
RE: [Stoke Lodge TVG - Registration and other issues 208951]

From: Nancy Rollason <[REDACTED]@bristol.gov.uk>
Sent: 11 December 2023 20:13
To: Anne Nugent <[REDACTED]@bristol.gov.uk>
Subject: RE: Stoke Lodge TVG - Decision re request for Legal action

Dear Anne

I have been asked to make a decision on behalf of the Council as to whether to take action legal to require Cotham School to remove the fence erected around the Stoke lodge playing field - including prosecution if necessary.

I note that We love Stoke Lodge take the view that once the land was registered, the fence erected by Cotham School would have to be removed, as a result of the following statutory provisions:

- Section 12 of the Inclosure Act 1857
- Section 29 of the Commons Act 1876

The School have made it clear that they do not intend to remove the fence pending the resolution of legal proceedings, and that view is shared by the Council as Landowner.

In coming to my decision I have taken in to account the following

- I am satisfied that there is power for the Council to take legal action under both statutes.
- the School has issued a claim for judicial review to challenge the decision to register the land and also an application under s.14 Commons Registration Act 1965.
- The application for judicial review has been stayed pending resolution of the S14 application.
- In order to bring the claim under s.14, the land must first be registered, which is why the School requested the Registration Authority register the land.

In my view, prosecution at this stage is premature pending resolution of the matters before the court. I consider it to be highly unlikely that a Court would grant an injunction to remove the fencing or that a prosecution would be successful whilst the claims are awaiting resolution. Given the above, in my view legal action, including prosecution under either S.12 of the Inclosure Act 1857 or the Commons Act 1876 is not a proportionate action to take and is not in the public interest.

Kind regards

Nancy

Nancy Rollason

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