

Commons Act 2006: Section 15

Application for the registration of land as a Town or Village Green

Official stamp of registration authority
indicating valid date of receipt:

COMMONS REGISTRATION ACT 1965
BATH AND NORTH EAST SOMERSET COUNCIL

01 APR 2010

REGISTRATION AUTHORITY

Application number: TVGIO/2

Register unit No(s):

VG number allocated at registration:

(CRA to complete only if application is successful)

Applicants are advised to read the 'Guidance Notes for the completion of an Application for the Registration of land as a Town or Village Green' and to note the following:

- All applicants should complete questions 1–6 and 10–11.
- Applicants applying for registration under section 15(1) of the 2006 Act should, in addition, complete questions 7–8. Section 15(1) enables any person to apply to register land as a green where the criteria for registration in section 15(2), (3) or (4) apply.
- Applicants applying for voluntary registration under section 15(8) should, in addition, complete question 9.

Note 1

Insert name of
registration
authority.

1. Registration Authority

To the

Bath and North East Somerset Council
The Guildhall
High Street
BATH BA1 5AW

Note 2

If there is more than one applicant, list all names. Please use a separate sheet if necessary. State the full title of the organisation if a body corporate or unincorporate.

If question 3 is not completed all correspondence and notices will be sent to the first named applicant.

2. Name and address of the applicantName:

Full postal address:

Postcode

Telephone number:
(incl. national dialling code)Fax number:
(incl. national dialling code)

E-mail address:

3. Name and address of solicitor, if anyName: Firm:

Full postal address:

Post code

Telephone number:
(incl. national dialling code)Fax number:
(incl. national dialling code)

E-mail address:

Note 3

This question should be completed if a solicitor is instructed for the purposes of the application. If so all correspondence and notices will be sent to the person or firm named here.

Note 4

For further advice on the criteria and qualifying dates for registration please see section 4 of the Guidance Notes.

* Section 15(6) enables any period of statutory closure where access to the land is denied to be disregarded in determining the 20 year period.

4. Basis of application for registration and qualifying criteria

If you are the landowner and are seeking voluntarily to register your land please tick this box and move to question 5.

Application made under **section 15(8)**: ☐

If the application is made under **section 15(1)** of the Act, please tick one of the following boxes to indicate which particular subsection and qualifying criterion applies to the case.

Section 15(2) applies: ☐

Section 15(3) applies: ☒

Section 15(4) applies: ☐

If **section 15(3) or (4)** applies please indicate the date on which you consider that use as of right ended.

5th April 2008

If **section 15(6)*** applies please indicate the period of statutory closure (if any) which needs to be disregarded.

Note 5

The accompanying map must be at a scale of at least 1:2,500 and show the land by distinctive colouring to enable it to be clearly identified.

** Only complete if the land is already registered as common land.*

Note 6

It may be possible to indicate the locality of the green by reference to an administrative area, such as a parish or electoral ward, or other area sufficiently defined by name (such as a village or street). If this is not possible a map should be provided on which a locality or neighbourhood is marked clearly.

5. Description and particulars of the area of land in respect of which application for registration is made

Name by which usually known:

The Lane, Rudmore Park

Location:

Behind Rudmore Park, Newbridge, Bath

Shown in colour on the map which is marked and attached to the statutory declaration.

Common land register unit number (if relevant) *

6. Locality or neighbourhood within a locality in respect of which the application is made

Please show the locality or neighbourhood within the locality to which the claimed green relates, either by writing the administrative area or geographical area by name below, or by attaching a map on which the area is clearly marked:

The neighbourhood of Lower Weston and Newbridge is situated in the localities that comprise the electoral wards of Newbridge and Kingsmead of Bath and North East Somerset District Council

Tick here if map attached:

☐

7. Justification for application to register the land as a town or village green

Note 7

Applicants should provide a summary of the case for registration here and enclose a separate full statement and all other evidence including any witness statements in support of the application.

This information is not needed if a landowner is applying to register the land as a green under section 15(8).

The land has been used by the inhabitants of the locality as described and set out in Section 6 above for a period of 20 years from the 5th April 1988 until the 5th April 2008 (and continues to be so) for lawful sports and pastimes, which are set out in greater detail within the accompanying statements (Exhibit J) and supporting evidence, as of right, and in the belief that the land was and is a village green for the purposes of prescription obtained at Common Law and of the relevant Act and Regulations.

A significant number of the inhabitants both past and present have used the village green for a range of sports and pastimes which are set out in brief within the supporting statements from residents attached at Exhibit C to this application.

The Applicants and others will and do aver that they have used the land as a village green as of right without let or hindrance, except to the extent set out in the accompanying statement of support (Exhibit K).

As such the Applicants believe that all relevant criteria required to be demonstrated in order for the land to be entered in the register of village green has been met.

Note 8

Please use a separate sheet if necessary.

Where relevant include reference to title numbers in the register of title held by the Land Registry.

If no one has been identified in this section you should write "none"

This information is not needed if a landowner is applying to register the land as a green under section 15(8).

Note 9

List all such declarations that accompany the application. If none is required, write "none".

This information is not needed if an application is being made to register the land as a green under section 15(1).

Note 10

List all supporting documents and maps accompanying the application. If none, write "none"

Please use a separate sheet if necessary.

8. Name and address of every person whom the applicant believes to be an owner, lessee, tenant or occupier of any part of the land claimed to be a town or village green

Bath and North East Somerset Council
The Guildhall
High Street
BATH

BA1 5AW

9. Voluntary registration – declarations of consent from 'relevant leaseholder', and of the proprietor of any 'relevant charge' over the land

10. Supporting documentation

See attached list of supporting documents Appendix A Section 2

Note 11

If there are any other matters which should be brought to the attention of the registration authority (in particular if a person interested in the land is expected to challenge the application for registration). Full details should be given here or on a separate sheet if necessary.

11. Any other information relating to the application**Note 12**

The application must be signed by each individual applicant, or by the authorised officer of an applicant which is a body corporate or unincorporate.

Date:

29th March 2010

Signatures

REMINDER TO APPLICANT

You are advised to keep a copy of the application and all associated documentation. Applicants should be aware that signature of the statutory declaration is a sworn statement of truth in presenting the application and accompanying evidence. The making of a false statement for the purposes of this application may render the maker liable to prosecution.

Data Protection Act 1998

The application and any representations made cannot be treated as confidential. To determine the application it will be necessary for the registration authority to disclose information received from you to others, which may include other local authorities, Government Departments, public bodies, other organisations and members of the public.

APPLICANTS

Section 2 of application form.

The names and addresses of those applying for the registration of The Lane behind Rudmore Park are:

Applicant 1:
Jo McCarron
25 Rudmore Park
Newbridge
BATH

Applicant 2:
Peter Burns
3 Avon Park
Lower Weston
BATH

Applicant 3:
José Ash
28 Brassmill Lane
Lower Weston
BATH

Statutory Declaration In Support

To be made by the applicant, or by one of the applicants, or by his or their solicitor, or, if the applicant is a body corporate or unincorporate, by its solicitor, or by the person who signed the application.

¹ Insert full name
(and address if not
given in the
application form).

I, Joanne McCarron,¹ solemnly and sincerely declare as follows:—
25 Rudmore Park
Bath
BA1 3JA

² Delete and adapt
as necessary.

1.² I am ~~((the person (one of the persons) who (has) (have) signed the foregoing application)) ((the solicitor to (the applicant) (one of the applicants))~~ [REDACTED]

³ Insert name if
Applicable

2. The facts set out in the application form are to the best of my knowledge and belief fully and truly stated and I am not aware of any other fact which should be brought to the attention of the registration authority as likely to affect its decision on this application, nor of any document relating to the matter other than those (if any) mentioned in parts 10 and 11 of the application.

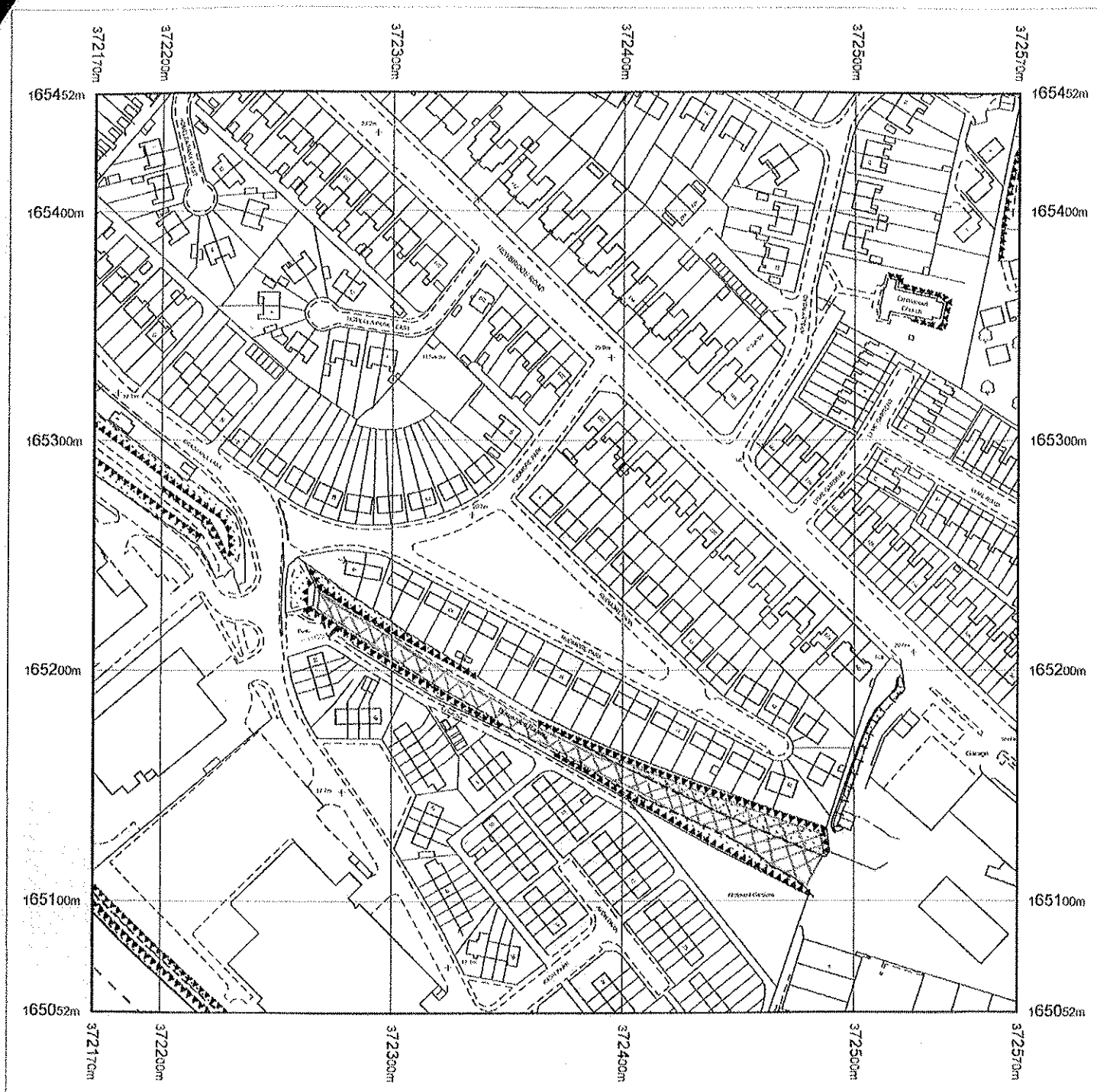
3. The map now produced as part of this declaration is the map referred to in part 5 of the application.

⁴ Complete only in
the case of
voluntary
registration (strike
through if this is not
relevant)

4.⁴ I hereby apply under section 15(8) of the Commons Act 2006 to register as a green the land indicated on the map and that is in my ownership. I have provided the following necessary declarations of consent:— [REDACTED]

(i) a declaration of ownership of the land;—
(ii) a declaration that all necessary consents from the relevant leaseholder or proprietor of any relevant charge over the land have [REDACTED]

Cont/



*This is to exhibit referred to in the
Statutory declaration of Joanne McBurn.*

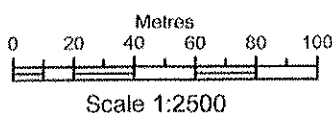
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The representation of a road, track or path is no evidence of a right of way.

The representation of features as lines is no evidence of a property boundary.



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OS Sitemap Information leaflet or the
Ordnance Survey web site:
www.ordnancesurvey.co.uk

Continued

~~been received and are exhibited with this declaration; or~~
~~(iii) where no such consents are required, a declaration to that effect.~~

And I make this solemn declaration, conscientiously believing the same to be true, and by virtue of the Statutory Declarations Act 1835.

Declared by the said Joanne McCarron

at 29 Kipling Avenue
Pati

this 28th day of March 2010

Signature of Declarant



Before me *

Signature:



Address: 29 Kipling Avenue Pati BA2 4RB

Qualification: Solicitor

* The statutory declaration must be made before a justice of the peace, practising solicitor, commissioner for oaths or notary public.

Signature of the statutory declaration is a sworn statement of truth in presenting the application and accompanying evidence.

REMINDER TO OFFICER TAKING DECLARATION:

Please initial all alterations and mark any map as an exhibit

APPENDIX A

VILLAGE GREEN REGISTRATION

"THE LANE" RUDMORE PARK, NEWBRIDGE, BATH

INFORMATION NOTES FOR INCLUSION IN FORM 44

1. Note on Section 4

(In setting out both the above date and the section in 4 above we would remind you of the advice of DEFRA in that such information can be amended at a later date if it is found to be appropriate to do so. And therefore your authority should if it is dissatisfied with that date for any reason should in the first instance seek clarification from the Applicant in order that if need be the relevant section and date can be amended.)

2. List of attached documents Section 10

Appendix 'I' Additional information unable to be included within the application form due to space restraints (in no particular order):

Exhibit A: Map of Village Green site

Exhibit B: Supporting Statement on behalf of the applicants.

Exhibit C: Further Statements of Support from 45 local residents who collectively have used The Lane for lawful pastimes as of a perceived right since the 1960s until the present day and continue to do so.

Exhibit D: Further Supporting evidence: Correspondence from the council dated 02/09/1988 to J.Ash of the then Lower Weston Residents' Association with relevant section highlighted (page 2).

Exhibit E: February 1989 edition of Lower Weston Residents' Association newsletter detailing community use of The Lane

Exhibit F: Newspaper coverage of community event on the Lane dated 1st March 1989

Exhibit G: Correspondance inviting James Ash to tree planting event on The Lane with Chris Patten MP dated 23rd February 1989

Exhibit H: Letter from Chris Patten MP dated 27th February 1989 after the tree planting event on The Lane

Exhibit I: Photographic evidence showing community use of The Lane dated May 2008

Exhibit J: Witness statements of support from the applicants:

Exhibit J1: Witness Statement of Joanne McCarron

Exhibit J2: Witness Statement of Peter Burns

Exhibit J3: Witness Statement of Josè Ash

Commons Act 2006

Application to Register Land as a Village Green Under Section 15(1)

THE LANE, RUDMORE PARK, NEWBRIDGE, BATH

SUPPORTING STATEMENT ON BEHALF OF APPLICANTS

The following statement is submitted in support of the application to enter into the Register of Village Greens the land known as **THE LANE, RUDMORE PARK**

The land has been used by the inhabitants of the locality as described and set out in Section 6 of Form 44 which accompanies the application for a period of 20 years starting from the 6th April 1988 until and including the 6th April 2008 for lawful sports and pastimes, as set out below and contained within other supporting evidence submitted with the application, as of right, and in the belief that the land was and is a village green for the purposes of prescription at Common Law and of the Commons Act 2006 and The Commons (Registration of Town or Village Greens) (Interim Arrangements) (England) Regulations 2007.

1. A significant number of the inhabitants of the locality both past and present have used the village green for a range of sports and pastimes which are set out in brief within the Statements of Support attached at Exhibit C (*but is not exclusively limited to the uses therein set out*) to the application.
2. It is the case of the Applicants then they are not required to demonstrate every use on every occasion, or that such use is exclusively by inhabitants of the locality, therefore the evidence submitted with the application is such that it is intended to be viewed solely as examples of the use and extent of that use. Such evidence can and will be submitted by the Applicants if such information is requested by the Authority, and/or through an oral presentation of evidence at a local inquiry before an inspector appointed by the Authority.
3. The Applicants and others will and do aver that they have used the land as a village green as of right without let or hindrance, except to the extent set out in the accompanying statement of support. As a fact it is the case of the Applicants that on no occasion have the owners or controllers of the land challenged their use of the land, or the use of the land by any other inhabitant of the locality.
4. The Applicants rely in chief on the evidence contained within the attachments to the application, the witness statements of the applicants and other letters of support, which does not require further expansion within this statement other than to set out the general thrust of the case being forwarded.
5. The application land has been used by the inhabitants for recreational and leisure purposes going back to the 1960s, this use has included informal sports, the walking of dogs, other walking activities, for play of younger members of the community, as a picnic area by families as well as for kite flying, blackberry picking (in season), watching of wildlife and various other uses. These uses continued and heightened during the period from 06/04/1988 to 06/04/2008, and continue to this day, with natural fluctuations based upon seasonal usage.
6. As such the Applicants believe that all relevant criteria required to be demonstrated in order for the land to be entered in the register of village green has been met.

Signature...

date 1st April 2010

Name JOANNE MCCARRON

EXHIBIT D

Bath City Council



Department of Environmental
Services
Abbey Chambers, Bath BA1 1NT

Director of Environmental
Services
L. T. Sparks Dip. Arch.,
Dip. T.P., RIBA., MRTPI., FRSA.

0225 641111 Ext 2503
If calling please ask
for Chris Pound

CP/HAB/S82

September 2, 1988

Ms Josie Ash
29 Brassmill Lane
Bath

Dear Josie

Brassmill Lane Improvements

You will remember at the last meeting of your committee we discussed a number of issues on the Brassmill Lane Area. I have prepared a report for the Housing and Environment Committees which introduces these issues to the Committees.

You will see that this brings us closer to an exhibition in the next few weeks. When Lynda returns from holiday it would be useful to meet to discuss how best we can organise the exhibition. We shall contact you shortly.

Yours sincerely



Chris Pound
Assistant Director (Policy and Conservation)

cc. Lynda Peacock, DEM

*pg 1 item 5 - ref to
valuable opportunity
to wildlife!*

REPORT OF THE DIRECTOR OF
ENVIRONMENTAL SERVICES TO
THE HOUSING COMMITTEE AT
ITS MEETING ON THE 8TH OF
SEPTEMBER 1988

ENVIRONMENTAL IMPROVEMENTS AT BRASSMILL LANE

INTRODUCTION

1. At its meeting on the 12th of September the Environment Committee will consider a report on environmental improvements on the former railway land. The report invites the Committee to agree to consult the residents in the area on a wide range of matters which extends further than the landscape work on the former railway land.

AVON PARK ESTATE

2. The residents in the area have established the Lower Weston Residents Association. Amongst a number of issues which they wish to pursue is the problem of parking in the Avon Park Estate. In undertaking environmental improvements in the area there may be an opportunity to bring forward a solution to this problem.
3. The Committee will note this issue in the Environment Committee's report in paragraph 12. The Committees should also note other matters which relate to this estate in paragraphs 11 and 13.

THE ENVIRONMENT COMMITTEE

4. If the Environment Committee agrees to extend a consultation exercise to illustrate these additional matters then there is an opportunity to include any views the Housing Committee might wish to put forward.

RECOMMENDATION

5. The Committees views on these issues are invited.

BRASSMILL.2CP/JSJ/S82
19th August 1988

REPORT OF THE DIRECTOR OF
ENVIRONMENTAL SERVICES TO
THE ENVIRONMENT COMMITTEE
AT ITS MEETING ON THE
12TH OF SEPTEMBER 1988

ENVIRONMENTAL IMPROVEMENTS AT BRASSMILL LANE

INTRODUCTION

1. The Council agreed that part of the Conservation Budget for this financial year should be allocated to landscape work along the former railway line at Brassmill Lane and Locksbrook Road. In the autumn we wish to consult the residents on landscape proposals for the railway land. In the last few months a Residents Association has been formed amongst the residents of this area. They have raised a number of issues and other possible improvements to the area. This report introduces these issues and suggestions and seeks the committee's agreement to pursue a consultation exercise on them.

THE RAILWAY LAND

2. The land shown on the plan A has been acquired by the Council from the British Rail Property Board. This was subject to the City Council undertaking the landscape works that the Board had been required to do as part of their planning permission to tip in the former railway cuttings.
3. The budget for this year includes £25,000 to undertake the landscape work. In bringing forward the proposals for the landscape it has become apparent that a number of other issues will influence them.
4. It has been a long term policy to extend the "cycle path" along the full length of the railway land from Brassmill Lane to Station Road and the acquisition is a step towards achieving this. However a key length of this proposal cannot be implemented until temporary planning permissions for parking fall in and a path negotiated with the landowner.

LANDSCAPE WORKS

5. The acquisition of this land has also secured for the City part of a linear feature with considerable existing and potential landscape merit and which provides valuable opportunities to wildlife. Its potential to link with other landscape features and potential wildlife habitats is of particular importance.

6. On receipt of the former railway land from British Rail the City Council agreed to undertake landscape works which were required as part of British Rail's planning permission to tip in the former railway cuttings. It is partly to satisfy this requirement that £25,000 have been allocated within this years Conservation budget for landscape works on the site. The sum anticipated a need to re-grade some of the tipped material to more positive effect and to re-seed and plant a mixture of indigenous trees and shrubs.
7. However, the time lapse since tipping ceased has allowed the areas to become well grassed over and the peripheral vegetation to recover, although gappy in places. Levels generally tie-in with surrounding properties and although not entirely smooth and even are not dangerous, eroding or bare. The areas are not unattractive although on the edges they are attracting some fly-tipping.
8. In bringing forward proposals for the landscape works it has become apparent that:-
 - a) Until such time that a link can be negotiated between the two parts of the former railway land it would not be desirable to actively encourage people into the spaces by laying out (or even preparing ground level for) the cyclepath. Attracting people into well vegetated "dead-end" areas with the inherent risk to personal safety is obviously irresponsible. Other routes from the sites might be negotiated (see later in report) but this is not likely to achieve results within this financial year.
 - b) It would not be cost effective to undertake ground levelling works at this stage which might prejudice the final layout of the cycletrack and to disturb an acceptable landscape for short term aims.
 - c) It would not be cost effective to undertake substantial tree and shrub planting works to maximise the areas landscape and wildlife potential whilst awaiting use as a cyclepath, since a lot of planting would eventually need removal to accommodate earth shaping for the cyclepath and other issues, which are aired later in this report, might be prejudiced as a result.
9. There is scope to undertake immediate minor tree and shrub planting, general tidying up and filling of peripheral vegetation. This will not require the whole of the £25,000 allocated.

LOWER WESTON RESIDENTS ASSOCIATION

10. The Lower Weston Residents Group established itself in March. Their committee have discussed a broad range of problems and issues of their area. Amongst these are some which will effect the emerging landscape proposals, these are shown on Plan B. Other problems might be resolved.

11. The principal matter which the Association is pursuing is building a community centre. The western end of the railway land is a potential site for such a building. Should the landscape works take this into account?
12. There are problems of finding car parking spaces in Avon Park estate. One possible solution is to provide a few spaces on part of the existing allotments. However most of these allotments are well used and loss of some would be likely to be resisted. However, a few allotments could be relocated on the former railway land but this is difficult to achieve satisfactorily.
13. There have been requests for a North South path linking Brassmill Lane, Rudmore Park to Newbridge Road. The Council owns some land but it is in allotment or other uses. However a link is possible on land owned by ARC. Should the landscape proposals be extended to secure and lay out this path?

NEWBRIDGE ROAD RESIDENTS

14. Although not in the Lower Weston Residents Association some residents in the Newbridge Road north of the eastern length of railway land have asked if it is possible to lay out rear access. Whilst this is possible, it will reduce the area of open space available for landscape works. Also it is not possible at one end without the removal of a significant hedge and trees.
15. The land to the south of the railway land is the British Telecom depot which has been identified for development. It might be possible to compensate for the loss of the existing vegetation by providing it in the development. However, this will also reduce the potential of the site for housing development. A brief on this will be brought to the Planning Committee at their October meeting. At this stage we do not know how many residents wish to make use of such a rear access and will be willing to either contribute to it or buy an access from it if the Council were to lay out the road.
16. A related request has been to examine whether a car park can be provided on land for shoppers using the nearby Chelsea Road Shopping Centre. It is possible to provide a car park and this would be consistent with the Council's policy T22 in the draft City Plan. However as yet we do not know whether this will be acceptable to the residents. Funds for this might need to be found from a different budget because this is not strictly a landscape matter.

CONSULTATION

17. The issues described above have been examined only briefly but they do impinge on the landscape scheme. As yet we have no opinion from the residents on their implications. It is suggested that we consult the public on the ideas at this stage and to indicate to them how much landscape works we can implement this year without prejudicing any other proposals.

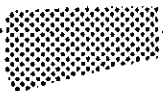
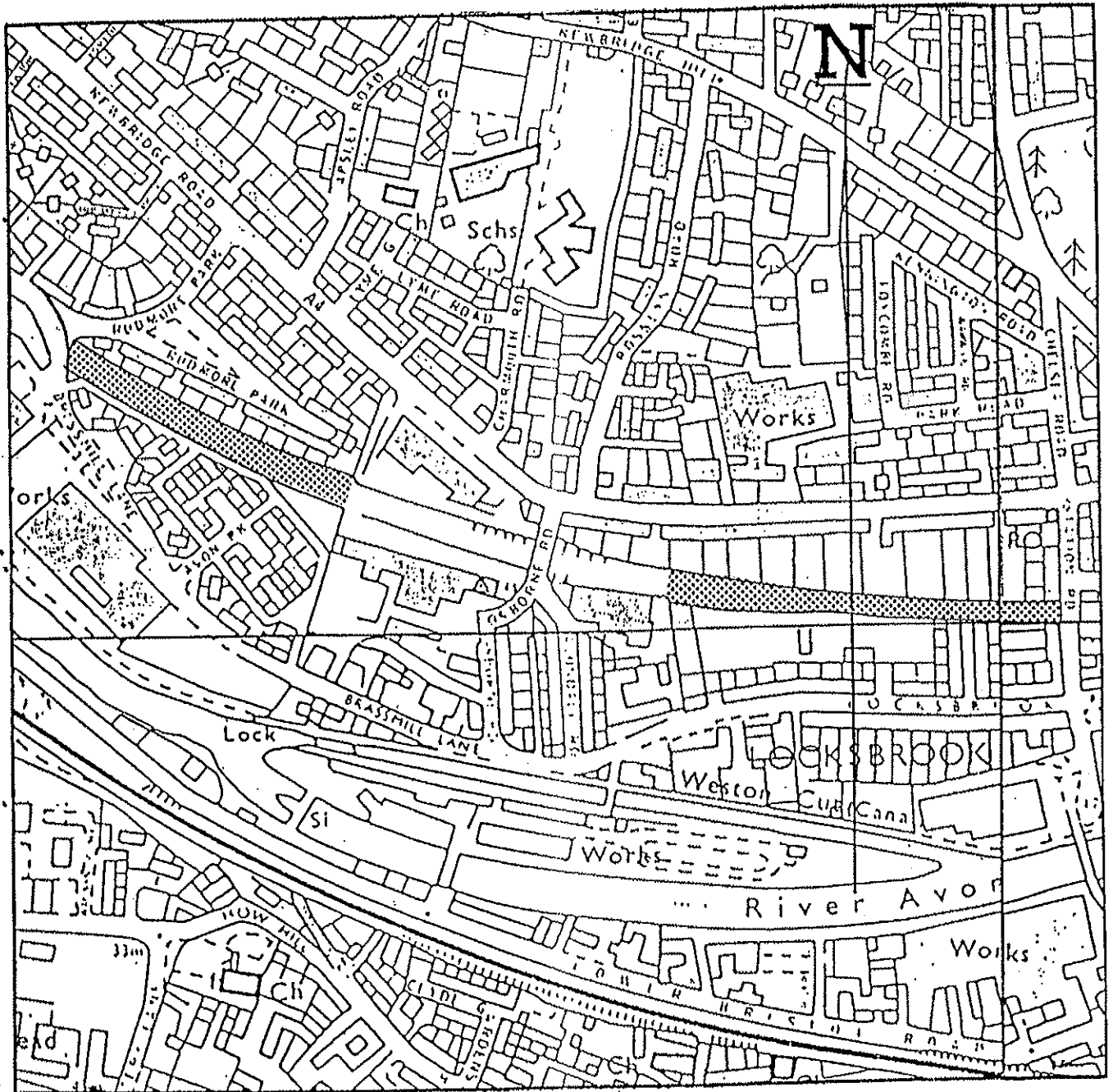
18. If in the light of the comments received on the ideas set out above the committee agree that additional proposals should be brought forward over and above the existing landscape works to these matters then there may be budgetary implications.

RECOMMENDATIONS

19. That the Committee note the issues raised so far by the residents in Lower Weston and Newbridge Road and agree to consult them on these matters as outlined in this report.

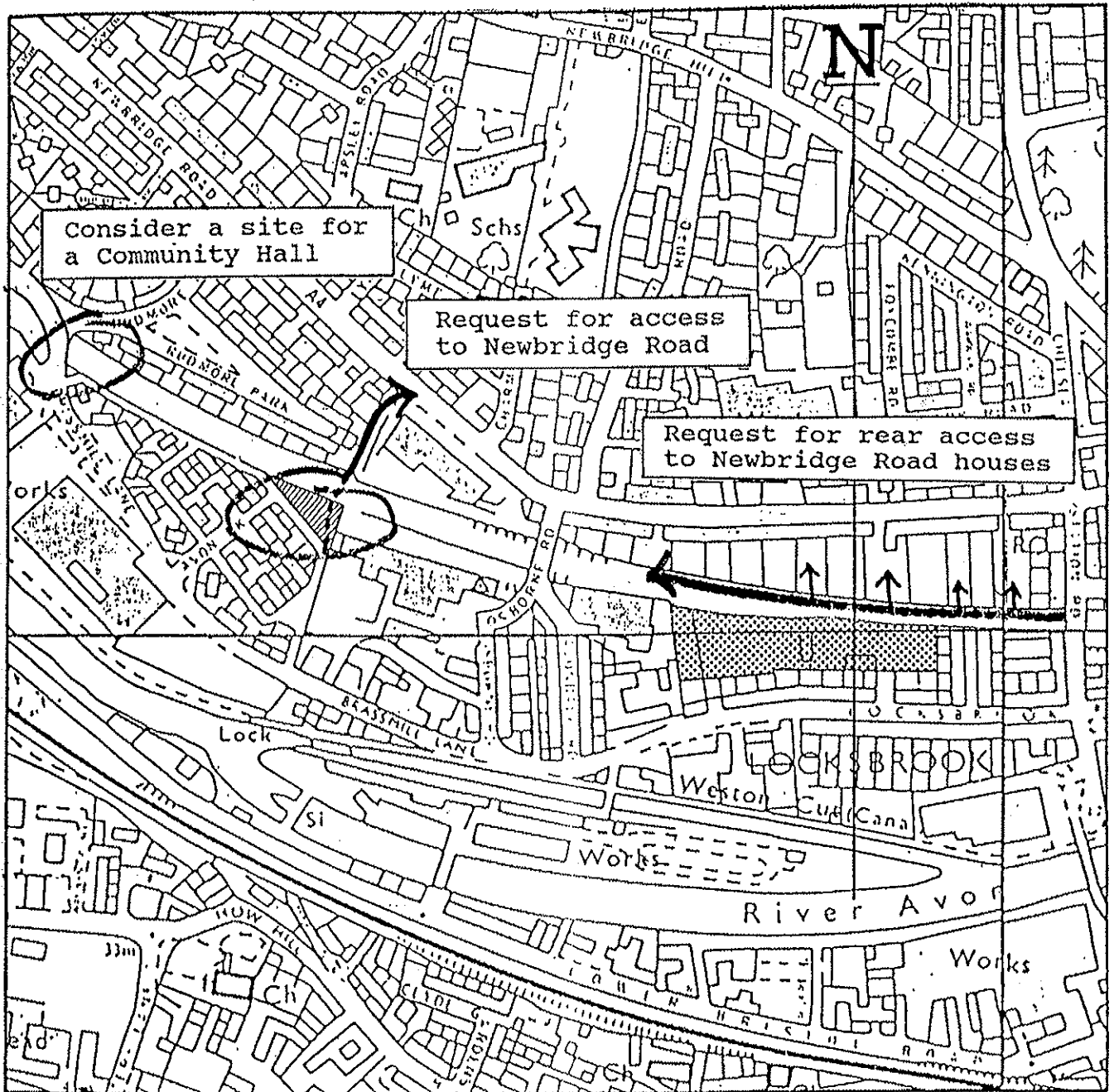
BRASSMILL.CP/AK/S82
31st August 1988

Brassmill Lane A



Land acquired from British Rail

Brassmill Lane B



Depot site subject of forthcoming Brief



Allotments which may provide space for parking

