

# AGENDA SUPPLEMENT (1)

**Meeting:** Western Area Planning Committee

**Place:** Council Chamber - County Hall, Bythesea Road, Trowbridge, BA14 8JN

**Date:** Wednesday 6 November 2024

**Time:** 3.00 pm

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The Agenda for the above meeting was published on **Tuesday 29 October 2024**. Additional documents are now available and are attached to this Agenda Supplement.

Please direct any enquiries on this Agenda to Ellen Ghey of Democratic Services, County Hall, Bythesea Road, Trowbridge, direct line 01225 718259 or email [ellen.ghey@wiltshire.gov.uk](mailto:ellen.ghey@wiltshire.gov.uk)

Press enquiries to Communications on direct lines (01225)713114/713115.

This Agenda and all the documents referred to within it are available on the Council's website at [www.wiltshire.gov.uk](http://www.wiltshire.gov.uk)

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## Part I (Pages 3 - 38)

DATE OF PUBLICATION: Tuesday 5 November 2024

Presentation Slides

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**COMMONS ACT 2006 – SECTIONS  
15(1) & (2) – APPLICATION TO  
REGISTER LAND AS A TOWN OR  
VILLAGE GREEN – SOUTHWICK  
COURT FIELDS, SOUTHWICK &  
NORTH BRADLEY**

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**AGENDA ITEM NO.7  
WESTERN AREA PLANNING COMMITTEE:  
6 NOVEMBER 2024**

**JANICE GREEN – SENIOR DEFINITIVE MAP  
OFFICER**

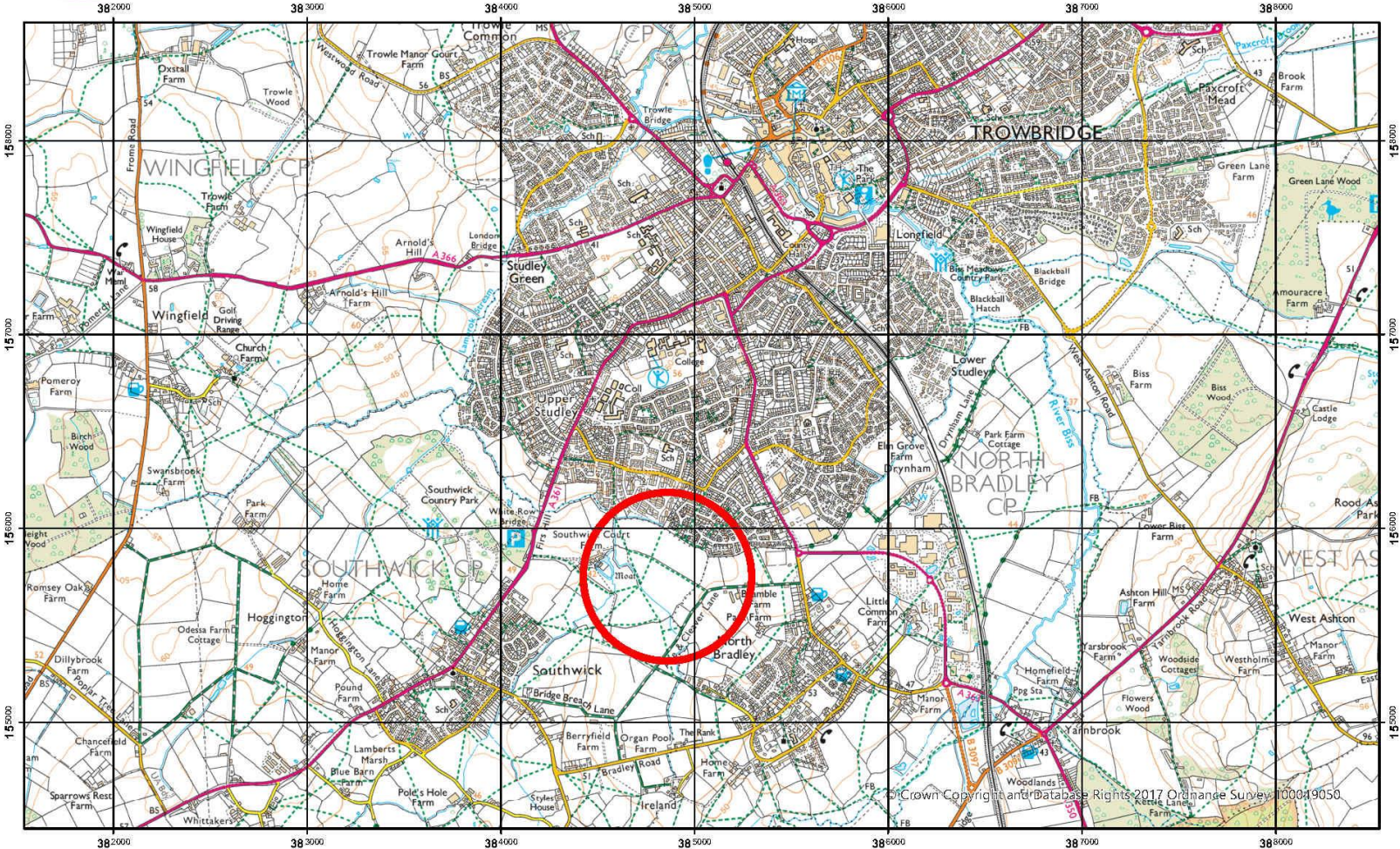
Agenda Annex

# Location Plan



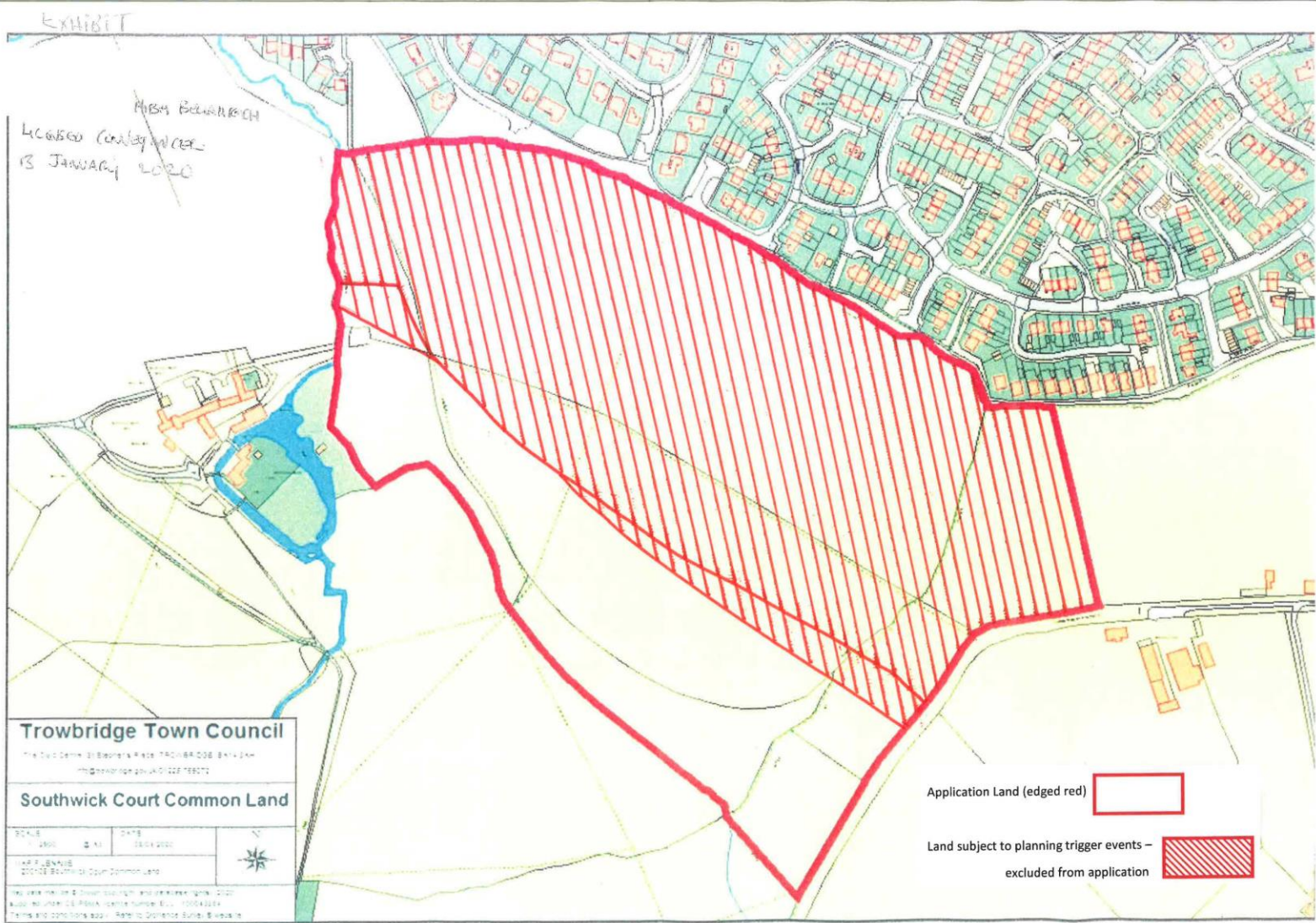
Application to Register Land as Town or Village Green - Southwick Court Fields  
Location Plan

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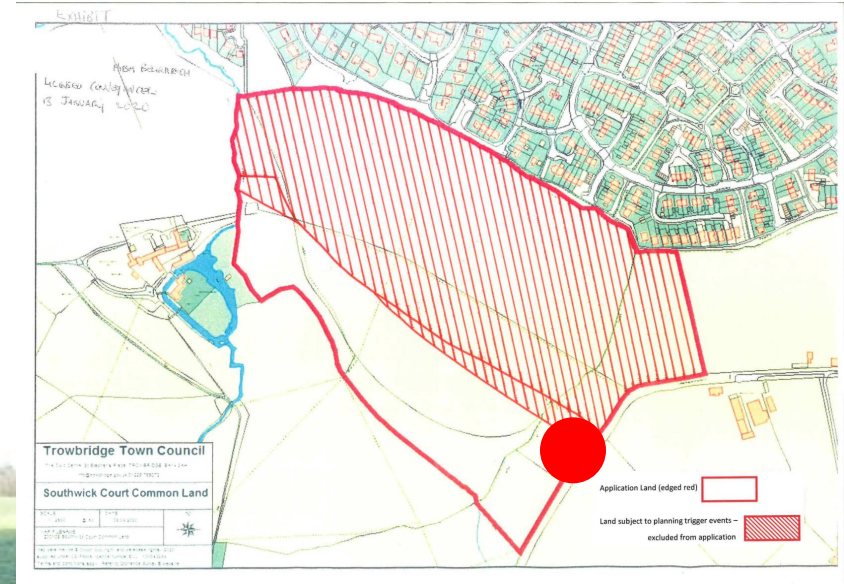
# Accepted Application Plan – Southwick Court Fields, Southwick & North Bradley (Application no.2020/02TVG – 30 November 2020)

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# Application land looking generally north-west

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# Application land looking south-west – existing stile in southern boundary (Footpath no.3 Southwick)

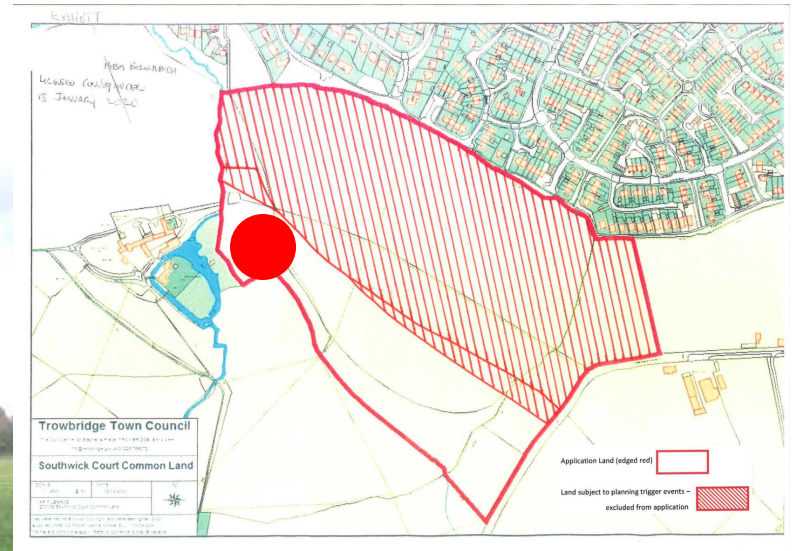
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# The application land looking north



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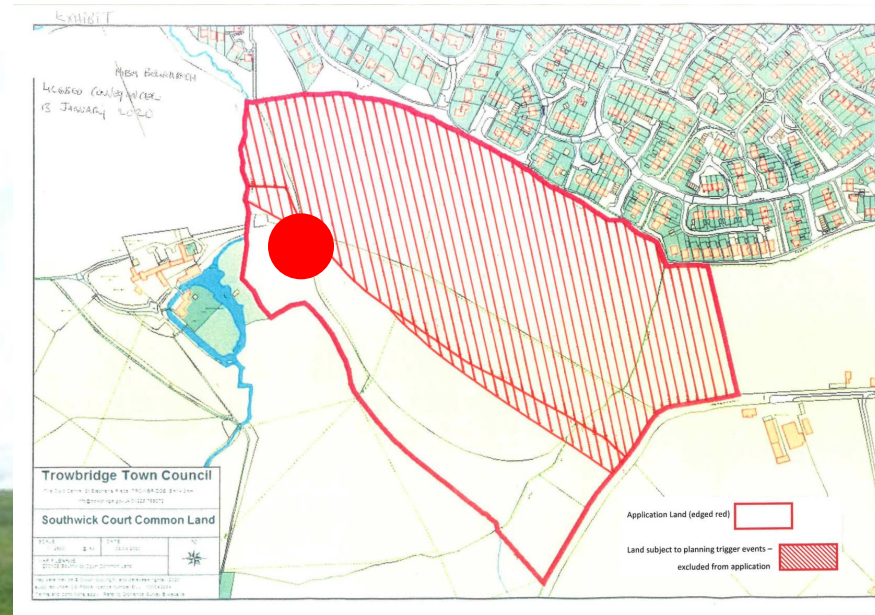




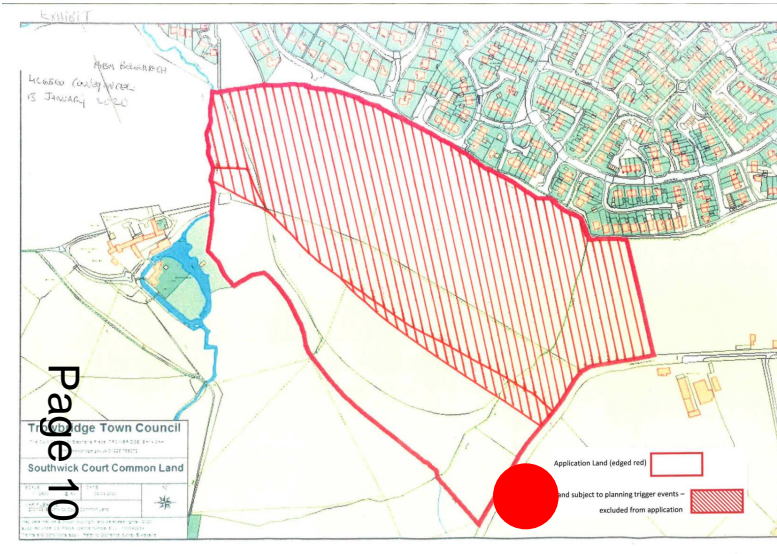
# The application land looking generally east



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# The application land looking generally north-west from Axe and Cleaver Lane (Bridleway no. 4 North Bradley)



# The Legislation

- **Application to register land as a Town or Village Green (TVG), at Southwick Court Fields, in the parishes of Southwick and North Bradley, is made under subsections 15(1) and (2) of the Commons Act 2006:**

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**Sub-section 15(1) states:**

## ***15 Registration of greens***

- (1) Any person may apply to the commons registration authority to register land to which this Part applies as a town or village green in a case where subsection (2), (3) or (4) applies.***

# The Legislation

- **Sub-section 15(2) states:**

***(2) This subsection applies where –***

***(a) 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 the land for a period of at least 20 years; and***

***(b) they continue to do so at the time of the application.***

- **Each part of this legal test must be satisfied for an application to be successful, where it is no trivial matter for a landowner to have land registered as a TVG (*R v Suffolk County Council ex parte Steed [1996] 75 P & CR 102*).**
- **The burden of proof is on the balance of probabilities.**

# Planning Trigger and Terminating Events

Growth and Infrastructure Act 2013 s.16 – insertion of s.15C into the Commons Act 2006 – the removal of the right to apply to register land as a TVG where a specific planning “trigger” event has occurred, e.g:

- An application for Planning Permission in relation to the land is first publicised.
- A Draft Development Plan which identifies the land for potential development is published for consultation.
- A Development Plan which identifies the land for potential development is adopted.

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The right to apply to register land as a TVG is revived where a corresponding planning terminating event has occurred, e.g:

- Planning Permission is refused and all means of challenge by legal proceedings in the UK are exhausted and the decision upheld.
- A Draft Development Plan is withdrawn, adopted or the period of 2 years beginning with the day on which the document is published for consultation expires.
- A Development Plan is revoked or a policy contained in the document which relates to the development of the land in question is superseded.

*List is not exhaustive and a full list of planning trigger and terminating events is included at Schedule 1A of the Commons Act 2006 (as amended).*

# The Application

- The application was made by Mr N Swanney as a local resident. The Parish Councils of Southwick and North Bradley and Trowbridge Town Council supported the application.
- The application land is located at Southwick Court Fields, to the south-west of Trowbridge, in the parishes of Southwick and North Bradley. The land is owned by the Right Honourable Mrs S Rhys and Mr and Mrs Marshall.
- Where the application was made in 2020, the 20-year user period in question is 2000 – 2020, with use continuing at the time of application.

The identified “locality” for this application is Trowbridge Grove Ward.

49 parties provided evidence in support of the application: 21 witnesses statements and 2 petitions.

- There was 1 objection to the application, made on behalf of the landowner.
- Where there was substantial dispute of evidence Wiltshire Council as the Commons Registration Authority (CRA) appointed an independent Inspector to preside over a non-statutory public inquiry to consider the evidence and produce an advisory report to assist the CRA in its determination of the application - (Public Inquiry held 21-22 November 2023 – Mr William Webster, 3 Paper Buildings presiding).
- Inspector’s Advisory Report received 9<sup>th</sup> February 2024 – recommending rejection of the application on the ground that all the criteria for registration laid down in s.15(2) of the Commons Act 2006 have not been satisfied, for the reasons set out in the Advisory Report.

# Western Area Planning Committee – 10 April 2024

The Inspector's Advisory Report and recommendation were considered at the Western Area Planning Committee meeting dated 10 April 2024. Members of the Committee made the following resolution:

Page 15 *The Committee DEFERRED determination of the application to register land at Southwick Court Fields, in the parishes of Southwick and North Bradley, as a Town or Village Green, to seek Counsel's Opinion on the question of whether the Draft Wiltshire Housing Sites Allocation Plan [WHSAP] forms a valid trigger event at the time of application, which would extinguish the right to apply to register part of the land as a Town or Village Green.*

# Counsel's Advice

Counsel's Advice prepared by Douglas Edwards KC of Francis Taylor Building and received 16 October 2024, sets out (in summary):

- The draft WHSAP was not a trigger event on 13 January 2020 where it was published for consultation on 14 July 2017, a terminating event had occurred by 14 July 2019 and the right to apply was not excluded by the date of application on 13 January 2020.
- The CRA was therefore wrong to determine that the application dated 13 January was invalid.

The Applicant made no claim for judicial review of the decision to return the application dated 13 January 2020 and the decision now cannot be reversed.

The CRA was wrong to have rejected the application dated 11 June 2020 in full, the trigger events at that time affected only part of the application land.

- The Applicant made no claim for judicial review of the decision to return the application in full and this decision cannot now be set aside.
- It was not open to the Inspector to consider the application dated 13 January 2020, the application before him was that received on 30 November 2020 and this is the "time" of the application relevant to whether the right to make an application ceases to apply.
- In terms of the Inspector's findings on the evidence, the Inspector's recommendation can be relied upon by the CRA in determining the application received on 30 November 2020.



# Officers' Recommendation

That Wiltshire Council as the CRA accepts Counsel's Advice that whilst it was not open to the Inspector to consider the application dated 13 January 2020 in his Advisory Report, the Inspector's conclusions as to the merits of the application would be the same for the period ending 30 November 2020 and the Inspector's recommendation can therefore be relied upon by the CRA in determining the application received on 30 November 2020, and the application to register land at Southwick Court Fields in the parishes of Southwick and North Bradley, (proceeding under Application number 2020/02TVG), should be rejected on the ground that all the criteria for registration laid down in section 15(2) of the Commons Act 2006 have not been satisfied, for the reasons set out in the Inspector's Advisory Report dated 9 February 2024.

# Decision

- **The Committee is acting in its Regulatory function which requires the Committee to act in a quasi-judicial capacity.**
- **When a Committee acts in its quasi-judicial capacity, it must follow a proper procedure which accords with the requirements of natural justice and the right to a fair hearing.**
- **Although it is open to the CRA to reject the Inspector's report and recommendation, it can only lawfully do so if the CRA finds that the Inspector has made a significant error of fact or law. If the Inspector's recommendation is rejected, the CRA must give legally valid reasons, supported by evidence, of the error of fact or law, where the CRA's decision is open to legal challenge.**

# Western Area Planning Committee

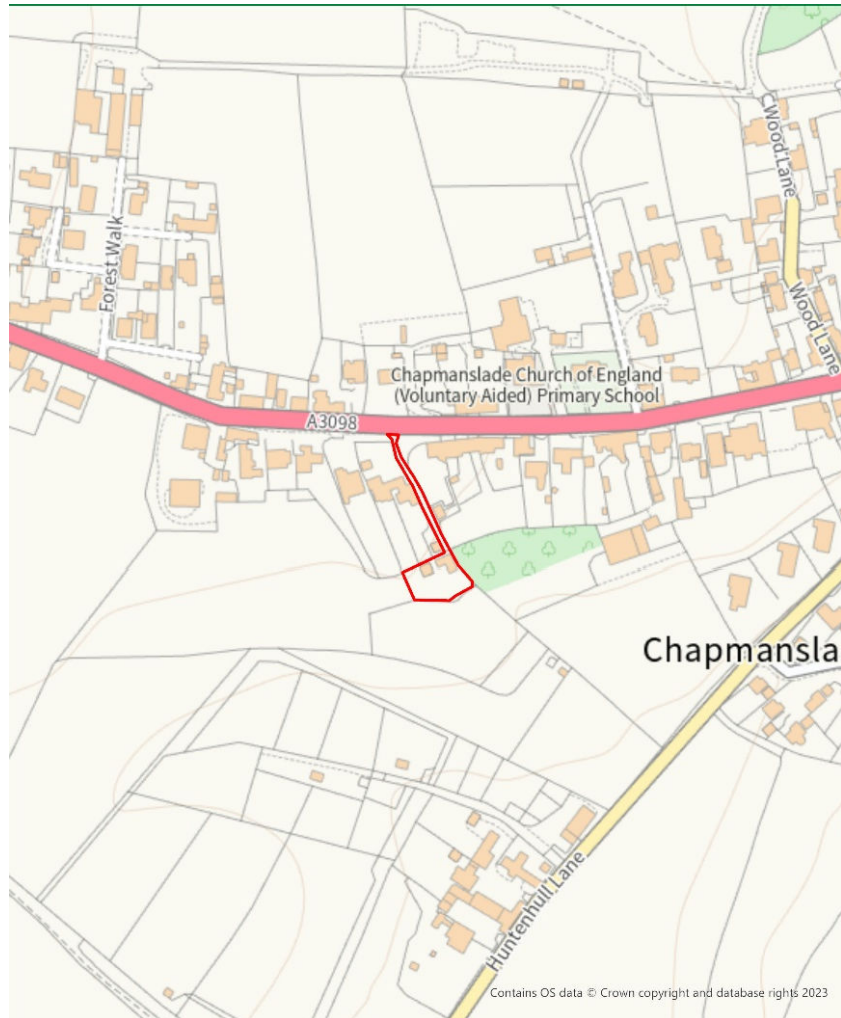
6 November 2024

## 7a) PL/2024/04800 – Land South Of 92, High Street, Chapmanslade, BA13 4AN

Demolition of stables and construction of 1no. self build sustainable dwelling with associated works and change of use of land to C3 (resubmission of PL/2022/09808 and PL/2022/03190)

**Recommendation – Approve Subject to Conditions**

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Site Location Plan

Aerial Photography

# Existing and proposed site plan

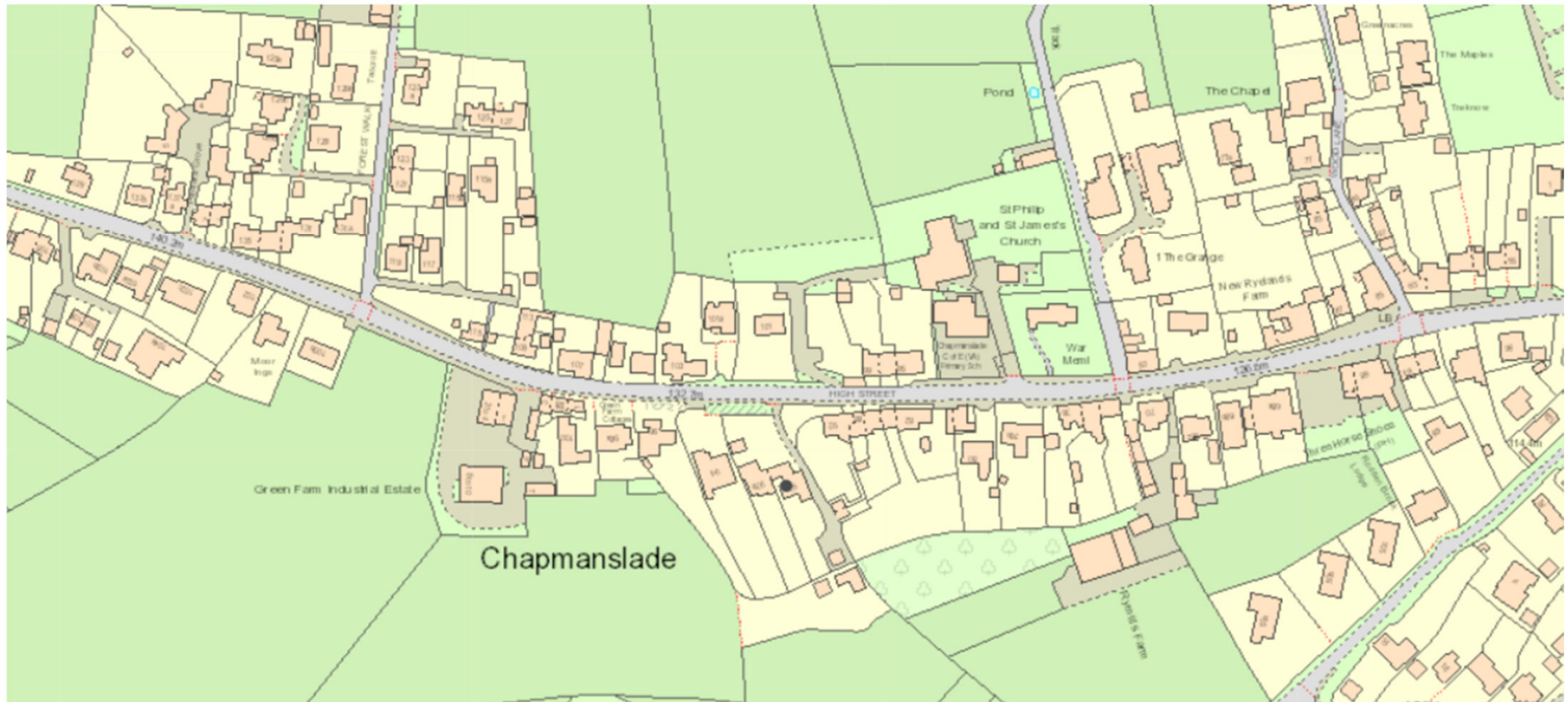


# Existing site

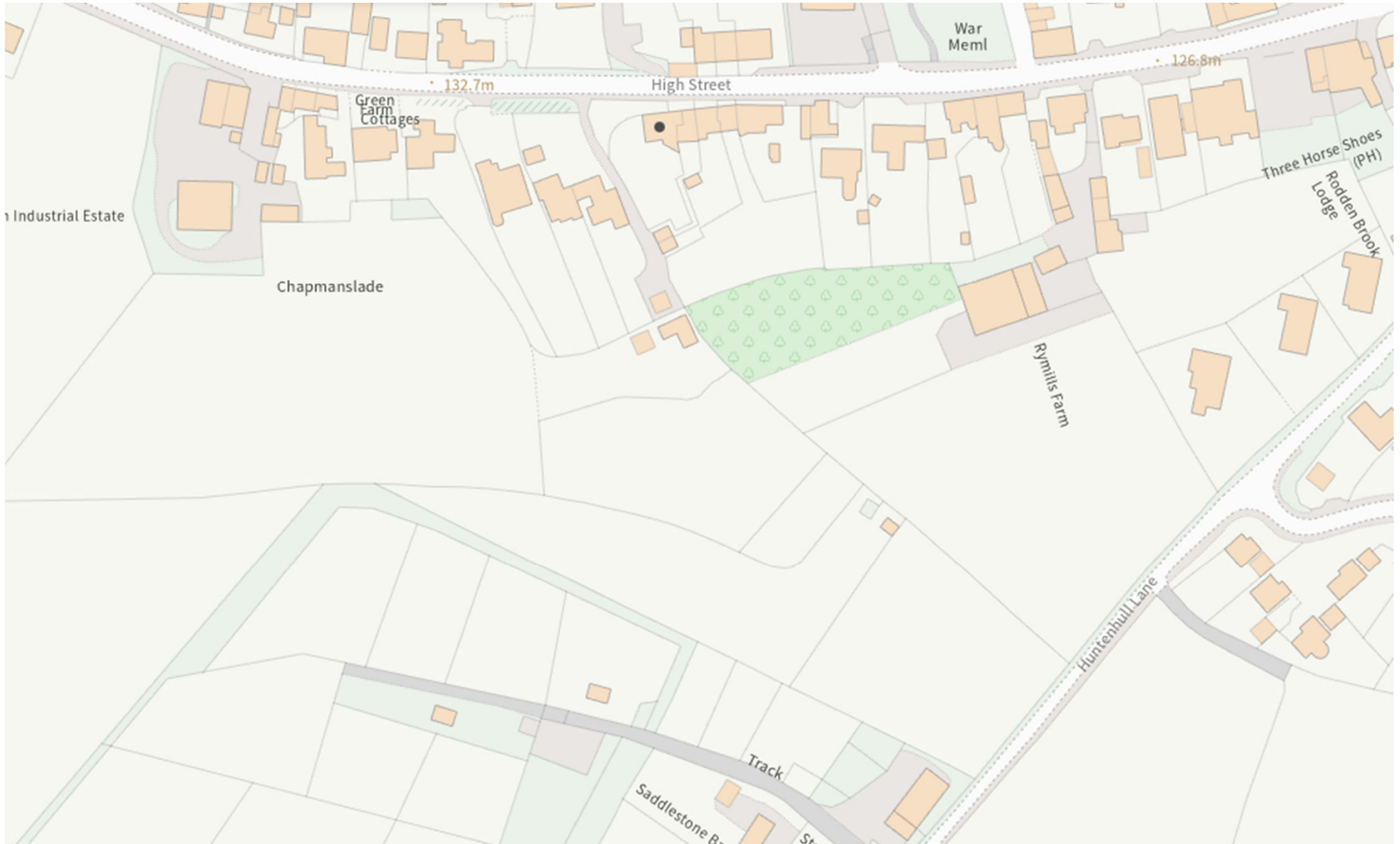


# Site location within village context

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# Site set in wider context





Looking north

# Existing site



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Looking East  
towards priority  
habitat

# Existing site

Looking West



Looking South from between stable buildings

# Existing access into site by the side of the existing stable



At site entrance between the neighbouring garage and existing rear of stables



# Site access with neighbouring garage on the right and stables behind

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# Looking from site entrance down the access lane

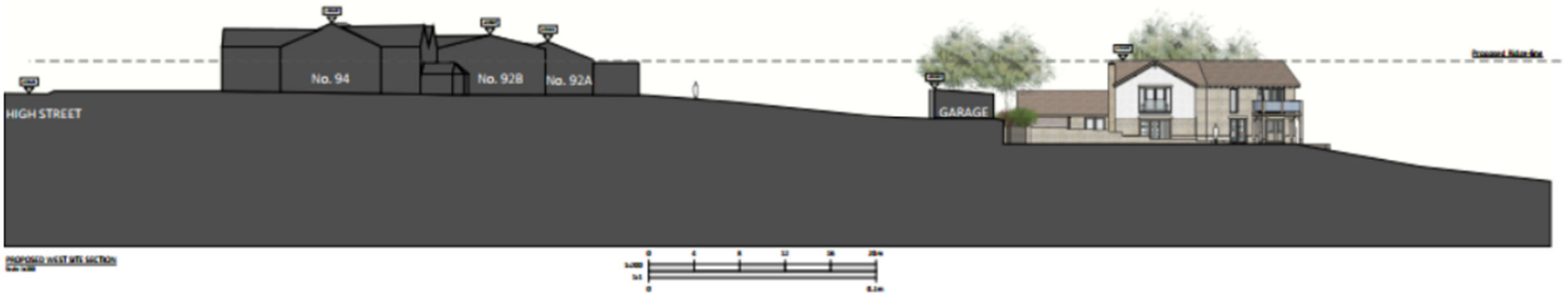
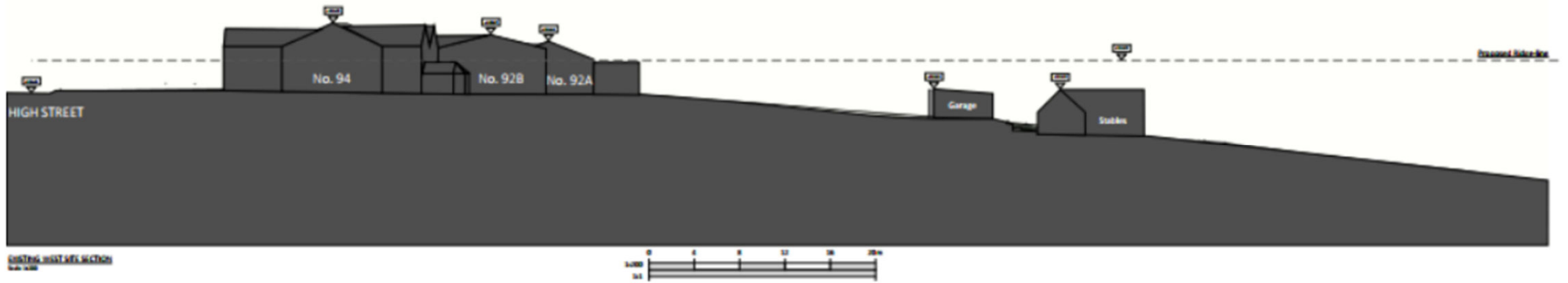


# Proposed site plan



# Existing and proposed site section

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# Proposed cut and fill earthworks



# Proposed floor plans

## Gross Internal Floor Areas (GIA)

Ground Floor	130.5m <sup>2</sup>
First Floor	102.9m <sup>2</sup>
<b>Total</b>	<b>233.4m<sup>2</sup></b>



# Proposal viewed from the southwest using indicative 3D modelling



# Proposed 2D elevations

West



Southwest



# South



# Southeast



North



East

