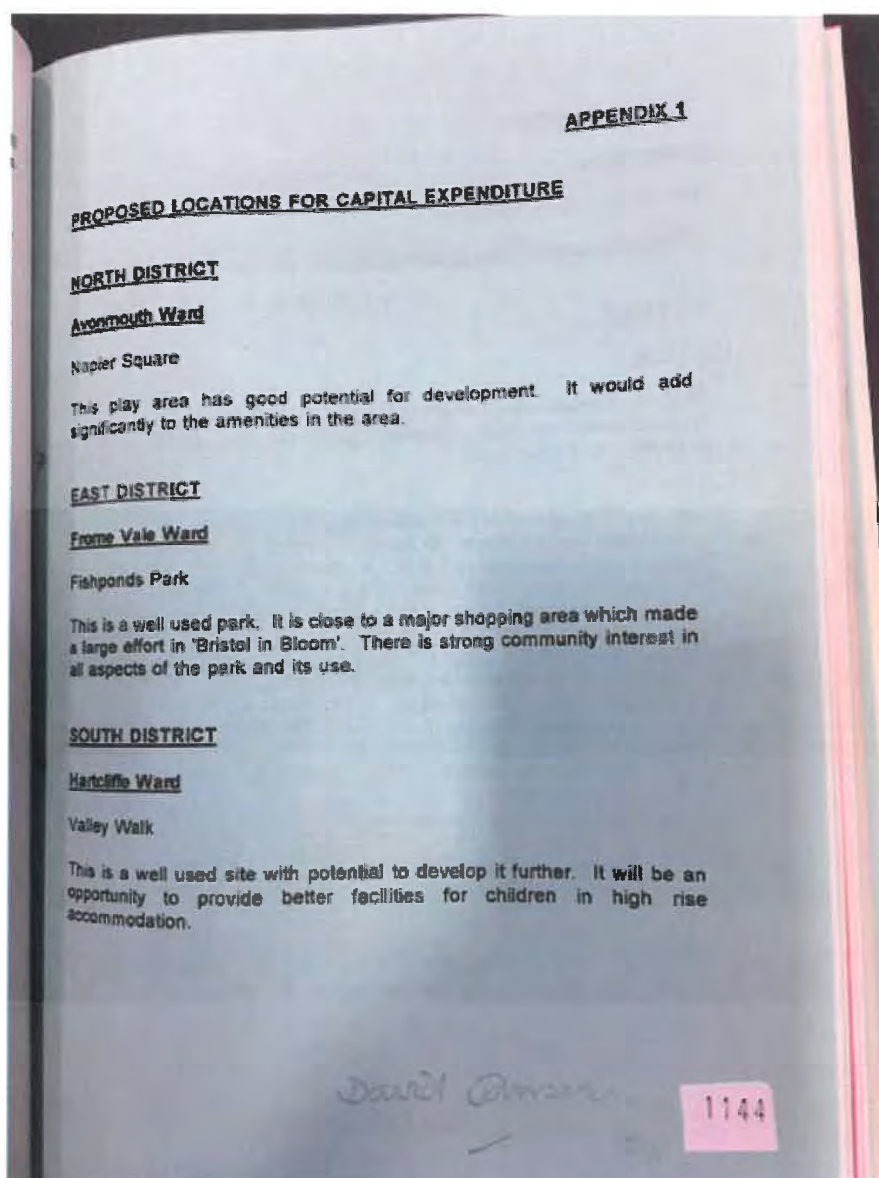
Other Approvals Necessary

None.

Recommended -

- i) That the director of Leisure Services be authorised to commission the designs as outlined in paragraph 7;





CENTRAL DISTRICT

Ashley Ward

St Andrew's Road, Montpelier

This site is well used and would benefit from sympathetic refurbishment.

CITYWIDE

All Sites

There is a need to update signage regarding management. For safety reasons it is essential the public know exactly who to contact if there is a problem with a playground.

01/06/2021

image0.jpeg

BOLD RESIDENTS' ACTIONS SPEAK LOUDER THAN WORDS

'Guerilla tactics' to clear footpath

By Bruno Clements

FEELINGS ran so high over a blocked Bristol short-cut that a commando-style raid was mounted to clear it.

About 30 Stoke Bishop people crowded into a van on Saturday morning, using an indirect route to arrive at the controversial spot in Chayne Road without causing suspicion.

The van was backed up to the access and the gap in the boundary hedge cleared in 30 minutes.

Police arrived only after the van, laden with wood and debris, had been driven away to a tip.

"This access to Stoke Lodge has been in use for at least 40 years until it was filled in by someone during the summer," said one woman. "It is a favourite short-cut to Stoke Lodge, the shops and the playing fields."

Punch-up

"I have used it for 35 years since I played on the fields as a girl and others say it has been in use much longer. There was a stile there."

"We tried to clear it a few weeks ago but it nearly ended in a punch-up then. We have seen a solicitor about this but it was taking so long to sort out."

"Everyone felt so strongly that something had to be done. The police were very good and it was all very civilised."

"Yesterday there were dozens of people out there walking to make sure it stays open."

A spokeswoman for Avon County Council, which owns the land, said there were worries about motorcycles being ridden onto the fields and a fence with a kissing gate is to be put up.



Victory... now the protesters must make sure the way stays open

B378

BBC says sorry in four-letter row



Dave Allen

THE BBC today apologised for comedian Dave Allen's swearing on a TV show which shocked some viewers and led to a flood of complaints.

It admitted a warning should have gone out before the show, telling viewers some of the language might cause offence.

"It didn't happen on this occasion, and on reflection that is a matter of regret," said Mr James Moll, head of BBC TV Night entertainment.

Kingwood MP Rob Hay-

ward intends to raise the matter with Home Secretary David Waddington and has tabled a Commons question asking him to discuss the issue with the BBC.

The Tory MP, who has also written to BBC Director General Michael Checkland, said: "On what was a mainstream comedy programme, he went through the full gamut of Anglo-Saxon swear words in a way which I think most people would find unacceptable."

"It was worse than the language I heard in the bar after a rugby match this weekend."

The MP hit the headlines last year after he attacked the BBC for the use of bad language in its Christmas broadcasts.

No internal action is likely to be taken against Mr Allen, but he will probably be told to tone down his language in his other programmes in his new series.



Rob Hayward

Shame of Scout worker and sex videos

By Maurice Fells

CHURCHGOER and Scout worker Kenneth Rawle showed sex videos to boys who visited his home to play with a train set, a court heard today.

He also talked to them intimately about sex, said Mr Gerald Addis, prosecuting, at Bristol Magistrates' Court.

Rawle, a 68-year-old retired aircraft worker of Chakeshill Drive, Brentry, admitted two charges of inciting boys aged 12 and 13 to commit acts of gross indecency with him.

He asked for four other offences dating back to 1983 to be considered.

Mr Addis said: "A number of boys were regular visitors to this house to play with a model railway layout. Rawle used these opportunities to show them soft porn videos."

Religious

He said the boy refused to take part in any physical activity.

Miss Jo Atherton, defending, said a medical report showed Rawle did not have a psychiatric problem.

"These offences were probably committed because he does not have enough to do with his time. He obtained the videos at the boys' instigation," she said.

Miss Atherton added: "He is a very religious man who goes to church and does a lot of work with the Scouting movement."

"Mr Rawle has offered to give up this work, but the Scouts would not hear of it."

Rawle was put on probation for a year and ordered to pay £21 costs.

Robbery charge

Roland Jimenez, aged 18, of Hazelbury Drive, North Common, Warmley, Bristol, has been committed to Bristol Crown Court accused of robbery at the Anchor Stores, Kingswood. Jimenez is also accused of burglary and was remanded in custody by Avon North magistrates.

BOLD RESIDENTS' ACTIONS SPEAK LOUDER THAN WORDS

'Guerilla tactics' to clear footpath

By Bruno Clements

FEELINGS ran so high over a blocked Bristol footpath that a commando-style raid was mounted to clear it.

About 20 Stoke Bishop people crowded into a van on Saturday morning, using an indirect route to arrive at the controversial spot in Cheyne Road without causing suspicion.

The van was backed up to the access and the gap in the boundary hedge cleared in 30 minutes.

Police arrived only after the van, laden with wood and debris, had been driven away to a tip.

"This access to Stoke Lodge has been in use for at least 40 years until it was filled in by someone during the summer," said one woman. "It is a favourite short-cut to Stoke Lodge, the shops and the playing fields."

Punch-up

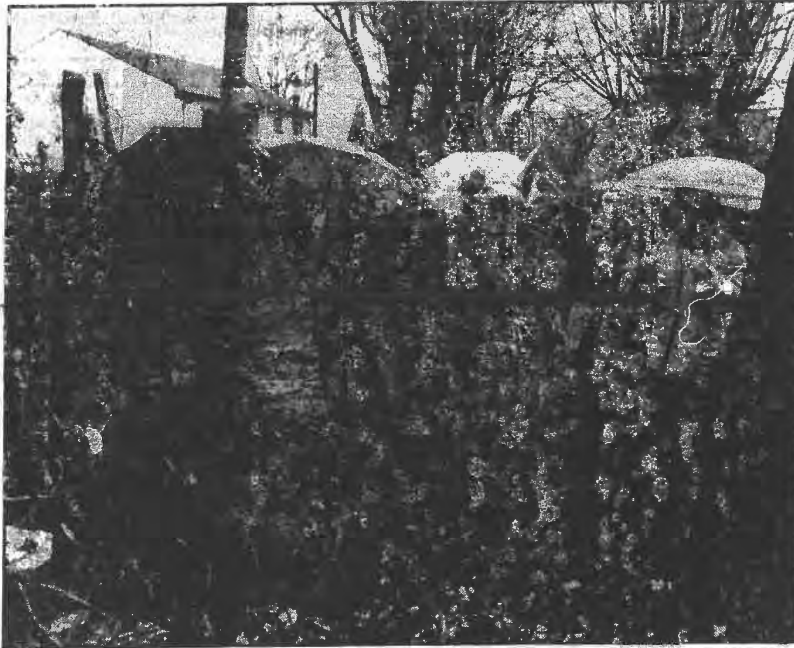
"I have used it for 35 years since I played on the fields as a girl and others say it has been in use much longer. There was a stile there."

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"Everyone felt so strongly that something had to be done. The police were very good and it was all very civilised."

"Yesterday there were dozens of people out there walking to make sure it stays open."

A spokeswoman for Avon County Council, which owns the land, said there were worries about motorcyclists being ridden onto the fields and a fence with a kissing gate is to be put up.



Victory... now the protesters must make sure the way stays open

Church woman mugged for £5

A 73-year-old Bristol woman was mugged on her way to church yesterday morning.

The woman from Boverton Road, Filton, was approached from behind by two youths in Church Road, Filton, at 8.10 am.

They pushed her to the ground and snatched her handbag containing

Teacher tells of ordeal in holiday coach crash

By Karen White

A BRISTOL holidaymaker has described the moment the coach she was travelling on overturned on a French motorway, injuring 14 passengers.

Jane Warburton, aged 32, of Belmont Road, St Andrews, was among a party of seven from Bristol returning from the French ski resort of Courcheval when the accident happened.

The bus, which was carrying 43 passengers, hit a central barrier and overturned 23 miles outside Paris in the early hours of the morning.

Several passengers were taken

"I was asleep when it happened — we had cigarettes in the coach," she said.

"I felt the coach move sharply and then it tipped to the side quite gently."

Returned

"I kept thinking it was going to come to a halt but it ended up on its side, luckily on a grass verge with quite soft soil."

Other passengers are already home or on their way by plane or coach.

It has not been confirmed yet what caused the accident but a spokesman for the Foreign Office in London said they were not aware of any investigation by the French authorities into the conduct of the driver.

There was no one available for comment at Essex-based Watson Enterprises, which owns the coach.

But Bladen Lines, of London,

Celebrate 1990 in style...

with 1989 prices

Enjoy an excellent Six-Course Supper with a true Dinner Party atmosphere.

NEW YEAR OFFER

MONDAY £12.50

TUESDAY-SATURDAY £13.50

Also Traditional Four-Course Sunday

Luncheon £9.50

Advanced reservations essential 10% service charge on final bill



Bristol Post article 8 January 1990

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A spokeswoman for Avon County Council, which owns the land, said there were worries about motorcycles being ridden onto the fields and a fence with a kissing gate is to be put up.

Appendix 5: [REDACTED] statement re Cheyne Road 100323

[REDACTED]
Cheddar
Somerset
BS27 3LW
Tel: [REDACTED]
E-mail:
ken [REDACTED]

Statement of [REDACTED]

My name is [REDACTED]. From April 1984 until February 2007, I lived at Stoke Paddock House, 1 Cheyne Road. This property is directly adjacent to Stoke Lodge Playing Fields on the south side of the Cheyne Road entrance to the field.

This entrance was well established when we moved in. We would walk frequently across the field either to West Dene, or to Stoke Lodge, or right up to Parrys Lane. There was unhindered access into and egress from the playing fields in all three directions. My children would often have played in the field; I also remember a neighbour playing golf and other people walking their dogs.

The estate agent's details for the purchase of my property in 1984 include 'GARDENS: ... with immediate access onto Stoke Lodge Playing Fields'. See Image 1. The opening into the field directly from my property can just be seen in Image 2 below. This direct access is not more than 21m from the Cheyne Road entrance.

I have been asked to answer questions about my use of the playing fields during the period from 1984 to 2007, as follows:

1. Has it ever been suggested to me that I needed, or was given, permission to use the Cheyne Road entrance to access Stoke Lodge Playing Fields?
A: Never
2. Has it ever been suggested to me that I was trespassing by using the Cheyne Road entrance to access Stoke Lodge Playing Fields?
A: Never
3. Has it ever been suggested to me that I needed, or was given, permission to use the direct access from my property onto Stoke Lodge Playing Fields?
A: Never
4. Has it ever been suggested to me that I was trespassing by using the direct access from my property onto Stoke Lodge Playing Fields?
A: Never
5. Have I ever considered any of the above to be the case?
A: Never
6. Has there ever been any signage at the Cheyne Road entrance relating to access to or use of the playing fields?
A: Never at any time that I lived there, ie between the dates noted above.

I believe that the facts stated above are true.

Signed: [REDACTED]

Dated: 10th March 2023

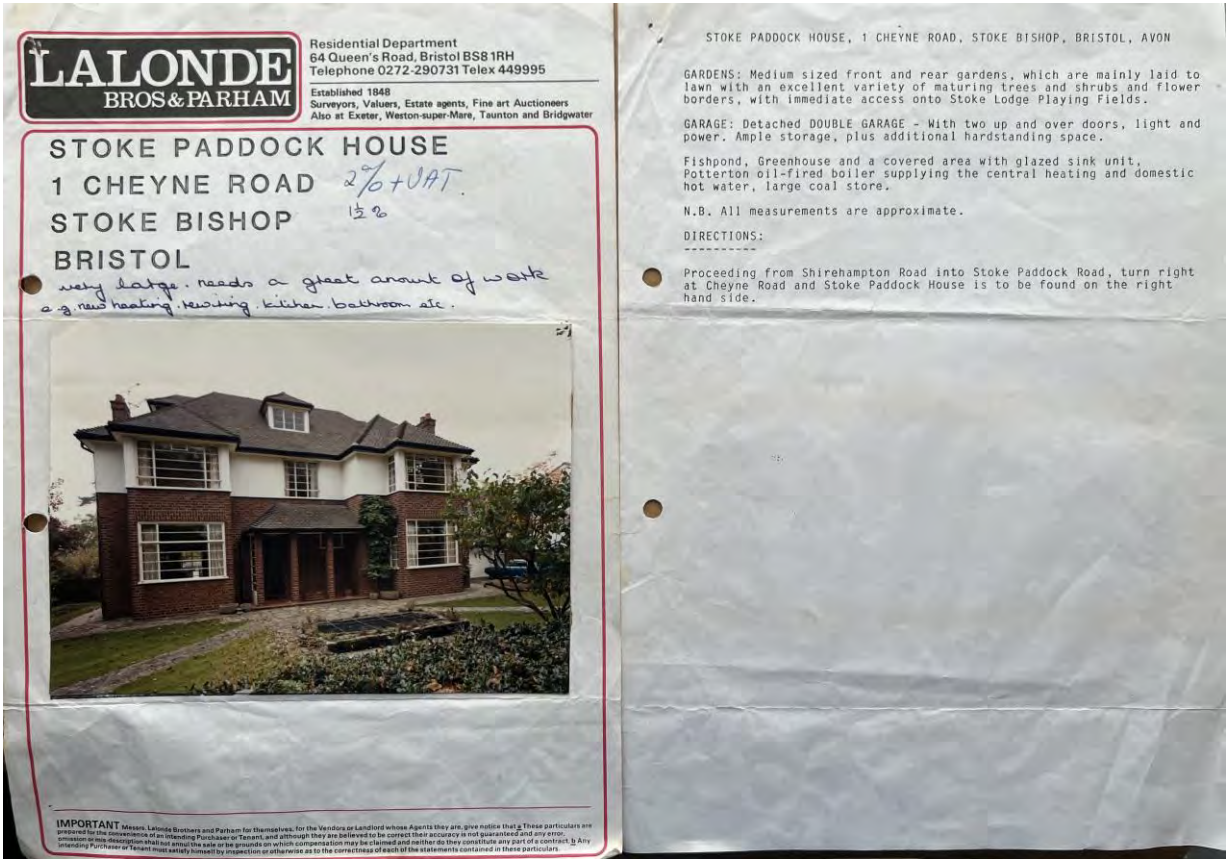


Image 1: Estate Agent's brochure from 1983 advising "immediate access onto Stoke Lodge Playing Fields".



Image 2: May 1984 showing direct opening/access into Playing Fields directly from garden of Stoke Paddock House.



Image 3 – 1996 – Fence had been added with gate at location of original opening/access. No longer in regular use.



Image 4: May 1984 – My two children, with a friend, playing in the Playing Fields. Note: two other walkers.



Image 5: 1989 - Hot air balloon about to take-off in the Playing Fields.



Image 6: February 2004: Two dog walkers exiting Playing Fields into Cheyne Road.

Statement of [REDACTED]

My name is [REDACTED] and I make this statement further to my statement dated 9 July 2021, which is attached to this statement. I have lived at [REDACTED] Cheyne Road since 1985 as detailed in my earlier statement. This property is directly adjacent to Stoke Lodge Playing Fields on the north side of the Cheyne Road entrance to the field.

Before moving to Cheyne Road my family and I had lived on Bell Barn Road since 1968. We would all use the entrance at Cheyne Road to access Stoke Lodge for family outings or for walking though to West Dene, Shirehampton Road or Parrys Lane, I was never once challenged about my presence on the field nor my use of the entrances. Many locals could be seen to be using the parkland in the same way and to my knowledge also remained unchallenged.

I have been asked to answer questions about my use of the playing fields from 1985 to date, my answers to these questions are as follows:

1. It has never been suggested to me that I needed, nor have I sought or been given, permission to use the Cheyne Road entrance to access Stoke Lodge Playing Fields.
2. It has never been suggested to me that I was trespassing by using the Cheyne Road entrance to access Stoke Lodge Playing Fields.
3. I have never considered either of the above to be the case.
4. There has never been any signage at the Cheyne Road entrance relating to access to or use of the playing fields.

I believe that the facts stated above are true.

Signed: [REDACTED]

Dated: 10th April 2023

**IN THE MATTER OF TWO APPLICATIONS TO REGISTER
STOKE LODGE PLAYING FIELDS STOKE BISHOP, BRISTOL
AS A TOWN GREEN UNDER THE COMMONS ACT 2006**

BETWEEN

EMMA BURGESS and KATHY WELHAM

- APPLICANTS

and

BRISTOL CITY COUNCIL AND COTHAM SCHOOL

- OBJECTORS

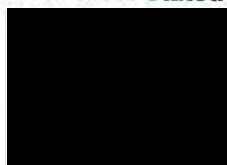
WITNESS STATEMENT OF IAN CREER

1. I, [REDACTED] of [REDACTED] Cheyne Road, Stoke Bishop will say as follows; this statement is based on facts that are within my own knowledge and belief unless otherwise indicated and are true to the best of my knowledge and belief.
2. We bought [REDACTED] Cheyne Road bordering Stoke Lodge field in August 1985. Extensive building work was needed so we weren't able to move in until November. During these few months we were able to meet our new neighbours and explore the immediate surroundings.
3. We walked across and around the field many times and in so doing got to know the groundsman. I mentioned the obvious gaps and openings all around the field and he explained that the council did not object to people using the field for exercise, walking their dogs and playing football and cricket, all of which people were doing.
4. During our walks we would watch sport being played and on occasion, if it was sunny, we would take deckchairs to watch cricket matches. I'm pleased to say that we never witnessed matches being disrupted by people or dogs.
5. At one point the groundsman was faced with damage to the grass but, with the help of our neighbours, was able to take advantage of a recently fallen bough some 2 feet in diameter to make a suitable obstruction to inhibit entry by motorcycles but not to prevent pedestrian or

other normal use. I believe that some local people were, at one time, in conversation with the council about installing a kissing gate.

I believe that the facts stated in this witness statement are true.

Signed:

A black rectangular box redacting the signature of the witness.

Dated:

9 Jul 2021

7

GENERAL FEELING BY COUNCIL - ALLOWED OR
DID NOT ENFORCE

ANNE - MORE RECENTLY

PARA 889 - ~~AA~~ SUFFICIENT TO MAKE USE
OF LAND) CONTENTIOUS

NOT SATISFIED) CONTENTIOUS MORE
RECENTLY -

ABRAHAM

- ACROSS CITY - CONCERN DOG FOULING
- GATE STOCK LODGE LOCKED
- SIGNS MAY HAVE BEEN PUT UP THEN
- EMBARGO 3/4 DAYS

COUNTY COUNCIL - EDUCATION OWNERSHIP
TOLD NOT TO LOCK GATES.

CASE PROVEN - PAINTS PICTURE

ALEXANDER - GAME CHANGER HOW MANY
YEARS -

1985 - LOST "AS OF RIGHT" - 2009

- KENT VISITED SIGN - DECADES OF
EROSION

- "FORCE" NOT PHYSICALLY

- IGNORING SIGNS OR CONTRADICTORY
MSG - LITTLE HINTS THROUGHOUT PARK

543
B365

**IN THE MATTER OF TWO APPLICATIONS TO REGISTER
STOKE LODGE PLAYING FIELDS STOKE BISHOP, BRISTOL
AS A TOWN GREEN UNDER THE COMMONS ACT 2006**

BETWEEN

EMMA BURGESS and KATHY WELHAM

- APPLICANTS

and

BRISTOL CITY COUNCIL AND COTHAM SCHOOL

- OBJECTORS

WITNESS STATEMENT OF PETER ABRAHAM

1. I, [REDACTED] of [REDACTED] Hutton Close BS9 3PT have lived locally since 1983 and my family and I have been regular users of Stoke Lodge. I was first elected to Bristol City Council (BCC) in 1966 and was elected as a founder member of Avon County Council but returned to BCC in 1983 to represent the Stoke Bishop Ward retiring this May 2021.
2. This statement is based on facts that are within my own knowledge and belief unless otherwise indicated and are true to the best of my knowledge and belief.
3. I recall that in the mid 1980s (1987/88) a new caretaker was appointed at Stoke Lodge and without any consultation with the public or fellow Councillors or myself started to lock the gates to the playing fields. This caused great concern to many local people. Together we made strong representations against this and the lockout was reversed.

I believe that the facts stated in this witness statement are true.

Signed:

[REDACTED]

Dated:

6th June 2021.

B373

**IN THE MATTER OF TWO APPLICATIONS TO REGISTER
STOKE LODGE PLAYING FIELDS STOKE BISHOP, BRISTOL
AS A TOWN GREEN UNDER THE COMMONS ACT 2006**

BETWEEN

EMMA BURGESS and KATHY WELHAM

- APPLICANTS

and

BRISTOL CITY COUNCIL AND COTHAM SCHOOL

- OBJECTORS

WITNESS STATEMENT OF HILARY CORFIELD

1. I, [REDACTED] of [REDACTED] The Avenue, Sneyd Park, Bristol BS9 1PA have lived in the Stoke Bishop area for 56 years. This statement is based on facts that are within my own knowledge and belief unless otherwise indicated and are true to the best of my knowledge and belief.
2. I have enjoyed the use of Stoke Lodge ever since I moved to the area as a small child in 1964. I played and exercised there until 1978, when I was away for a time studying etc. In the early 1980's, I returned to the area with my husband before starting our family and we have lived here continuously ever since.
3. I can very clearly remember a specific incident, which I believe was in either 1987 or 1988. When I arrived at the West Dene entrance to Stoke Lodge to play with my son as usual, I was mystified to find the old gate which was metal, rusty and rested on the ground in a wide-open position, had been closed and locked with a padlock and chain. The gate consisted of a tubular frame with an interior of a metal mesh of maybe three inch squares. There was a gap in the mesh where the handle would have been when it was new; I don't know if the handle was still there or if it had rusted away because it was never used; the gate was not used. On that day, that is where the chain and padlock were, through the handle gap.
4. The reason I can remember this is because whilst I was distracted wondering why the gate was closed and if this meant that the long rumoured school was going to be built, my little boy, who would have been about two, put his feet in the mesh and tried to climb up the gate. I

B374

lifted him off and to my horror his hands were orange, as a result of a sweaty little hands on rust. I can remember being very worried that he would put his hand in his mouth. I didn't have anything to clean it with, so I used the inside of the bottom of my skirt. I couldn't get it all off, so immediately started walking straight to my Mum and Dad's nearby to wash his hands. I remember being very anxious and trying to keep my eye on his orange hands as I hurriedly pushed the buggy. What had been a very pleasant, usual thing to do, had become a bit of a nightmare; I was cross, worried, sad and baffled. The reason I think it was 1987 or 1988, is because for me to worry so much, this must have been my first child.

5. Sweaty hands would indicate that this was late spring, summer or early autumn; my son was born in November 1985, so my saying it was 1987 or 1988 seems to be right. My second son was born in late autumn 1988 and my third in 1993, but I don't remember having another child with me; just the little orange hands, the gate, thinking that if the school was going to be built it would be ready for our children and also being really sad that if we were to be kept out, my children wouldn't have the freedom of Stoke Lodge that I did when I was a child.
6. However, it was a complete flash in the pan, because next time I drove past Stoke Lodge which would certainly have been within a matter of days if not the next day, there were adults, children and dogs on the field and everything looked normal again, which it was. It remained that way until recently. I never knew why the gate had been locked on that day, nor did I ever see it locked or even closed again and I don't even remember being aware of it. I presume at some point it either completely disintegrated or was taken off, presumably for safety reasons because of the rusted metal.

I believe that the facts stated in this witness statement are true.

Signed:



Dated:

5th June 2021.

BRISTOL CITY COUNCIL

BRIEFING NOTE

**For:
Informal Cabinet**

22nd April 2010

Title: Community Access to School Playing Fields

Department: Children and Young People's Services

**Officer presenting report: Michael Branaghan, Service Manager
Capital, Assets and Access**

RECOMMENDATION

That:

- a) The investment into Purdown and Stoke Lodge should be allowed to continue.
- b) Schools should be approached individually to see whether they are willing to allow open access to the playing fields and an evaluation of the cost implications for those schools established and reported back to informal cabinet for further evaluation and possible wider scrutiny and discussion.
- c) In undertaking an evaluation of the cost implications for open access arrangements the revenue and capital implications are identified and possible funding sources identified.

1. INTRODUCTION

- 1.1. Tenders have been received for the construction of the playing field at Fairfield School on Purdown and the erection of a bridge link across Muller Road (from Fairfield School to the new playing field). Authority to award the tenders, valued in total £496,930, is subject to delegated approval.
- 1.2. Additionally, funding is available to complete a major refurbishment of the Cotham School playing fields at Stoke Lodge. This is to be funded from Section 77 funding and a grant from Sport England.
- 1.3. The Executive member has indicated that the schemes should be frozen until a decision on the future of open access to school playing fields is made.

2. BACKGROUND INFORMATION

- 2.1. There has been a growing concern within local communities about the loss of green space within the city. Although the city has an

extensive green heritage, there are still a number of communities where there is insufficient access to quality green space. Work, undertaken by the Parks Team within the Neighbourhoods Department, to develop the Area Green Space Strategy (and associated Green Space Plans) has identified a number of CYPs sites that might contribute to accessible open space provision.

2.2. The following Neighbourhood Partnership Areas are under the minimum quality standard of 18m² per person (and where no resident is further than 400m from an accessible open space) as established within the strategy. These are:

- Bishopston, Cotham and Redland;
- Cabot, Clifton and Clifton east;
- Ashley, Easton and Lawrence Hill

2.3. During the delivery of the Secondary School Investment Strategy, through the Building Schools for the Future Programme and earlier capital schemes (including the development of Fairfield School), representation has been made by local communities about the loss of access to green space and some school playing fields associated with the investment initiative.

2.4. In November 2009, four cases were highlighted by Informal Cabinet:

- Fairfield School – the loss of green space to the proposed development of playing pitch facilities at Purdown;
- St Bede's – the loss of access to playing fields following the removal of gated access to school playing fields (this issue has since been resolved by the creation of additional community access to existing public open space adjoining the school);
- Stoke Lodge Playing Fields – the proposed exclusion of public access to school playing pitches;
- Bishop Road Playing Fields – the exclusion of the public to school playing fields

2.5. This report seeks to address the issues raised and identify an acceptable way forward which meets the needs of the schools and local communities.

2.6. The report is structured into seven key areas to address the questions that open access would generate:

- What is the DCSF view on community access to school playing fields?

- What powers does the local authority have to direct a governing body to provide open access to school playing fields?
- What impact would open access have in terms of the potential for registration of land as a town green or village green under the Commons Act 2006?
- What are the health and safety implications of a decision to provide open access to school playing fields?
- What are the crime/antisocial behaviour impacts of adopting open access to school playing fields?
- What are the potential revenue implications of a decision to provide open access to school playing fields?
- What are the implications for Stoke Lodge and Purdown if investment were frozen in favour of open access?

DCSF GUIDANCE ON COMMUNITY USE

2.7. The DCSF have published guidance to local authorities in their document 'The Protection of School Playing Fields and Land for Academies - July 2007'. In this publication the DCSF consider that school premises are a resource not only for pupils, but also for the wider community. With this in mind, local authorities and schools are encouraged to seek out opportunities to develop their community role in a formalised access arrangement to protect the playing field from wear and tear, and possible abuse. A summary of the DCSF perspective is provided in Appendix A.

2.8. Many schools in Bristol do allow structured community access to playing fields. This demonstrates that solutions are possible, but need to be progressed on a bespoke basis that recognises the needs of local communities; the status of individual schools; and their vision/values etc.

THE LOCAL AUTHORITY'S POWER OF DECISION

2.9. The control of school premises is subject to the provisions of the School Standards and Framework Act 1998¹ (SSFA). This includes playing fields (both detached and not detached) in educational use. Appendix B summarises the Local Authorities powers in terms of community, foundation and voluntary schools.

2.10. The SSFA states that the occupation and use of school premises (both during and outside school hours) within a community school is under the control of the governing body² and is subject to any directions given by the Local Education Authority³.

¹ School Standards and Framework Act 1998 Schedule 13

² School Standards and Framework Act 1998 Schedule 13 paragraph 1

³ School Standards and Framework Act 1998 Schedule 13 paragraph 1(3)

- 2.11. In practical terms the direction given by the Local Authority to community and voluntary controlled schools relates only to how the school premises should be used. The direction does not take away the governing body's responsibility, but can cover matters such as making sure that the community use of the school's facilities does not affect the day-to-day use of the facilities by pupils (e.g. making sure the outdoor sports pitches are not overused).
- 2.12. A decision to agree open access to school playing fields by a foundation school or voluntary school would be at the discretion of the governing body.
- 2.13. When a local authority is considering an open access policy to school playing fields it is Counsel's opinion⁴ that the Authority should seek to persuade the governing body that they themselves should willingly adopt a policy of open access.

THE LEGAL STATUS FOR SCHOOL PLAYING FIELDS

- 2.14. The Commons Act 2006⁵ allows for the registration of land as a town green or village green where:

"... a significant number of inhabitants of any locality, or of any neighbourhood within a locality, have indulged as of right in lawful sports and pastimes on land for a period of at least 20 years".

- 2.15. If an open access policy were to come into effect on school playing fields (this potentially could include informal recreational use⁶), and remain so for a period of twenty years or more the prerequisite qualification for registration would potentially be met. Appendix D summarises earlier Counsel Advice on the potential mitigation for the establishment of registration rights under the Commons Act 2006. Unfortunately, this advice has been superseded by a judgement of the Supreme Court on 3rd March 2010 in the Redcar case⁷. This case has set a precedent which offsets previous mitigation to registration.
- 2.16. The judgement of the Supreme Court is important in two respects:
- It has made it materially easier to register new greens;
 - It has further explained the consequences of the registration of a new green.
- 2.17. The outcome of the decision is that registration is now possible, after twenty years open access use, even though the land owner had given revocable permission for such access. The implications for a landowner requiring the land in the future for development purposes are that such future aspiration will be frustrated where a period of twenty years or more has elapsed since community

⁴ Nigel Giffin QC, Bristol City Council: Access To School Playing Fields, 14th December 2009, par 7, pp 2, fn 3

⁵ Commons Act 2006 s15

⁶ *R v Oxfordshire CC ex p. Sunningwell PC* [2000] AC 335

⁷ *R v Redcar and Cleveland Borough Council & anor* [2010] UKSC 11

access was available. Landowners now need to proactively take steps to keep people their land to prevent future registration.

- 2.18. For the City Council, this implies that there is no option for revocable permission after twenty years community use of a school playing field if there is a desire to utilise the playing field for other development uses in the medium/long term future. Subsequent registration would impact on the ability to declare a playing field surplus in the future. This would reduce opportunities for future capital receipts.

HEALTH AND SAFETY ISSUES

- 2.19. There is a duty of care owed to pupils in a school in relation to their physical safety. It is possible that if members of the public were to make use of a school playing field they may leave behind detritus that could pose a risk to the health and safety of pupils using the field for sport as part of the delivery of the curriculum. Such detritus could include broken glass, dog faeces and 'sharps'. There is also the possibility that the grounds themselves, or equipment (such as goal posts and artificial cricket wickets) could be damaged creating additional health and safety risks.
- 2.20. Appendix E identifies the potential liability arising from open access.
- 2.21. There would be a need to undertake individual risk assessments for each school playing field where open public access was permitted. Although some risks will be similar, there are some which would be bespoke and related to the proximity of the field to residential dwellings or other facility such as a public house or off-licence.
- 2.22. It is inevitable that the each school would be required to undertake an inspection and risk assessment on a daily basis (and possibly several times a day where access was occurring on a 24 hour a day basis).

CRIME AND ANTISOCIAL BEHAVIOUR

- 2.23. Where a school playing field adjoins school building assets there are issues relating to the possibility of crime/anti social behaviour occurring by virtue of the open access to the school via the playing fields.
- 2.24. The issues that arise can be considered under three eventualities:
- Staff, pupils and visitors being subjected to violence, threats of violence, and harassment by individuals gaining access to the school playground and buildings from the open access playing fields during school hours;
 - Staff, pupils and visitors being alarmed or distressed by acts of violence, criminal activity occurring on the playing field or in the school grounds (by individuals gaining access to the

school playground and buildings from the open access playing fields) during school hours;

- Non CRB checked individuals using the open access to playing fields to gain access to vulnerable people in school.

2.25. Where the playing field is required for school activity, there may be difficulties experienced with the exclusion of the general public from the playing field. This is easily resolved when the playing field is gated and fenced, but places teaching staff and pupils at risk when members of the public have to be challenged for interfering with the delivery of the curriculum.

2.26. In terms of the security and safety of buildings, the mitigation would be through compartmentalisation of the school from the field by security fencing. In many cases this would require a capital investment from the school or the local authority.

2.27. The City Council's Underwriter has indicated that there is an expectation that school buildings would need to be segregated from the open access area by suitable secure fencing to provide mitigation against risk of damage etc to school buildings and contents.

INSPECTION REGIME AND REVENUE IMPLICATIONS

2.28. The need to establish an inspection regime was considered in paragraph 2.22. Appendix F summarises the issues that relating to the need for an inspection regime. Schools have indicated that if they are responsible for the additional pitch inspection it would be time consuming and have a financial impact on the individual school budget.

2.29. Colleagues from the Parks Service in City Development have been consulted on the maintenance requirements for open access. The cost of an operative and vehicle to undertake general site inspections etc, for 190 days each year would potentially cost between £6,650 (primary) to £14,250 (secondary) per school during school time. Open access beyond the 190 days would be substantially more costly (See Table One in Appendix F).

2.30. The existing maintenance costs for school playing fields are based on a bespoke regime negotiated between the school and the grounds maintenance contractor. The cost reflects the frequency of maintenance for each feature (grass is usually cut on a ten day frequency), the facilities on site and the level of security on the site. Secure sites tend to have less detritus than unsecured sites and therefore require less litter collections and a less intense inspection regime prior to mowing.

2.31. As part of the maintenance regime, the grounds maintenance contractor is usually responsible for undertaking an inspection of the grass surface prior to mowing. This is to ensure that there is no harmful detritus that may cause third party injury or damage to machinery and equipment.

IMPLICATIONS FOR THE STOKE LODGE AND THE PURDOWN CAPITAL PROJECTS

2.32. Within the current Capital Programme are two key investment areas in relation to school playing fields.

- Fairfield School - Purdown Playing Fields £496,930;
- Cotham School - Stoke Lodge Playing Fields £1.6m

Fairfield School - Purdown Playing Fields

2.33. The Purdown scheme is for the construction of playing fields and the construction of a bridge to provide a link from the Fairfield School, across Muller Road, to the facility to be provided on Purdown (See Appendix I).

2.34. The fencing to be provided is either 'estate type fencing' or ball court fencing. This is dependant on location of the fence on site (See Appendix G and H). There is no other fencing proposed on the site.

2.35. Tenders have been received for this project and await approval under officer delegation and an order to be placed. This is on hold until a decision can be made concerning open access.

2.36. If the development of this project were suspended, there would be a need to continue funding of off-site facilities rental for formal games. There would also be a need for revenue funding for coach hire. Additionally, capital funding would be required to make permanent modifications to the frontage of the Fairfield School buildings to accommodate turning and parking facilities for coaches to pick-up students to take them to the off-site provision.

2.37. The changes to the site would require planning consent for the coach drop-off and pick up, and for the modifications to internal roads and building frontage. The estimated cost of the modifications would be £250,000.

Cotham School - Stoke Lodge Playing Fields

2.38. Stoke Lodge (including the north western side of the site) was acquired for education purposes in 1947. The south east site was an earlier acquisition for temporary housing purposes in 1946 and transferred to education in 1950.

2.39. Stoke Lodge Playing Field was formerly used by Fairfield High School when it occupied the premises at Fairlawn Road. When the school relocated to the new site in Allfoxton Road the management of the site moved to Cotham School.

2.40. In august 2009 Cotham School entered into a short term agreement with Bristol University which allows the University to utilise the field for sport activity. The University, during the period of the agreement, undertake the management of the facility as part of the remuneration for this exclusivity.

2.41. The playing field is currently unfenced and allows unfettered community access.

2.42. The Stoke Lodge Playing Fields project proposes a major refurbishment of the field including the development of community facilities to the edge of the pitch, changing room improvements and pitch improvements. The scheme includes fencing to the perimeter of the site. It is will be funded from a section 77⁸ consent for an investment of £1m (from the proposed disposal of a portion of land at the former Romney Infant/Junior Schools) that has DCSF approval⁹. Additionally, a £600k Sport England Grant has been awarded for the scheme.

2.43. If this project is suspended, the grant would be withdrawn and a new consent would need to be filed with the DCSF for the £1m investment to be targeted to another school playing field improvement scheme. The Cotham School would continue with their arrangement with the University.

3. FINANCE

Capital Funding

3.1. There has been a suggestion in the past that the capital funding allocated to the above schemes could be utilised to fund revenue elements of the site inspection and cleansing regime. CIPFA rules prohibit the allocation of capital funding to revenue work streams. Additionally, the two funding sources: the Section 77 funding; and the Sport England Grant are specific allocations to the Stoke Lodge scheme and would not be available for revenue funding work stream elements or unidentified capital projects.

Revenue Funding

3.2. The community use of school playing fields is not eligible use of the Dedicated Schools Grant which funds the education of pupils at the school. As such funding for the daily inspection/clean and costs for repairing vandalism would need to be provided by the Council (e.g. through the devolved Neighbourhood Partnership Budget).

3.3. Where the playing field form part of a PFI school and are opened up for community use, there would be a significant additional charge as the access to premises is controlled through a legal agreement with specific 'community time' access already being utilised by the schools as part of their extended school provision.

3.4. Some schools have indicated that charges made for community access to their facilities is an important funding stream for the school. This income is often used to subsidise the extended maintenance of the facility where the school allow 'authorised' community access.

4. CONSULTATION WITH SCHOOLS

4.1. A number of head teachers have been consulted over the proposal to provide open access to school playing fields. The Head Teachers' perception is that the need for an inspection, every time

⁸ School Standards and Framework Act 1998 Section 77 (5)

⁹ The School Playing Fields General Disposal and Change of Use Consent (No.3) 2004 order

a pitch is required for the delivery of the curriculum, is a significant resource hungry process.

- 4.2. The schools have indicated that they believe the health and safety of their children will be compromised especially as the children often use the playing fields first thing in the morning before the start of the school day. If there were a dangerous substance on the field and access was gained prior to the inspection there is a danger that the children may come to harm.
- 4.3. Schools have indicated a concerned about damage to property and the danger of possible trespass into the playground and school buildings. Many playing fields are not segregated from the main school buildings and would normally only be accessible through the school or a secure gated access. Open access would remove the security of the play ground and class room direct access unless additional investments were made into formal segregation of the playing fields from the school buildings and play grounds.

5. CONCLUSION

- 5.1. The Council is in a position to give direction or impose an open access policy on community schools and voluntary aided schools (where the playing fields form part of the Council's estate). This is not possible for foundation schools (including Trust Schools) or some voluntary controlled schools. If such a policy were adopted, there is a high probability that an application for registration would take place if the open access has been, or is permitted, for a period of twenty years or more. Previous mitigation against registration has been eroded by virtue of the Redcar case.
- 5.2. Many schools in Bristol allow structured community access to playing fields demonstrating that solutions are possible. The delivery of an open access strategy will need to be progressed on a bespoke basis to recognise the needs of local communities; the status of individual schools; and their vision/values etc.
- 5.3. If the City Council wishes to retain opportunities for future development on school playing fields, options to avoid registration will need to be secured by placing a time restriction on the open access arrangement to ensure that the open access is only permitted for a period of less than twenty years in total. There would be a need to pass or publish a formal resolution to the effect that the open access would represent the granting of a revocable permission within this time frame.
- 5.4. Open access will require individual risk assessments to be undertaken for each participating school. Additionally, an investment will need to be made, either by the city council or the school, in terms of revenue to fund inspection and maintenance; and for capital investment in providing secure fencing to segregate playgrounds and buildings from the open access playing fields.

- 5.5. The investment into Purdown and Stoke Lodge should be allowed to continue as the alternative option is not suitable for long term delivery of the outdoor curriculum.

6. RECOMMENDATION

That:

- a) The investment into Purdown and Stoke Lodge should be allowed to continue.
- b) Schools should be approached individually to see whether they are willing to allow open access to their playing fields and an evaluation of the cost implications for those schools established and reported back to informal cabinet for further evaluation and possible wider scrutiny and discussion.
- c) In undertaking an evaluation of the cost implications for open access arrangements, the revenue and capital implications are identified and possible funding sources identified.

APPENDIX A

THE DCSF PERSPECTIVE – A SUMMARY OF ‘The Protection of School Playing Fields and Land for Academies - July 2007’

- 1.1. The DCSF consider that school premises are a resource not only for pupils, but also for the wider community. With this in mind, local authorities and schools are encouraged to seek out opportunities to develop their community role. This is because community use may bring about a sense of ownership and belonging to the school. In seeking these opportunities, authorities and schools are asked to give priority to activities which support and promote pupils' learning and the wider community generally. This includes homework and after-school club activities; other study support activities; basic skills courses; adult education; youth service activities; and family learning opportunities.
- 1.2. The DCSF understand that in many locations the school is the main or even only place that can provide the local community with sports and other facilities. The DCSF have decided that, in assessing applications for disposal or fencing of school playing fields under section 77, it is right that the Secretary of State takes into account community use of school playing fields. Where the fencing off of a school playing field displaces or disadvantages authorised community users, the Secretary of State will take into account the circumstances of the closing off of the playing field and of the alternative provision, if any, provided to the former users.
- 1.3. It is the DCSF view¹⁰ that only authorised community use of playing fields should be taken into account, whether or not such authorised use is covered by formal or informal agreements. Such use may be by:
 - local sports clubs for practice or the playing of arranged games;
 - local youth and community groups for sport or recreation, for example local scout groups;
 - nursery, pre-school and day care groups;
 - after school and out of hours groups;
 - groups involved with educational programmes run in partnership with schools;
 - Charitable groups for fetes, sports days, and other fund raising events on an annual or more regular basis.

¹⁰ ‘The Protection of School Playing Fields and Land for Academies July 2007’, DCSF (2007), par 74. pp23

- 1.4. There may be a misconception in the local community that school playing fields are public parks and, therefore, are open to any public access and use. The DCSF emphasise that school playing fields are provided primarily for the physical education and the enjoyment of children attending the school¹¹.
- 1.5. Although schools and authorities make their playing fields available for authorised community use, the DCSF are aware that unauthorised use may cause damage to these resources. Although it may appear to be harmless to allow children ad hoc use of school playing fields to kick a ball about at evenings and weekends, there is a likelihood that the quality of school sports pitches may suffer as a result. Sports pitches can only be used for a limited amount of time, particularly in extremes of dry or wet weather, and must be allowed periods to recover.
- 1.6. When the Secretary of State considers applications for the enclosure or closure of school playing fields no account is taken of unauthorised uses. Such unauthorised uses include:
- local residents exercising and walking dogs;
 - unauthorised 'kick-around' by local children or as a golf practice range by local residents (unauthorised use of school grounds may also be considered to be trespass);
 - Use as an unofficial picnic, camping, or caravan site.

¹¹ 'The Protection of School Playing Fields and Land for Academies July 2007', DCSF (2007), par 75.
pp23

APPENDIX B**THE LOCAL AUTHORITY'S POWER OF DECISION**

1. The SSFA states that the occupation and use of school premises (both during and outside school hours) is under the control of the governing body¹². This is subject to any directions given by the Local Education Authority¹³.
2. When a local authority is considering an open access policy to school playing fields Counsel opinion¹⁴ is that the Authority should seek to persuade the governing body that they themselves should willingly adopt the policy of open access. If necessary, the Local Education Authority is in a position to direct that there should be open access to school playing fields of community schools (but not foundation schools or voluntary aided schools). Such a direction would need to be specific about what is actually intended by allowing the open access. The exercise of this discretionary power by the local authority could be challenged on normal judicial review (see Appendix C).
3. If the local authority has taken proper account of the relevant considerations, including the views of the governing bodies of the schools concerned, it is unlikely that there would be any viable grounds for a challenge under judicial review¹⁵.
4. The position in relation to foundation schools and voluntary schools is different. For a foundation school the control of occupation and use rests with the governing body and is not subject to any power in the local authority to give direction¹⁶. A decision by a foundation school or voluntary school would be up to the discretion of the governing body to agree to open access to its playing field. This is even though the SSFA¹⁷ requires the governing body, in relation to occupation and use outside school hours, to have regard to the desirability of the school premises being made available for community use. The governing body may still refuse to agree to an open access policy if they had some coherent reason refusal.
5. In the case of a voluntary controlled school, the Local Education Authority has some power of direction¹⁸ subject to a particular provision about weekend use¹⁹. For voluntary aided schools, the Local Education Authority has no powers to direct open space access to playing fields.

¹² School Standards and Framework Act 1998 Schedule 13 paragraph 1

¹³ School Standards and Framework Act 1998 Schedule 13 paragraph 1(3)

¹⁴ Nigel Giffin QC, Bristol City Council: Access To School Playing Fields, 14th December 2009, par 7, pp 2, fn 3

¹⁵ Nigel Giffin QC, op cit, par 7, pp2

¹⁶ School Standards and Framework Act 1998 Schedule 13 paragraph 3

¹⁷ School Standards and Framework Act 1998 Schedule 13 paragraph 3(3)

¹⁸ School Standards and Framework Act 1998 Schedule 13 paragraph 5

¹⁹ School Standards and Framework Act 1998 Schedule 13 paragraph 7(1) and (2)

6. There are opportunities for a dispute between the Local Education Authority and a governing body to be referred to the Secretary of State for determination²⁰. A determination could result in an open access direction made by the Local Education Authority being overturned (and for a failure to agree to the implementation of an open access agreement by a governing body to also be overturned). Such intervention is only likely if the DCSF believed that one party or the other was behaving in a way that was seriously unreasonable.
7. Opportunities to enter into a transfer of control agreement with a third party may be a solution where there is a particular activity proposed on the playing field but Counsel advice²¹ is that it may not be an appropriate solution to achieving open access to a site.

²⁰ Education Act 1996, s 495

²¹ Nigel Giffin QC, op cit, par 12, pp4

APPENDIX C

JUDICIAL REVIEW

1. The courts may intervene to quash a decision if they consider it to be so demonstrably unreasonable as to constitute 'irrationality' or 'perversity' on the part of the decision maker. The benchmark decision on this principle of judicial review was made in the *Wednesbury* case²²:

"If a decision on a competent matter is so unreasonable that no reasonable authority could ever have come to it, then the courts can interfere... but to prove a case of that kind would require something overwhelming..."

2. However, the threshold will be a lower one, that of proportionality, when European Union law or Human Rights Act breaches are involved. In general terms, the concept of proportionality requires a balancing exercise between, on the one hand, the general interests of the community and the legitimate aims of the authority and, on the other, the protection of the individual's rights and interests.
3. One approach to assess the risk of judicial review is to ask:
 - Is the Authority's objective legitimate?
 - Is the measure suitable for achieving it?
 - Is it necessary, in the sense of being the least intrusive means of achieving the aim? And
 - Does the end justify the means overall?
4. The onus also lies upon the Authority to show that these conditions can be met²³.

²² Lord Greene Associated Provincial Picture Houses Ltd v Wednesbury Corporation [1948] 1 KB 223, HL.

²³ Public Law Project Information Leaflet 3

APPENDIX D

THE LEGAL STATUS FOR SCHOOL PLAYING FIELDS

1. Counsel advice on the 'as of right' access by a neighbourhood or locality and the generation of the subsequent opportunity to seek registration of the land under the Commons Act 2006 may be prevented by virtue of the competing use of the playing field by the school and whether the governing body has acquiesced to the use of the facility by a neighbourhood or locality. If the governing body has, then registration might be possible. If on the other hand actions have been taken to indicate that such access is under licence only and as such the permission is revocable then the risk of registration is substantially reduced²⁴.
2. Such mitigation could be achieved by the placing of signs on the boundary of each site²⁵ stating that 'public use of the playing fields is solely by the permission of Bristol City Council/the governing body of the school), and such permission may be revoked at any time'. Alternatively, closing the land to public use on certain days of the year might effectively demonstrate that such public use only took place with the land owner's permission.
3. Counsel has suggested that there are difficulties in demonstrating implied permission²⁶. There is a danger that if expressed permission is demonstrated by signage, such signage could be forgotten over time and disappear. Additionally, closing land on certain days in the year may be forgotten over time. Each would generate a loophole by which 'as of right' access could be demonstrated over time.
4. The fact that the school would continue to use the playing field during school hours, prior to the Redcar case²⁷, would have been seen as an official restriction of public access during that period.

**PLEASE NOTE THAT THIS ADVICE WAS GIVEN PRIOR TO
THE REDCAR CASE AND THE ADVICE IN PARAGRPH 1 to 4
IS NO LONGER RELEVANT**

5. *The Redcar case makes it easier to register new greens by disapproving the judge-made rule that land cannot be registered as a new green where it has been used by both the landowner for his own purposes and by local people for recreation in circumstances where the local people deferred to the landowner's use. Landowners will need in future to take active steps to exclude recreational trespassers. The judgement has also explained the consequence of registration in terms of future landowner development opportunities²⁸.*
6. The above case changes the original advice given by Counsel in December 2009 where it was believed that under current law there

²⁴ Nigel Giffin QC, op cit, par 18, pp6

²⁵ Nigel Giffin QC, op cit, par 18, pp6, fn 8

²⁶ *R (Beresford) v Sunderland CC* [2004] 1 AC 889

²⁷ *R (on the application of Lewis) v Redcar & Cleveland Borough Council & anor* [2010] UKSC 11

²⁸ Mr Vivian Chapman QC, notes dated 12th March 2010 – referring to *R (on the application of Lewis) v Redcar & Cleveland Borough Council & anor* [2010] UKSC 11

would be no right to register the land as a green²⁹. The only foreseeable exception to this conclusion would be if the law changed or if part or the entire field failed to be used for school activities for a period of 20 years. Counsel advice is that the situation of open access would have to be reviewed every few years³⁰.

²⁹ Nigel Giffin QC, op cit, par 20, pp7

³⁰ Nigel Giffin QC, op cit, par 20, pp8

APPENDIX E

HEALTH AND SAFETY ISSUES

1. There is a duty of care owed to pupils in a school in relation to their physical safety. The potential liability arising from open access can be considered at two levels:
 - **The liability of the staff at the school.** They would have to exercise reasonable care, in light of the policy, to ensure they take reasonable steps for the maintenance of the field. The authority (in the case community schools) and the governing body (in the case voluntary and foundation schools) would be liable for any breach in this duty of care³¹.
 - **The liability of the council or the governing body (whichever was responsible for the open access decision)** if they were aware that a particular school was not taking proper care in terms of maintenance and failing to keep pupils safe. They would be directly liable for a failure to take remedial action (including the termination of the policy and possible fencing off the site: especially where there is a significant problem with members of the public trespassing and leaving hazardous litter or waste despite not being permitted access)³².
2. Counsel had suggested that there might be a possibility that any insurance cover the local authority may have for the playing fields may require a sizeable excess or that the cover could be invalidated if public access were permitted³³. This has been investigated with the City Council's Underwriter and is not the case. The Underwriter has indicated that there is an expectation that school buildings would be segregated from the open access areas by suitable secure fencing to provide mitigation against risk of damage etc to school buildings and contents.
3. There would be a need to undertake individual risk assessments for each school playing field where open public access was permitted. The risk assessment would be different for each school dependant on proximity to residential dwellings or other facility such as a public house or off-licence.
4. It is inevitable that the each school would be required to undertake an inspection and risk assessment on a daily basis (and possibly several times a day where access was occurring on a 24 hour a day basis). Counsel has stated that the legal duty is not to eliminate risk of injury³⁴ but to take reasonable care in all circumstances in the same way as a reasonable careful parent would³⁵. Parents do allow their children to play games in open grassed spaces to which the public have access,

³¹ Nigel Giffin QC, op cit, par 24, pp9

³² Nigel Giffin QC, op cit, par 24, pp9

³³ Nigel Giffin QC, op cit, par 24, pp9, fn 9.

³⁴ Nigel Giffin QC, op cit, par 27, pp11

³⁵ *Kearn-Price v Kent CC* [2003] ELR 17

and which is not inspected. Often this land is within local authority ownership and there have been few challenges under health and safety legislation or public liability claims.

This AGREEMENT is dated: ~~SEPTEMBER 1ST~~ 2010

BETWEEN:

- (A) Cotham School, Cotham Lawn Rd, Cotham, Bristol, (the “School”); and
- (B) The University of Bristol, whose administrative office is at Senate House, Tyndall Avenue, Bristol BS8 1TH (the “University”).

IT IS AGREED AS FOLLOWS:

1. This is a Transfer of Control Agreement made under Schedule 13 to the School Standards and Framework Act 1998. This Agreement sets out the arrangements terms and conditions whereby the School transfers control of part of the School premises to the University.
2. This Agreement is made with the consent of Bristol City Council under paragraph 2(2) of Schedule 13 to the School Standards and Framework Act 1998.
3. As part of the statutory arrangements for the delivery of secondary education by Bristol City Council the School has exclusive use of Stoke Lodge Playing Fields (“Stoke Lodge”) in Stoke Bishop, North Bristol.
4. Subject to the priority use of the School, the School hereby grants to the University a licence to access and use Stoke Lodge (including the maintenance depot on the eastern end of the site) under the terms of this Agreement for the purpose of engaging in sport or recreation activities.
5. The University shall be entitled to sublicense the rights granted to it by the School under clause 4 to any third parties for the purpose of allowing such third parties to engage in sport or recreation activities. The University shall be entitled to retain any fees generated through such sublicensing.
6. Any sublicenses granted by the University to a third party under clause 5 shall make it clear that the sublicensed rights are subject to priority use of Stoke Lodge by the School.
7. In consideration of the rights granted by the School under clause 4 and the payment of £17,613 plus VAT (payable by the School in 12 monthly instalments), the University agrees to fulfil the School’s maintenance obligations by providing the services listed in the attached Schedule to the reasonable standards described in the Schedule.
8. To cover its potential liabilities under this Agreement the University shall maintain public liability insurance of not less than £5,000,000 and employers liability insurance of not less than £10,000,000.

9. With respect to breach of obligation of this Agreement, breach of duty under statute or at common law or negligence by or on the part of the University in connection with or arising out of the subject matter of this Agreement in respect of which the University is legally liable to the School, the University will accept:
 - a. liability for death or personal injury caused by the negligence of the University or for anything else for which the University cannot at law limit or exclude its liability; and
10. liability for any physical damage to Stoke Lodge or third party property resulting from the negligence of the University to the extent of the University's insurance cover under clause 7.

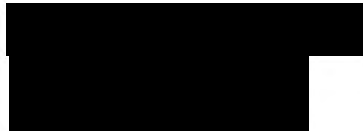
Subject to clause 11, any other liability shall be limited to the value of the consideration given by the University under clause 7.
10. Neither the City Council nor the School will be liable for any injury (including injury resulting in death) or damage to or loss of property which may occur or be sustained by the University or any sub-licensee, employees, volunteers, agents or children attending any session on the site other than occurring as a result of the negligence of the City Council or the School.
11. The University shall not be liable for the following loss or damage however caused and even if foreseeable by the School:
 - a. economic loss including administrative and overhead costs, loss of profits, business, contracts, revenues, goodwill, production and anticipated savings of every description;
 - b. loss arising from any claim made against the School by any other person save in instances where the loss or damage is due to the negligence of the University; or
 - c. loss or damage arising from the School's failure to fulfil its responsibilities or any matter under the control of the School.
12. If any supply made or referred to in the Agreement is or becomes chargeable to VAT then the party receiving the supply will in addition pay the party supplying the services the amount of VAT against receipt of a proper VAT invoice for the supply.
13. The University and any sub-licensee shall comply with any reasonable rules and regulations which the School may make governing the use of Stoke Lodge playing fields and of which the School shall notify the University.
14. In the event that either the University or any sub-licensee fails to observe and perform any of its obligations under the Agreement the rights to use Stoke Lodge shall end (without prejudice to the Schools rights in respect of any breach of the Users obligations under the Agreement) immediately on notice served by the School at any time following such breach.

15. The University shall ensure that suitable arrangements are in place in regard to safeguarding children and child protection with all contracted users of the site. The School reserves the right to terminate the Agreement with immediate effect if the user does not have the arrangements in place.
16. The University shall comply with the provisions of any statute that is relevant to their use and management of the site.
17. The University shall not carry out any alterations or additions to the site.
18. The parties to this Agreement agree that the Agreement is a Licence and does not create a tenancy between the University or any sub licensee and the School Governors or Bristol City Council.
19. This Agreement will start on 1 September 2010 and continue in force for 1 year.

AUTHORISED BY THE PARTIES THROUGH THEIR AGREED SIGNATORIES:

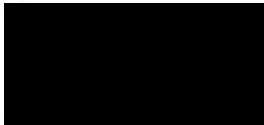
Signed by [insert name]
for and on behalf of
Cotham School

)
)
)



Signed by [insert name]
for and on behalf of
University of Bristol

)
)
)



THE SCHEDULE: Services and Service levels for Stoke Lodge 2009/2010

Grassed areas - general

All areas will be kept to a suitable length of grass, either for the sport played or as an amenity area. This will vary dependent on ground conditions, weather, level of usage etc.

At appropriate growing times during the year the ground will be sprayed with a selective weedkiller.

A basic level of leaf clearing on or near to the winter pitches will be undertaken. Leaf mould will be deposited under the perimeter trees, hidden as much as possible.

Winter pitches

All pitches will have the following operations carried out as necessary:

- Aeration
- Harrowing
- Seeding of high wear areas at the end of the playing season
- Marked with a suitable compound before each match as necessary
- Nets will be provided for games, when booked in, for teams to erect

Cricket Square

The square will have the following operations carried out as necessary:

- Autumn renovation work
- Spring preparation work
- Rolling
- Mowing
- Pitch marking
- End repairs
- A portable scoreboard will be provided

Pavilion

This will be cleaned to a safe useable standard.

Locks will be changed to the University suites and issued to users as necessary

Athletics

pits etc. will be kept as clean as possible, considering the site is open, at present, to the public and dogs.

Notes:

1. What is not covered for maintenance within this agreement but will be reported to Cotham School as necessary, are any problems with the following:

- All perimeter walls, fencing, trees, hedges and gates
- Pavilion repairs, damage, boiler servicing or maintenance
- Upgrading of any services to comply with legislation

2. Dangerous ground sockets will be removed and the school informed and some posts may be re-socketed and concreted into the ground

3. Access to the site for equipment:

- All equipment will be brought onto site from the Coombe Dingle Sports Complex.
- Access will be through gates adjacent to the storage shed/compound off the - Shirehampton Road. Emergency access may be required via the main Stoke Lodge entrance.
- The storage/compound will be utilised by the University/company for the duration of this agreement.

Contents

1

Introduction

1.1	<i>Why guidance?</i>	1
1.2	<i>Audience</i>	1
1.3	<i>Definition</i>	2
1.4	<i>General principles of the law</i>	2
1.5	<i>LEAs and local co-operation</i>	3
1.6	<i>Good practice</i>	3
1.7	<i>School security strategy</i>	3

2

Summary of key points

2.1	<i>General</i>	5
2.2	<i>Trespass</i>	5
2.3	<i>Offences not involving assault</i>	5
2.4	<i>Physical restraint of pupils</i>	6
2.5	<i>Assault</i>	6
2.6	<i>Offensive weapons</i>	6
2.7	<i>Other criminal matters</i>	7
2.8	<i>Co-operation between police and schools</i>	7
2.9	<i>Role of CPS, magistrates and judiciary</i>	7

3

Trespass

3.1	<i>General</i>	9
3.2	<i>Trespassers on school premises</i>	9
3.3	<i>Who is a trespasser?</i>	9
3.4	<i>Discouraging trespass</i>	11
3.5	<i>Persistent trespass: the case for injunction</i>	11
3.6	<i>Refusal to leave school premises: nuisance and disturbance</i>	12
3.7	<i>Section 547 powers to remove and to prosecute trespassers</i>	13
3.8	<i>Police involvement in cases of trespass</i>	14
3.9	<i>Rights of way across school premises</i>	15

3.10	<i>Damage caused by trespassers</i>	16
3.11	<i>Informal use of playing fields</i>	16

4

Offences not involving assault

4.1	<i>Offences not involving assault</i>	17
4.2	<i>Causing intentional harassment, alarm or distress</i>	17
4.3	<i>Threatening, abusive, insulting or disorderly behaviour</i>	17
4.4	<i>Police involvement where a person harasses or threatens others</i>	17
4.5	<i>Protection from Harassment Act 1997</i>	19

5

Assault

5.1	<i>Common assault and battery</i>	21
5.2	<i>Staff involvement in restraining pupils</i>	21
5.3	<i>Police involvement where an assault</i>	21
5.4	<i>Assault occasioning actual bodily harm</i>	24

6

Offensive weapons

6.1	<i>Carrying offensive weapons or knives</i>	25
6.2	<i>Staff involvement where a weapon is suspected</i>	27
6.3	<i>Police involvement where a weapon is suspended</i>	28

7

Other criminal matters not involving the threat or use of violence

7.1	<i>Theft, petty vandalism, minor criminal damage and burglary</i>	31
7.2	<i>Confiscation of Alcohol (Young Persons) Act 1997</i>	31
7.3	<i>Drug-related incidents</i>	31

8

Co-operation between police and schools

8.1	<i>Why co-operate?</i>	33
8.2	<i>Principles of co-operation</i>	33
8.3	<i>Management responsibility for security in schools</i>	33
8.4	<i>School security strategies</i>	34
8.5	<i>Community safety</i>	35
8.6	<i>Emergencies</i>	35
8.7	<i>Ways of raising an alarm</i>	35
8.8	<i>Media interest in incidents involving schools</i>	36
8.9	<i>After an incident</i>	36
8.10	<i>Reporting and recording incidents</i>	37
8.11	<i>Reporting incidents of racial harassment</i>	37
8.12	<i>Reporting and notifying injuries</i>	38
8.13	<i>Disclosure of information about sex offenders</i>	38
8.14	<i>Reporting to parents</i>	38
8.15	<i>Partnership with neighbours</i>	39
8.16	<i>Routine contacts</i>	39
8.17	<i>Complaints</i>	40

9

Role of the Crown Prosecution Service, magistrates and the judiciary

9.1	<i>The Crown Prosecution Service</i>	41
9.2	<i>The evidential and public interest tests</i>	41
9.3	<i>The role of schools in questions of prosecution</i>	42
9.4	<i>School contacts with the Crown Prosecution Service</i>	43
9.5	<i>The role of the magistracy and the judiciary</i>	43
9.6	<i>Complaints</i>	43
ANNEX A - EXAMPLES OF GOOD PRACTICE		54
ANNEX B - PUBLICATIONS MENTIONED IN THIS GUIDANCE		53
ANNEX C - POLICE RESPONSE TO INTRUDER ALARM SYSTEMS ON SCHOOL PREMISES		55
ANNEX D - EXAMPLE OF A WARNING LETTER TO TRESPASSERS		59
ANNEX E - A SCHOOL'S DUTY OF CARE TO VISITORS		61
ANNEX F - WEARING KIRPANS IN SCHOOLS		63
ANNEX G - INCIDENT REPORT FORM		65
ANNEX H - LOCAL CONTACTS		69

3

Summary of key points

3.1 *General*

3.1.1 Trespass is not a criminal offence, but a matter which may be pursued through the civil courts. A particular exception, relevant to schools, where trespass may become an offence, is described in part 3.6. Figure 1 summarises the options for dealing with trespassers.

3.2 *Trespassers on school premises*

3.2.1 Schools are not public places to which any member of the public is entitled to have access (exceptions to this rule are discussed in part 3.9). They are private places, and any person who enters without permission is a trespasser. Trespassers may, therefore, be asked to leave.

3.3 *Who is a trespasser?*

3.3.1 The headteacher, in exercising day to day management of the school, determines who should have access to the premises. Given the nature of a school's functions, a wide range of people may have a valid reason to enter and would therefore not be trespassers:

- registered pupils of a school entering the premises during school hours or at other times for purposes reasonably connected with their status as a pupil. They could, however, be trespassers if:
 - **excluded, whether permanently or on a fixed term basis from the school, unless arrangements had been made for them to return to the school, for example to collect work; or**
 - **entry was in breach of pupils' permission to enter (for example, at hours when pupils were forbidden entry to the school);**
- parents or guardians responsible for a pupil at the school. These might expect to have permission to enter school premises at reasonable times, including when:
- supervising children arriving or leaving the school;
 - **attending a meeting with a teacher, or arranging an appointment for a meeting;**

FIGURE 1: TRESPASS

Description of Trouble	Options for Action	Penalties
Person trespasses on school premises (3.2)	School asks person to leave	
Trespasser refuses to leave school premises, or causes or permits nuisance or disturbance (3.6-3.7)	Police officer, or authorised person removes trespasser LEA/School warns trespasser by letter Police officer, authorised person or LEA brings proceedings	Maximum penalty: level 2 fine (£500 ¹); parent of 16 year old or younger may be bound over
If trespasser causes a breach of the peace (3.8)	Police officer may arrest and charge trespasser	Up to 6 months' imprisonment for failure to comply with any 'binding over' order of the court
Trespasser causes loss or damage, eg by disruption of school activity (3.10)	School may take civil action to seek compensation	Damages may be awarded Court may order offender to pay compensation
Trespasser causes deliberate or reckless damage (3.10)	School reports incident to police; possible offence of criminal damage	If intending to endanger life, or reckless as to danger to life, maximum penalty: life imprisonment Other criminal damage, if tried on indictment: maximum penalty: 10 years' imprisonment
Trespasser persistently enters school premises (3.5)	LEA/school seeks injunction	Court orders trespasser not to enter school premises; if trespasser breaches injunction, the court can impose substantial penalties.

¹ This figure is the maximum prevailing at the date of publication. Maximum fines are regularly updated by Parliament.

helping in the classroom or acting as parent governors;

- others, such as governors, local authority staff, OFSTED inspectors, suppliers and contractors, authorised users of the premises for “out of hours” activities, those attending sports matches, returning officers for local parliamentary or European elections, and prospective parliamentary candidates.

3.3.2 Parents should be aware that they may be trespassers if they enter schools uninvited, or, if invited, behave in such a way that their behaviour is not conducive to the proper function of the school. Boarding schools may have particular arrangements for parents and guardians to visit boarders. A parent or guardian should not, however, expect to be entitled to enter the school at any time.

3.3.3 Local education authorities and governing bodies have a duty of care to visitors to their premises, which in some cases may extend to trespassers. Further advice is at an Annex E.

3.4 *Discouraging trespass*

3.4.1 The following steps can be taken by any school, whatever level of security it is seeking to achieve:

- the governing body's security strategy can make clear that nobody (including governors, staff and pupils) has an unrestricted right of access to the school premises, except those who have a statutory right to enter premises for certain purposes, eg OFSTED inspectors and HSE inspectors;
- local authorities and governing bodies can consider posting notices at entrances to make clear the terms on which people may enter. Such notices should of course be welcoming, but they might also specify, for example, that:
 - **during the day parents should act as visitors to the school, complying with appropriate school arrangements;**
 - **visitors should present themselves at a specified reception point, following a route to it indicated where necessary by signs;**
 - **suppliers, contractors and commercial deliveries should follow separate arrangements;**
- those who have a broad permission to enter – pupils, staff, contractors, “out of hours” users – can be informed, preferably in writing by standard form letters, of the limitations both in terms of time and place as to their permission to enter the premises.

3.4.2 Such arrangements will not of course deter a determined intruder. But they should ensure that those who do not follow visitor procedures are noticed. They also leave no doubt that the school's premises are private, and thus provide a clear basis for treating as a trespasser any person who enters the premises without permission.

3.4.3 Even where a person thinks that they have permission to enter the school and thus not to enter as a trespasser, it is open to the school to make clear that this assumption is mistaken or is withdrawn. That can be done by a letter or other form of notice addressed to the person.

3.5 *Persistent trespass: the case for injunction*

3.5.1 In cases of persistent trespass, a school or LEA could consider the possibility of seeking an injunction against the person or people involved. The DfEE is aware of at least one case where a local authority has secured an injunction, and this remedy has been actively and publicly considered in other instances. The threat alone of this sanction may sometimes have proved sufficient.

3.5.2 A court uses an injunction to order a person to do or to refrain from doing a particular act. For example, an injunction could order a named individual not to trespass on the property of a named school. Breach of an injunction is a contempt of court, and the court can bring into force substantial penalties to enforce compliance, including immediate imprisonment in serious cases. Courts will rarely grant injunctions against young people, however, as they are unlikely to appreciate the consequences of breaching the order and have limited means to pay any fine. The judgement in a 1991 Court of Appeal case observed that where the person against whom the injunction is sought is under 17, the possibility of enforcing the injunction by means of a fine should be explored; but that if the minor is still of school age or unemployed, it would be inappropriate for an injunction to be granted.

3.5.3 Schools which wish to use this remedy should seek legal advice, as the procedure for obtaining an injunction can be complex. Local education authorities are likely to be a useful source of advice. Some local authority housing departments also have experience of using this remedy and may be able to provide practical advice.

3.5.4 Schools may wish to be aware of the proposal in the Crime and Disorder Bill, which is before Parliament at the time of writing, for Anti-social Behaviour Orders. It is envisaged that Orders may be used as a last resort against persistent offenders in areas where anti-social behaviour is a problem; and that they may be particularly helpful in dealing with young people against whom it is difficult to obtain injunctions.

3.5.5 The proposal is that the police or local authority would apply to the court for an Order, where a defendant had pursued conduct which had caused alarm or distress to the local community. The court would have the power to place an order on a named individual who would be prohibited from repeating their behaviour. Breach of the Order would constitute a criminal offence. It is currently proposed that Orders would last for two years to provide adequate protection to the community.

3.6 *Refusal to leave school premises: nuisance and disturbance*

3.6.1 If a trespasser refuses to leave school premises, or enters after being required to leave, their behaviour may give rise to a criminal offence under section 547 of the Education Act 1996². Section 547 says that any person present without lawful authority on school premises, and who causes or permits nuisance or disturbance to the users of such premises, commits an offence. This applies whether or not the users are present at the time. The courts adopt a broad definition of 'nuisance or disturbance'³. This suggests that anything done by a trespasser will be an offence where it disrupts the routine of the school or the duties of its staff.

Definition of a school for the purpose of section 547

3.6.2 The definition of a school for the purpose of this provision is any school maintained by a local education authority (including voluntary-aided schools, boarding schools and pupil referral units) and grant-maintained schools. The definition of premises includes playgrounds, fields and other premises for outdoor recreation, but not teachers' dwelling houses⁴.

3.6.3 Section 547 does not apply to independent schools, CTCs, non-maintained special schools, sixth form colleges or other further education establishments funded by the Further Education Funding Council. Paragraph 3.8.4 explains the options available to these institutions and the police where a trespasser is causing a disturbance.

3.7 *Section 547 powers to remove and to prosecute trespassers*

3.7.1 Certain people may remove from the school premises anyone whom they reasonably suspect is committing or has committed an offence under section 547. These are:

- a police constable;
- a person authorised by the local education authority; or
- in a voluntary-aided, special agreement or grant-maintained school, a person authorised by the governors.

It is open to the local education authority under the legislation to authorise a person to take this action in respect of a voluntary or grant-maintained school, but the LEA is required to obtain the consent of the school governors before doing so. There is no requirement in section 547 that the person authorised needs to be an employee of the LEA or school – an external contractor, for example from a security company, could be

² The provisions relating to schools in section 40 of the Local Government (Miscellaneous Provisions) Act 1982 have been consolidated unchanged into the Education Act 1996. Section 40 of the 1982 Act will now only apply to LEA-maintained further or higher education institutions. Notices warning of these provisions should in future refer to the Education Act 1996, and documents giving delegated authority should also refer to the Education Act 1996.

³ Glue sniffing in a school playground out of school hours when no staff or pupils were present has been held to be a nuisance or disturbance (*Sykes v Holmes and Maw* [1985] Crim L R 791). Other examples might be: where a trespasser drives a motorbike onto playing fields and disrupts a PE lesson; or where a trespasser makes a noise outside a classroom preventing a class from being taught.

⁴ This definition is different from that which applies under the Offensive Weapons Act 1996 (see Chapter 6). The main practical difference is that the Offensive Weapons Act 1996 also applies to independent schools.

authorised.

3.7.2 Headteachers need to have a clear understanding with the LEA or governors about the procedures for authorising themselves or some other member of staff, such as the caretaker, to exercise those powers of removal. The authority will not want to authorise staff to use the power who are unwilling to do so. There should also be arrangements for how the power should be exercised – for example, in most cases, it would be appropriate for more than one adult to be present. Any arrangements should be known to the local police, and there should be discussion of the circumstances in which the school would call for police assistance in exercising those powers.

3.7.3 It is important to recognise that section 547 is not intended to deal with the more serious offences and more serious misbehaviour described in chapters 4 to 6. It provides only a limited exception to the principle that trespass is generally a civil rather than criminal matter. Consistent with the relatively low level of misbehaviour which this offence aims to deal with,

- a police officer or other authorised person (see paragraph 3.7.1) may remove a person committing such an offence from the premises. They would be entitled to use reasonable force, to escort them from the premises, if the trespasser declined to leave when required to do so. Authorised staff are not, of course, expected to take such action if they judge that they might put themselves at risk in doing so;
- neither a police officer nor other authorised person would have a power to arrest the trespasser (but see also paragraphs 3.8.4 and 3.8.5);
- any prosecution resulting from the offence will be by summons: the alleged offender cannot be detained in custody or granted bail and be restrained by bail conditions, but must appear in court when summoned;
- the **maximum** sentence, which the court would apply only in the most serious example of the offence, is a level 2 fine – at present, £500. In addition to any sentence imposed on a person aged 16 or under, that young person's parent or guardian may be bound over. This would mean that, in the event of further similar offences, the parent or guardian could suffer financial penalties of up to £1,000 ordered by the court.

Prosecution procedure under section 547

3.7.4 Proceedings for this offence may be brought only by:

- a police constable;
- a local education authority – with, in the case of a voluntary or grant-maintained school, the consent of the governing body; or
- in an aided, special agreement or grant-maintained school, a person authorised by the governing body.

3.7.5 The procedure for initiating a prosecution under section 547 will be familiar to the legal department of a local authority, or any solicitor. A school should therefore seek advice from such a source before bringing proceedings.

3.7.6 For a prosecution to succeed there will need to be evidence to confirm the identity of the trespasser, and evidence that his or her behaviour was a 'nuisance or disturbance'. Schools should ensure that their records of incidents which might result in a prosecution under section 547 cover these points (see part 8.10). Records of earlier incidents may also be useful in assessing the seriousness of a new incident, and may help

the police to gather evidence needed for a prosecution.

3.7.7 Many local authorities make letters available to headteachers, or send such letters themselves, which warn trespassers of the possibility of action under section 547. An example of such a letter is at Annex D, but LEA-maintained schools should check with the LEA the test of any letter they plan to send before doing so.

3.8 *Police involvement in cases of trespass*

3.8.1 In developing their security plans, many schools are deliberately adopting a much more rigorous approach to enforcing their boundaries. Often this will represent a significant change from previous practice, and may run into some resistance from those to whom it is applied, as memories of recent security incidents at schools begin to fade.

3.8.2 Many school sites were designed to provide open access, with several entrances, and local people may have become accustomed to visiting the site. Some open playing fields may have come to be used informally as local recreation grounds. Where schools are trying to change some of these attitudes, they may need the help and support of the police.

3.8.3 The majority of incidents of trespass are non-violent. In practice, therefore, police reaction to trespass on school premises is likely to depend more on the behaviour of those trespassing, and the risk they may represent, than on the commission of an offence under section 547. In that respect, independent schools and sixth-form colleges, to which section 547 does not apply, may in practice be in a position little different from that of state schools.

3.8.4 Although a police officer has no power of arrest for trespass either generally or under section 547, he may have a duty to intervene if there is a breach of the peace, or a serious risk of such a breach. Staff of schools may often know that a challenge to trespassers is liable to lead to a confrontation which could be a breach of the peace justifying the involvement of the police. Police forces should, therefore, be ready to respond to requests for support from schools in dealing with trespassers even where, initially at least, the trespass may be a civil matter.

3.8.5 A police constable also has a general power of arrest. This enables the officer to arrest without warrant for an offence which is not arrestable, provided one of the general arrest conditions is met. These include, among other things, that the constable has reasonable grounds for believing that the person:

- may cause physical injury to himself or others;
- may cause loss or damage the property;
- may commit an offence against public decency;
- has provided a false name and address;
- or it is necessary to protect a child or other vulnerable person from that person.

3.8.6 There may be a case for calling the police where an officer of aggravated trespass has been committed under section 68 of the Criminal Justice and Public Order Act 1994. This might involve a situation where:

- a school has to deal with a large number of trespassers, or persistent trespass by the same people;
- the behaviour or any of the trespassers appears threatening, unstable or potentially violent;

- the circumstances of the trespass (for example, at a time when others are lawfully present) many give rise to a risk of a clash between different groups; and
- others present on the premises may be particularly vulnerable.

When calling the police in such cases, the school should explain the circumstances, more serious than a peaceful instance of trespass, which have led to the police being called.

3.8.7 The police sometimes ask the public to be on guard for particular people, such as escaped prisoners or others who may be dangerous. Where such a person is seen or suspected to be on school premises, schools should contact the police as requested, and should strictly observe any warning about approaching the person.

3.9 *Rights of way across school premises*

3.9.1 There are situations where people get into the habit of walking across school grounds, for instance as a short cut. Schools or LEAs may want to discourage this by putting up notices, or locking gates periodically. If they do not do so, a right of way may become established. Once a right of way exists, anyone may pass over it at any time, and it is **illegal** to obstruct their passage.

3.9.2 Rights of way do not, however, allow someone to roam freely or to leave the route of the way, for instance to enter the school buildings. If a person uses a right of way for any purpose other than as a right of passage, or if they do anything that is not reasonably part of their journey, such as deliberately disturbing people, then they may risk being regarded as a trespasser. Whether a particular action is acceptable depends on what a court would regard as reasonable behaviour. In the open countryside, stopping to look at a view, take a photograph, or talk to a passer-by, would generally be acceptable; on school premises, it might under certain circumstances be regarded as nuisance.

3.9.3 Statutory procedures exist for schools (and others) to seek to have existing rights of way closed or diverted – separate guidance on this has been published by the Countryside Commission and the Department of the Environment. Whilst this can be an expensive and time-consuming process, schools wishing to pursue it should work in conjunction with the LEA and the local highways authority.

3.9.4 Schools should involve the police in difficult cases related to the improper use of rights of way, for example where there are threats of personal violence.

3.10 *Damage caused by trespassers*

3.10.1 A school can seek compensation from a trespasser for any loss or damage attributable to the trespass (for example, some interruption of the school's activities). Any deliberate or reckless damage to another's property, whether or not committed in the course of trespass, might constitute the offence of criminal damage, which carries potentially severe penalties and should be reported to the police.

3.10.2 An action for damages is in practice likely to be an expensive and protracted procedure. It would only be justifiable where:

- serious loss has resulted; and
- the school can be confident that the trespasser has the means to pay any damages which may be awarded.

Legal advice should be sought where this remedy is considered.

3.11 *Informal use of playing fields*

3.11.1 As the advice above makes clear, schools are not obliged to tolerate the informal public use of playing fields (eg for football matches or walking), but should consider that doing so can in some instances serve as a deterrent for would-be trespassers and, indeed, potential criminals.