

**From:** [Winsley Parish Council](#)  
**Sent:** 14 April 2022 10:20  
**To:** [Green, Janice](#)  
**Subject:** Response to TVG Objections, Ref: 2021/01TVG  
**Attachments:** [TVG\\_ObjectionsResponse\\_Apr22.pdf](#)  
[Neighbourhood\\_Map\\_Apr22.jpg](#)

---

Dear Janice,

Please find attached the response from Winsley Parish Council to the objections raised during the consultation period for the TVG application for Northfield TVG.


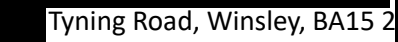
Also attached is a revised map; please could this replace the previously submitted Exhibit C - Map 5.

I'd appreciate confirmation that these have been received. If there are any queries please do not hesitate to contact me.

Best wishes, Selina

--

Selina Jobson  
Winsley Parish Clerk

  
 Tyning Road, Winsley, BA15 2  
[winsley.org.uk](http://winsley.org.uk)

**Response from Winsley Parish Council to Objections Raised During the TVG Consultation Period**

**14 April 2022**

1. There is one objection from a resident of Winsley. This compares to over 70 representations from current or past Winsley residents in support of the TVG application, as well as support from additional residents via the Evidence Questionnaire and residents statements. The resident questions whether the land is suitable for designation as a TVG due to its small size and location next to a bypass. Neither of these are factors for consideration in deciding a TVG application.
2. BK Land and Estates Limited (BKLE) have objected to the application on three grounds (Para 17 of BKLE’s Objection Statement). These are addressed in turn below.
3. *‘The Application is not duly made as it does not adequately identify the locality or neighbourhood within a locality that is relied upon’*. (Paragraphs 18-22 of BKLE’s Objection Statement).
  - 3.1 Wiltshire Council accepted Winsley Parish Council’s TVG submission and did not find any element ‘defective’.
  - 3.2 Exhibit C - Map 5, shows the ‘Neighbourhood within the locality to which the claimed Green relates’. The key on Map 5 refers to the ‘Locality of the green’ which could be confusing. A revised map is included with the key labelled ‘Neighbourhood of the Green’. This map should replace the previous Exhibit C - Map 5.
  - 3.3 The locality used in the Northfield TVG application is Winsley Parish which meets the criteria of locality for a TVG: *‘A locality must be an area known to the law such as a borough, parish or manor’* (Para 6 of BKLE’s Objection Statement).
  - 3.4 The neighbourhood within the locality of Winsley Parish to which the claimed green relates is closely aligned to the Winsley settlement boundary, with a small number of additional properties included. It is clear from any map that the neighbourhood area has been based on the main residential area of Winsley, including the ‘old’ village, the Tying estate and residences along the main Bradford Road. The northern edge of the neighbourhood boundary runs alongside the B3108 which provides a clear edge to the residential area. The southern and eastern edges of the neighbourhood boundary deviate slightly from the settlement boundary to include a small number of properties which lie just outside the settlement boundary. Northfield playing field itself lies outside the settlement boundary so the neighbourhood boundary has been drawn to include Northfield and the properties adjacent to this area of land.

- 3.5 Within the defined neighbourhood area there is a shop, primary school, health centre, pub, social club, village hall and two churches serving the local community, demonstrating the cohesiveness of the defined neighbourhood.
- 3.6 Responses from the Evidence Questionnaire show that people from across the defined neighbourhood have used Northfield playing field.
- 3.7 The amended maps which Winsley Parish Council submitted in August 2021 as part of the TVG application process, demonstrate a locality which meets the criteria for a TVG and a cohesive neighbourhood area, also meeting the TVG requirements.

4. *User not 'as of right'* (Paragraphs 23-29 of BKLE's objection statement).

4.1 The case of *R v Oxfordshire County Council and others, ex parte Sunningwell Parish Council (House of Lords, 1999)* clarified that in order to demonstrate that land has been used '*as of right*', evidence need only show that land has been used for lawful sports and pastimes without force, without secrecy and without permission. Winsley Parish Council has provided clear and substantial evidence, through specific questions in the Evidence Questionnaire and from additional resident statements, that the land has been used by local residents, throughout the relevant 20-year period, without force, secrecy or permission from the owner.

4.2 Of the 124 respondents to the Evidence Questionnaire:

- none had ever sought permission to use the land from the owner of the land at the time (Robinsons).
- none had ever been denied or granted permission to use the land by the owner of the land at the time.
- none had ever been discouraged or prevented from using the land by the owners of the land at the time.

4.3 Since its creation as part of the Tying housing estate there has always been open access along one side of Northfield playing field, allowing users to access the land freely and without secrecy. Fifty-seven respondents to the Evidence Questionnaire had accessed the land via Northfield or from the bypass (B3108); 49 had walked to the land and 7 had cycled; 10 stated it was open access land or that they accessed the land '*through the obvious entrance*'. These responses demonstrate that there was no secrecy involved in using the land.

4.4 There is no evidence of, and residents who have lived in the area throughout the 20-year period do not recall, any form of prohibitory signage ever being installed by the landowner.

4.5 The landowner would have been able to tell that the field was well used and looked after by the local community (for example, from the goalpost in the field, the worn grass, and the maintenance of the area). As use of the land was clearly not by stealth the landowner could, at any point during the 20-year period in question, have identified that the land was being used by local residents and could have exercised his right to prevent use of the land. The landowner did not do this at any point.

4.6 Winsley Parish Council contests the point that *'[Wiltshire] Council has essentially licensed the Applicant to use the Application Land for the provision of community recreation space'* (Para 25). The land was used as a temporary recreation area whilst it was dedicated to Wiltshire Council for possible highways use. Once the land was no longer needed for that purpose a letter from Wiltshire Council [12 April 1991, Evidence Q] shows that *'total control will revert back to the freeholder, presumably Robinsons'* and that *'The Parish Council would therefore need to negotiate with the landowner if they wish to purchase that part of the 'play area' that is not required for the bypass.'* No evidence has been found by the Parish Council, or has been submitted by BKLE, to indicate that conversations were ever held with Robinsons. Robinsons continued to own the land until 2021 and during this time would have been in a position, as the landowner, to *'warn trespassers off'* the land. There is no evidence that any resident has ever been warned off the land by the landowner.

4.7 Although not directly relevant to the TVG case, Winsley Parish Council contests the point that *'The Oldham Estate Company Limited...sold the Application Land at auction to BKLE, days after the defective application had been submitted to the Council (but not yet advertised).'* (Para 26). The TVG application was registered by Wiltshire Council on 1 March 2021. The auctioneers were emailed the TVG application confirmation letter from Wiltshire Council on 3 March 2021. The information about the TVG registration was available to all potential buyers on the auctioneers website on 4 March 2021. The auction took place on 10 March 2021.

5. *'Evidence inadequate to satisfy statutory test'*. (Paragraphs 30-32 of BKLE's Objection Statement).

5.1 As noted in Paragraph 3 of BKLE's Objection Statement, the *'significant number component has never been formally defined...What matters "...is that the number of people using the land in question has to be sufficient to indicate that their use of the land signifies that it is in general use by the local community for informal recreation, rather than occasional use by individual trespassers".'* Winsley Parish Council believes that for a relatively small neighbourhood area, the responses to the Evidence Questionnaire demonstrate clearly that the land has been in general use by the local community for informal recreation.

5.2 The case of *R v Oxfordshire County Council and others, ex parte Sunningwell Parish Council (House of Lords, 1999)* confirmed that activities such as dog walking, kite flying, solitary or family activities are sufficient to justify registration as long as there is an established pattern of use and it is not 'trivial and sporadic'. The quantity of evidence provided by Winsley Parish Council shows that the land has been used by a significant number of people, resulting in the land being used regularly by the community as a whole, and that use of the land far exceeds the definition of 'trivial and sporadic'.

5.3 It must be established that the inhabitants have used the land *'for a period of at least 20 years and they continued to do so at the time of the application'*. For this reason all evidence from residents, including from residents who used the land prior to the 20-year time period has been included in this application.

5.4 The summary results from the Evidence Questionnaires (Evidence L) show that:

- 66 households had used the land for some part of the 20 year period and were still using the land at the current time.
- 16 households had used the land during the 20 year period being considered for the TVG application but were not using the land currently.
- 28 households had used the land prior to the 20 year period being considered for the TVG.

5.5 There are a number of residents who have lived in the village long enough to be able to testify that the land has been used regularly throughout the 20-year period. For example, Mr and Mrs G Pearce, whose property backs onto the field, provide details of the field being used regularly:

*“During the almost 31 years that we have lived here we can confirm that we have had families using the play area on a very regular basis. We have had football, rugby (especially during the time of the world cups), cricket, tennis, and running competitions. We have seen young people learning to ride 2-wheel bikes out there and we have seen adults using it for exercise and personal fitness; we have had end-of-school year picnics...Since lock-down just over 12 months ago the play area has been used daily...”*

Northfield resident Ms K Kemp recalls the land being used by herself and her friends from the 1970s onwards and, as a resident of Northfield to the current day, has seen the land *‘being well utilised by local children and adults’*.

5.6 There has been a single goalpost in the field for many years, with a photo of the goalpost from Google Maps in 2009 (Evidence I). In 2020 residents, including young children, asked the Parish Council for a new goalpost and two goalposts were installed (no permission was sought for this work) (Evidence E). Photos included on the auctioneers website showed the two goal posts; the worn ground in front of each indicating that they were well used (Evidence D). Bases have also been installed by the Parish Council for two benches planned for the field.

5.7 These are some specific illustrations of the evidence submitted by the Parish Council that indicate that the land has been in general use by the local community for informal recreation for over 20 years. The evidence provided by the Parish Council (responses to the Evidence Questionnaire; additional statements from residents; minutes from Parish Council meetings; photos) is extensive, detailed and clear in demonstrating 20 years of informal use by the local community. It is considered that this evidence is more than adequate to satisfy the statutory test.

 Northfield Playing Field

 Neighbourhood of the Green

