

# AGENDA SUPPLEMENT (2)

**Meeting:** Western Area Planning Committee

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

**Date:** Wednesday 5 June 2024

**Time:** 3.00 pm

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**The Agenda for the above meeting was published on 24 May 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)

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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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2 **Minutes of the Previous Meeting (Pages 3 - 16)**

Minutes of the meeting held on 8 May 2024.

**Commons Act 2006 - Sections 15(1) and (2) - Application to Register Land as Town or Village Green (Pages 17 - 34)**

Committee presentation

DATE OF PUBLICATION: 5 June 2024
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## **Western Area Planning Committee**

**MINUTES OF THE WESTERN AREA PLANNING COMMITTEE MEETING HELD ON 8 MAY 2024 AT COUNCIL CHAMBER - COUNTY HALL, BYTHESEA ROAD, TROWBRIDGE, BA14 8JN.**

### **Present:**

Cllr Christopher Newbury (Chairman), Cllr Bill Parks (Vice-Chairman), Cllr Trevor Carbin, Cllr Ernie Clark, Cllr Andrew Davis, Cllr Pip Ridout, Cllr David Vigar, Cllr Suzanne Wickham, Cllr Gordon King (Substitute) and Cllr Mike Sankey (Substitute)

### **Also Present:**

Cllr Johnny Kidney and Cllr Carole King

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## 24 **Apologies**

Apologies for absence were received from:

- Cllr Jonathon Seed, who was substituted by Cllr Mike Sankey
- Cllr Stewart Palmen, who was substituted by Cllr Gordon King
- Cllr Edward Kirk

## 25 **Minutes of the Previous Meeting**

The minutes of the previous meeting held on 10 April 2024 were considered. Following which, it was:

### **Resolved:**

**The Committee approved and signed the minutes of the previous meeting held on 10 April 2024 as a true and correct record.**

## 26 **Declarations of Interest**

There were no declarations of interest.

## 27 **Chairman's Announcements**

There were no Chairman's Announcements.

## 28 **Public Participation**

The Chairman explained the rules of public participation and the procedure to be followed at the meeting.

There were no questions or statements submitted by Councillors or members of the public.

29 **Planning Appeals and Updates**

The Chairman invited Simon Smith, Development Management Team Leader, to update the Committee on the pending and determined appeals as per the appeals report included within the Agenda Pack.

The eight determined appeals were detailed, with Members being informed of the successful defence of six. Particular reference was made to three of the six dismissals being for new housing that were flatly rejected by the planning inspectorate upholding the Councils position on being able to demonstrate a 4-year housing land supply and compliance with the NPPF. The Committee was informed of two contrasting decisions for applications PL/2023/01275 and PL/2023/07769, both of which being retrospective applications for household fencing, whereby one appeal was allowed, and one was dismissed – thus emphasising the importance of planning context.

It was also highlighted that the appellants for three of the applications had applied for costs against, and it was confirmed that each of those applications were roundly rejected.

Cllr Clark wished to thank the officers involved in defending the Land off Ashton Road, Hilperton appeal which had come about following a committee overturn.

Following which, it was:

**Resolved:**

**The Committee noted the appeals report for the period 1 March 2024 to 26 April 2024.**

30 **PL/2023/07518: Avonpark Village, Winsley Hill, Winsley, BA2 7FF**

**Public Participation**

Ms Fleur Hitchcock, local resident, spoke in objection to the application.

Mr Philip Haile, local resident, spoke in objection to the application.

Mr Guy Flintoft, applicant, spoke in support of the application.

Mr Patrick Clark, adviser to the applicant, spoke in support of the application.

Mr Michael Ross, Chairman of the Avonpark Residents Committee, spoke in support of the application.

Cllr Graham Bostock, on behalf of Winsley Parish Council, spoke in objection to the application.

The Senior Planning Officer, Steven Sims, presented a report which recommended approval for the demolition of existing buildings (comprising of 85 Care Bedrooms), and the proposed partial redevelopment and erection of new buildings to provide 71 Extra Care Units, associated communal facilities (Use Class C2), parking, and landscaping.

It was highlighted that Members of the Committee had undertaken a site visit on Wednesday 1 May 2024.

Key material considerations were identified, including the principle of development; Wiltshire's 5-year housing land supply; viability; impact on the openness of the Green Belt; impact on the character of the area/Cotswold's National Landscape/public footpaths; impact on the living conditions of neighbouring residents; and ecology, highway, and drainage issues. It was also noted that the proposal is not regarded as "major development" for the purposes of interpreting paragraph 183 to the NPPF. Also in the presentation, it was confirmed that officers are concluding that the site is regarded as previously developed land and would not have a greater impact on the openness of the green belt, thereby constituting an exception as set out in paragraph 154(g) to the NPPF.

Attention was then drawn to some late alterations to the wording of Condition 2 (the approved plans condition which appeared on page 92 of the published agenda) which reflected minor changes to plan drawing references.

Members of the Committee then had the opportunity to ask technical questions to the officer. Clarity was sought on the age limits of future residents, the operating hours of construction vehicles, as well as the effects of this development on the residual housing needs.

Members raised further queries about the potential impacts on the amenities of existing occupants, neighbouring residents, the increase to the height of the buildings, and the landscape and character of the area.

It was noted that Members were disappointed that a Council Highways Officer was not able to attend the meeting and further clarification was sought on the suggested highways and access improvements. In response, it was emphasised that the access plan was indicative only, and planning conditions would secure the necessary detailed highway works as well as a Construction Management Plan – which would need to be approved by the Council prior to works commencing.

The Committee was informed that there were no technical objections in relation to highways, drainage, landscape impacts or urban design matters.

The named public speakers as detailed above, then had the opportunity to present their views to the Committee.

Councillor Johnny Kidney, as the Local Unitary Member, then spoke to the application with particular weight being afforded to protecting the Green Belt, concerns being expressed about the proposed height and lighting implications to the immediate and wider landscape as well as effects on neighbouring residents.

A debate then followed where Members acknowledged the concerns raised by local residents and discussed issues including the impacts on the Green Belt/National Landscape, the redevelopment of brownfield land, the age group of the future occupants and associated restrictions, visibility and road safety concerns in relation to the access route, and light pollution.

Members then sought further clarity from officers on the application satisfying the NPPF with regard to the Green Belt tests.

Officers responded by advising that the test required a planning judgement to be made on the proposed new build and essentially be tested against para 154 criterion g – which allows limited infilling or the partial or complete redevelopment of previously developed land whether redundant or in continuing use, so long as it would not have a greater impact on the openness of the Green Belt.

Members were informed that officers did not consider the application proposal to warrant a refusal based on harm to the Green Belt as they felt there were cumulative very special circumstances to justify a grant of planning permission for the reasons as set out within the committee report.

Following the debate, Councillor Trevor Carbin moved to endorse the officer's recommendation, seconded by Councillor Ernie Clark, with amendments being made to planning condition 12 relating to light spillage mitigation, and adding a planning informative to capture the Committee's concern relating to the existing speed limit along the B3108 near to the site and weight limit.

It was then:

**Resolved:**

**The Committee APPROVED the application in accordance with officer recommendations subject to the following altered and additional conditions and informative.**

- 1. The development hereby permitted shall be begun before the expiration of three years from the date of this permission.**

**REASON: To comply with the provisions of Section 91 of the Town and Country Planning Act 1990 as amended by the Planning and Compulsory Purchase Act 2004.**

- 2. The development hereby permitted shall be carried out in accordance with the following approved plans:**

**Existing Block Plan scale 1:500 drg no. BA9516-2001  
Proposed Block Plan scale 1:500 drg no. BA9516 2101  
Existing Site Plan scale 1:500 drg no. BA9516-2002  
Proposed Site Plan scale 1:500 drg no. BA9516-2102 rev B  
Existing Location Plan scale 1:1250 drg no. BA9516-2000  
Proposed Location Plan scale 1:1250 drg no. BA9516-2100  
Proposed External Plant drg no. BA9516-2151  
Kingfisher Court – Proposed Plans scale 1:200 drg no. BA9516-2160  
Proposed Bat Tower drg no. BA9516-2150  
Bay Study Alexnader Hall drg no. BA9516-2143  
Bay Study Building A drg no. BA9516-2141**

Bay Study Building B drg no. BA9516-2142 rev A  
Bay Study Alexander Hall – Entrance drg no. BA9516-2144  
Proposed Ground Floor Plan drg no. scale 1:200 drg no. BA9516-2110  
Proposed First Floor Plan drg no. scale 1:200 drg no. BA9516-2111  
Proposed Second Floor Plan drg no. scale 1:200 drg no. BA9516-2112  
Proposed Third Floor Plan drg no. scale 1:200 drg no. BA9516-2113  
Proposed Fourth Floor Plan drg no. scale 1:200 drg no. BA9516-2114 rev A  
Proposed Roof Plan scale 1:200 drg no. BA9516-2115 rev B  
Proposed Elevations Alexander House scale 1:100 drg no. BA9516-2132  
Proposed Elevations – Block A scale 1:100 drg no. BA9516-2133 rev A  
Proposed Elevations – Block B scale 1:100 drg no. BA9516-2134 rev A  
scale 1:250 drg no. BA9516-2130 rev A  
scale 1:250 drg no. BA9516-2131 rev B  
Demolition Plans scale 1:500 drg no. BA9516-2030  
Demolition Elevations scale 1:250 drg no. BA9516-2031  
Proposed Parking Plan scale 1:500 drg no. BA9516-2171  
Waste Strategy scale 1:500 drg no. BA9516-2170  
Post Development BNG Plan ref 1519-EclA-F4 Rev 1  
Ecological Mitigation and Enhancement ref 1519-EclA-F5  
Landscape General Arrangement Overview scale 1:500 drg no. BR-LD-100  
Rev C  
Landscape General Arrangement Layout Sheet scale 1:400 drg no. BR-LD-101  
Rev C  
Landscape General Arrangement Sheet 1 scale 1:200 drg no BL-LD-102  
Rev C  
Landscape General Arrangement Sheet 2 scale 1:200 drg no BL-LD-103  
Rev C  
Landscape Proposals., Planting Plans, Plant Schedule scale 1:500 drg no. BL-LD-200  
Rev B  
Landscape Planting Proposals Sheets 1 to 5 (Sheet 1 drg no. BL-LD-201  
Rev B, Sheet 2 drg no. BL-LD-202 Rev B, Sheet 3 drg no. BL-LD-203 Rev B,  
Sheet 4 drg no. BL-LD-204 Rev B, Sheet 5 drg no. BL-LD-205 Rev B)  
Energy and Sustainability Statement dated Aug 2023 by Hoare Lea  
Design and Access Statement dated Aug 2023 rev A by PRP  
Shadow Habitats Regulations Assessment dated Dec 2023 by GE  
Consulting ref 1519-sHRA-LT-REV1  
Lighting Design dated Jan 2024 by Hoare Lea  
Baseline Lighting Survey dated Aug 2023 by Hoare Lea  
Environmental Lighting dated Jan 2024 by Hoare Lea  
Ecological Impact Assessment Lighting dated Jan 2024 by GE Consulting  
Rev 3  
Ecological Addendum Note dated Oct 2023 by GE Consulting  
Phase I and II Geoenvironmental Report Addendum note dated Aug 2023  
Arboricultural Impact Assessment dated Aug 2023 by GE Consulting  
Landscape, Visual & Green Belt Impact Assessment dated Aug 2023 by  
Stantec UK Ltd  
Phase I and II Geoenvironmental Report  
Environmental Noise Survey dated Aug 2023 by Hoare Lea Rev 02

**Transport Assessment Part 1 and 2 dated Aug 2023 by Pater Evan Partnership**  
**Heritage Statement dated Aug 2023 by Stantec UK Ltd**  
**Specialist Housing Need Report dated Aug 2023 by Stantec UK Ltd**  
**Odour Technical Note dated Aug 2023 by Hoare Lea**

**REASON: For the avoidance of doubt and in the interests of proper planning.**

- 3. The buildings hereby approved shall be used for Use Class C2 (residential institution and care home) and for no other purpose (including any other purpose in Class C2 of the Schedule to the Town and Country Planning (Use Classes) Order 1987 (as amended) (or in any provisions equivalent to that class in any statutory instrument revoking or re-enacting that Order with or without modification).**

**REASON: The proposed use is acceptable, but the Local Planning Authority would wish to consider any future proposal for a change of use having regard to the circumstances of the case.**

- 4. Bat roosts and bat access points shall be incorporated into the development in accordance with:**
  - Proposed Bat Tower. Ref: BA9516-2150 dated August 2023 by PRP.**
  - Figure 5: Bat Mitigation and Enhancement. Ref: 1519-EcIA-F5 Rev 1 dated December 2023 by GE Consulting.**
  - Proposed Elevations – Block A. Ref: BA9516-2133 Rev A dated July 2023 by PRP.**
  - Page 17 of Ecological Impact Assessment. Ref: 1519-EcIA-LT-REV3 dated January 2024 by GE Consulting.**

**or as otherwise specified in a relevant European Protected Species Licence superseding this permission. The installation of these bat roosts and access features will be supervised by a professional ecologist and this part of the condition will be discharged when photographic evidence of installed features have been submitted to and approved in writing by the Local Planning Authority. These bat roosts and access points will continue to be available for bats for the lifetime of the development.**

**REASON: To mitigate for impacts to bats arising from the development.**

- 5. All soft landscaping comprised in the approved details of landscaping shall be carried out in the first planting and seeding season following the first occupation of the buildings or the completion of the development whichever is the sooner; All shrubs, trees and hedge planting shall be maintained free from weeds and shall be protected from damage by vermin and stock. Any trees or plants which, within a period of five years, die, are removed, or become seriously damaged or diseased shall be replaced in the next planting season with others of a similar size and**



species, unless otherwise agreed in writing by the local planning authority. All hard landscaping shall also be carried out in accordance with the approved details prior to the occupation of any part of the development or in accordance with a programme to be agreed in writing with the Local Planning Authority.

**REASON:** To ensure a satisfactory landscaped setting for the development and the protection of existing important landscape features.

6. The external artificial lighting shall be installed in strict accordance with the submitted documents. No additional external light fixtures shall be installed unless details of proposed new lighting have been submitted to and approved by the Local Planning Authority in writing. The submitted details must demonstrate how the proposed lighting would impact on bat habitat / ecological interest compared to the pre-existing situation.

**REASON:** To avoid illumination of habitat used by bats.

7. Prior to the commencement of works on site, including demolition, ground works/excavation, site clearance, vegetation clearance and boundary treatment works, a Construction Environmental Management Plan (CEMP) shall be submitted to the local planning authority for approval in writing. The Plan shall provide details of the avoidance, mitigation and protective measures to be implemented before and during the construction phase, including but not necessarily limited to, the following:

- Identification of ecological protection areas/buffer zones and tree root protection areas and details of physical means of protection, e.g. exclusion fencing.
- Working method statements for protected/priority species, such as bats, to be implemented during the demolition phase.
- Working method statements for protected/priority species to be implemented during the construction phase.
- Work schedules for activities with specific timing requirements in order to avoid/reduce potential harm to ecological receptors; including details of when a licensed ecologist, and/or an ecological clerk of works (ECoW) shall be present on site.
- Key personnel, responsibilities and contact details (including Site Manager and ecologist/ECoW).

Development shall be carried out in strict accordance with the approved CEMP.

**REASON:** To ensure adequate protection and mitigation for ecological receptors prior to and during construction, and that works are undertaken in line with current best practice and industry standards and are supervised by a suitably licensed and competent professional ecological consultant where applicable.

8. Prior to the commencement of works on site, a Landscape and Ecology Management Plan (LEMP) shall be submitted to and approved in writing by the Local Planning Authority. The LEMP will include:
- Long term objectives and targets in accordance with the Biodiversity Metric 4.0 Calculation Tool – Rev 2.
  - Management responsibilities and maintenance schedules for each ecological feature within the development as identified in the Biodiversity Metric 4.0 Calculation Tool – Rev 2 and the Landscape Proposals.
  - The mechanism for monitoring success of the management prescriptions with reference to the appropriate Biodiversity Metric target Condition Assessment Sheet(s).
  - Maintenance schedules for features such as bird and bat boxes, hedgehog domes and habitat piles.
  - A procedure for review and necessary adaptive management in order to attain targets.
  - Details of the legal and funding mechanism(s) by which long-term implementation of the plan will be secured.

The LEMP shall be implemented in full and for the lifetime of the development in accordance with the approved details.

**REASON:** To ensure the long-term management of landscape and ecological features retained and created by the development, for the benefit of visual amenity and biodiversity for the lifetime of the scheme.

9. Prior to the commencement of works on site, an investigation of the history and current condition of the site to determine the likelihood of the existence of contamination arising from previous uses (including asbestos) has been carried out and all of the following steps have been complied with to the satisfaction of the Local Planning Authority:

**Step (i)** A written report has been submitted to and approved by the Local Planning Authority which shall include details of the previous uses of the site and any adjacent sites for at least the last 100 years and a description of the current condition of the sites with regard to any activities that may have caused contamination. The report shall confirm whether or not it is likely that contamination may be present on the site and the potential impact of any adjacent sites.

**Step (ii)** If the above report indicates that contamination may be present on, under or potentially affecting the proposed development site from adjacent land, or if evidence of contamination is found, a more detailed site investigation and risk assessment should be carried out in accordance with DEFRA and Environment Agency's "LCRM" and other authoritative guidance and a report detailing the site investigation and risk assessment shall be submitted to and approved in writing by the Local Planning Authority.

**Step (iii) If the report submitted pursuant to step (i) or (ii) indicates that remedial works are required, full details must be submitted to the Local Planning Authority and approved in writing and thereafter implemented prior to the commencement of the development or in accordance with a timetable that has been agreed in writing by the Local Planning Authority as part of the approved remediation scheme. On completion of any required remedial works the applicant shall provide written confirmation to the Local Planning Authority that the works have been completed in accordance with the agreed remediation strategy.**

**REASON: In order that the development is undertaken in an acceptable manner and to ensure that risks from land contamination to the future users of the land and neighbouring land are minimised, and to ensure that the development can be carried out safely without unacceptable risks to workers, neighbours and other offsite receptors.**

**10. No development shall commence on site until a Construction Management Plan (CMP) has been submitted to and approved in writing by the Local Planning Authority. The plan shall include details of the measures that will be taken to reduce and manage the emission of noise, vibration and dust during the demolition and/or construction phase of the development. It shall include details of the following:**

- **The movement of construction vehicles**
- **The cutting or other processing of building materials on site**
- **Wheel washing and vehicle wash down facilities**
- **The transportation and storage of waste and building materials**
- **The recycling of waste materials**
- **The loading and unloading of equipment and materials**
- **The location and use of generators and temporary site accommodation**
- **Where piling is required, this must be Continuous flight auger piling wherever practicable to minimise impacts**
- **Hours of construction**

**The construction/demolition phase of the development will be carried out fully in accordance with the construction management plan at all times.**

**REASON: In order that the development is undertaken in an acceptable manner and to minimise detrimental effects to the neighbouring amenities, the amenities of the area in general, detriment to the natural environment through the risks of pollution and dangers to highway safety, during the construction phase.**

**11. No works shall extend above slab level for the new buildings hereby approved until details and samples of the materials to be used for the external walls and roofs have been submitted to and approved in writing by the Local Planning Authority. Development shall be carried out in accordance with the approved details.**

**REASON:** In the interests of visual amenity and the character and appearance of the area.

- 12.** Prior to any occupation of the new buildings hereby approved, full details of the mitigation measures to reduce light spillage (including, but not exclusively limited to, use of reduced light spill glass / black out blinds and curtains) from buildings Block A and Block B, shall be submitted to and approved in writing by the Local Planning Authority, The approved measures shall therefore be maintained at all times thereafter in accordance with the approved details.

**REASON:** In the interests of the amenities of the area and to minimise unnecessary light spillage above and outside the development site and to minimise the impact of the development on existing biodiversity and nature habitats.

- 13.** No part of the development hereby permitted shall be first brought into use until the access or turning areas & parking spaces have been completed in accordance with the details shown on the approved plans. The areas shall always be maintained for those purposes thereafter.

**REASON:** In the interests of highway safety.

- 14.** No part of the development hereby permitted shall be first brought into use until details of the proposed highway works at the access, including the proposed informal pedestrian crossing on the B3108 and details of the proposed bus shelter, along with a timetable for its delivery have been submitted to and approved in writing by the Local Planning Authority. Thereafter, the above works shall be delivered in accordance with the approved details.

**REASON:** In the interests of highway safety.

- 15.** The development hereby approved shall not be brought into use until a scheme for the discharge of surface water from the site, incorporating sustainable drainage details together with permeability test results to BRE365, and an updated drainage strategy that details the implementation, maintenance and management of the sustainable drainage scheme, including infiltration details of the site, has been submitted to and approved in writing by the Local Planning Authority. The development shall not be first occupied until surface water drainage has been constructed in accordance with the approved scheme.

**REASON:** In order that the development is undertaken in an acceptable manner, to ensure that the development can be adequately drained.

- 16.** In the event that any contamination on the site is encountered at any time when carrying out the approved development, the Local Planning Authority must be advised of the steps that will be taken by an appropriate

contractor; to deal with contamination and provide a written remedial statement to be followed by a written verification report that confirms what works that have been undertaken to render the development suitable for use.

**REASON:** To ensure that risks from land contamination to the future users of the land and neighbouring land are minimised, together with those to controlled waters, property and ecological systems, and to ensure that the development can be carried out safely without unacceptable risks to workers, neighbours and other offsite receptors.

17. The hereby approved C2 development shall be constructed to meet, as a minimum, the higher Building Regulations standard Part G for water consumption limited to 110 litres per person per day using the fittings approach as per the commitment in the Energy and Sustainability Statement dated August 2023 by Hoare Lea.

**REASON:** The site is in an area of serious water stress requiring water efficiency opportunities to be maximised, to mitigate the impacts of climate change, in the interests of sustainability and to use natural resources prudently in accordance with the National Planning Policy Framework.

18. Each unit of the residential units hereby permitted shall be occupied only by:

- persons of age 60 or over; or
- persons living as part of a single household with such a person or persons; or
- persons who were living as part of a single household with such a person or persons who have since died.

**REASON:** The residential units have been designed for occupation by persons who satisfy the above criteria and are unsuitable for family housing.

**INFORMATIVES:**

1) The applicant is advised that the development hereby approved may represent chargeable development under the Community Infrastructure Levy Regulations 2010 (as amended) and Wiltshire Council's CIL Charging Schedule. If the development is determined to be liable for CIL, a Liability Notice will be issued notifying you of the amount of CIL payment due. If an Additional Information Form has not already been submitted, please submit it now so that we can determine the CIL liability. In addition, you may be able to claim exemption or relief, in which case, please submit the relevant form so that we can determine your eligibility. The CIL Commencement Notice and Assumption of Liability must be submitted to Wiltshire Council prior to commencement of development. Should

development commence prior to the CIL Liability Notice being issued by the local planning authority, any CIL exemption or relief will not apply and full payment will be required in full and with immediate effect. Should you require further information or to download the CIL forms please refer to the Council's Website:

[www.wiltshire.gov.uk/planninganddevelopment/planningpolicy/communityinfrastructurelevy](http://www.wiltshire.gov.uk/planninganddevelopment/planningpolicy/communityinfrastructurelevy)

- 2) The developer/applicant will be required to enter into a S278 Highways Agreement with the Local Highway Authority, to include funding of the new cantilever bus shelter, before the commencement of any of the identified highway works.
- 3) Roosting bats have been confirmed in Alexander Heights and Alexander Hall. Under the Conservation of Habitats and Species Regulations 2017 (as amended), it is an offence to harm or disturb bats or damage or destroy their roosts. Planning permission for development does not provide a defence against prosecution under this legislation. The applicant is advised that a European Protected Species Licence will be required before any work is undertaken to implement this planning permission. Future conversion of the roof space to living accommodation or replacing the roof could also breach this legislation and specialist advice should be obtained from a professional bat ecologist before proceeding with work of this nature.
- 4) The applicant should note that under the terms of the Wildlife and Countryside Act 1981 (as amended) and the Habitats Regulations 2017 (as amended) it is an offence to disturb or harm any protected species including for example, breeding birds and reptiles. The protection offered to some species such as bats, extends beyond the individual animals to the places they use for shelter or resting. Please note that this consent does not override the statutory protection afforded to any such species. In the event that your proposals could potentially affect a protected species you should seek the advice of a suitably qualified and experienced ecologist and consider the need for a licence from Natural England prior to commencing works. Please see Natural England's website for further information on protected species.
- 5) Please be advised that nothing in this permission shall authorise the diversion, obstruction, or stopping up of any right of way that crosses the site.
- 6) The applicant's attention is drawn to the Western Area Planning Committees' concerns regarding the current speed limit (50mph) and vehicle weight limit along the B3108 and, in particular, visibility and highway safety issues at the access to the development site. The Western

**Area Planning Committee would like the applicant to wherever possible assist the Council in its efforts to improve the safety of the B3108 to the benefit of the residents on the Avonpark site, as well as the wider local community.**

*A break was then taken from 17.10pm to 17.15pm.*

31 **Urgent Items**

Cllr Trevor Carbin tabled an urgent item pursuant to the consented application PL/2021/09777 for ten affordable (rental) dwellings which obtained planning permission on 6 October 2022 following the completion of a S106 legal agreement.

During the discussion, Cllr Carbin sought a statement of support from the Committee to ensure that when it comes to nominations/property allocation, the affordable homes satisfy the Council's policy in terms of qualifying persons for the 10-house scheme.

A motion to request an update from officers was moved by Cllr Trevor Carbin and was seconded by Cllr Ernie Clark.

After which, it was:

**Resolved:**

**The Committee requested an update at the next meeting from officers in relation to the consented application PL/2021/09777.**

(Duration of meeting: 3.00 - 5.35 pm)

The Officer who has produced these minutes is Ellen Ghey of Democratic Services, direct line 01225 718259, e-mail [ellen.ghey@wiltshire.gov.uk](mailto:ellen.ghey@wiltshire.gov.uk)

Press enquiries to Communications, direct line 01225 713114 or email [communications@wiltshire.gov.uk](mailto:communications@wiltshire.gov.uk)

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**COMMONS ACT 2006 – SECTIONS  
15(1) & (2) – APPLICATION TO  
REGISTER LAND AS A TOWN OR  
VILLAGE GREEN – NORTHFIELD  
PLAYING FIELD, WINSLEY  
(APPLICATION NO: 2021/01TVG)**

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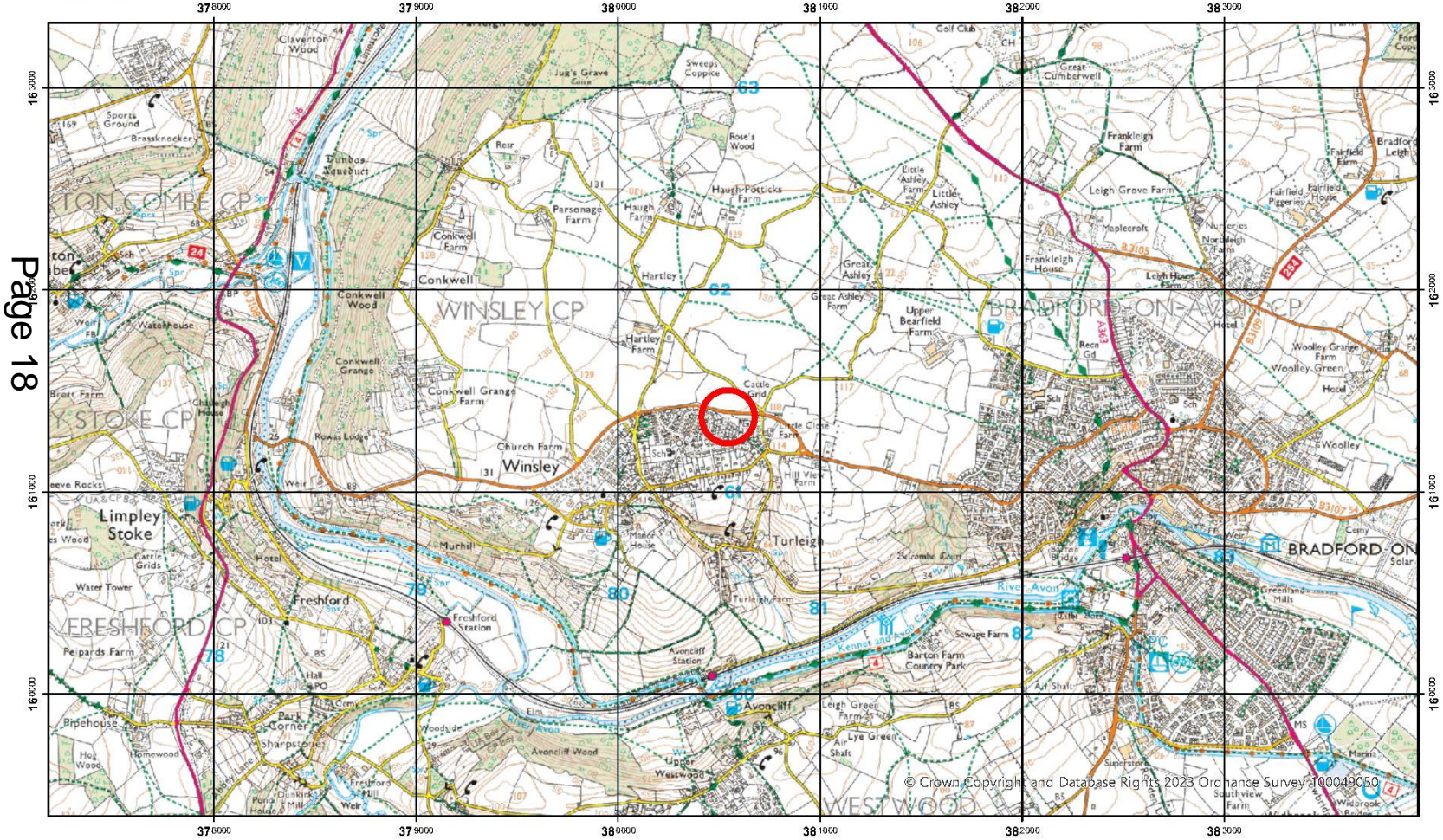
**AGENDA ITEM NO.7  
WESTERN AREA PLANNING COMMITTEE:  
5 JUNE 2024**

**JANICE GREEN – SENIOR DEFINITIVE MAP  
OFFICER**

Agenda Annex

# Location Plan

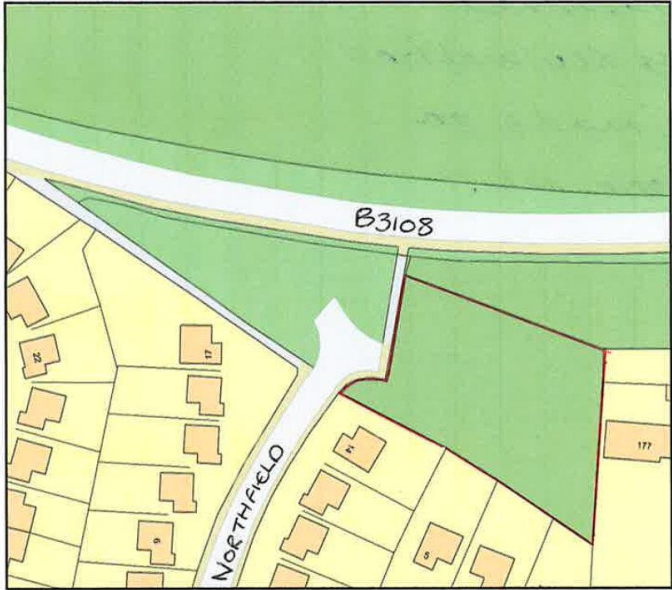
## APPENDIX 1 - LOCATION PLAN NORTHFIELD PLAYING FIELD, WINSLEY



# Application Plan – Northfield Playing Field, Winsley (Application no.2021/01TVG)

Page 19

Northfield Playing Field

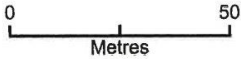


~~Green A~~

~~Map~~

EXHIBIT A

- Boundary of Northfield Playing field



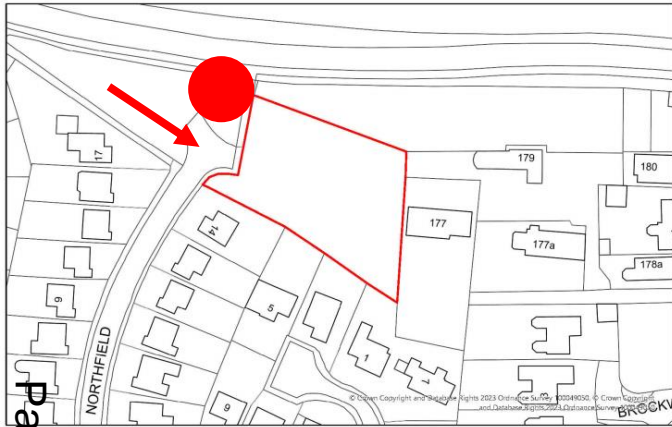
Plan Produced for: Winsley Parish Council  
Date Produced: 28 Feb 2021  
Plan Reference Number: TQRQM21059144557323  
Scale: 1:1250 @ A4  
© Crown copyright and database rights 2019 OS 100042766



# Application land looking generally south-east

Wiltshire Council

Northfield Playing Field, Winsley



18/07/2023

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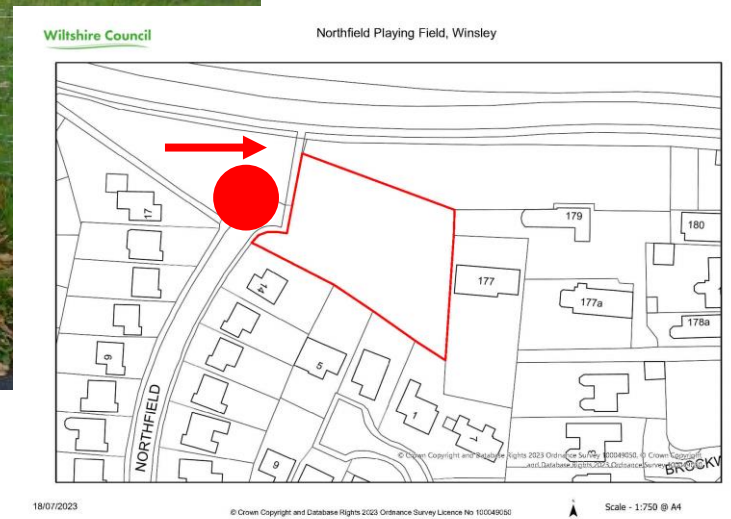
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# Application land looking generally east. The land is now fenced, but at the time of application in March 2021, the land was open to the highway Northfield

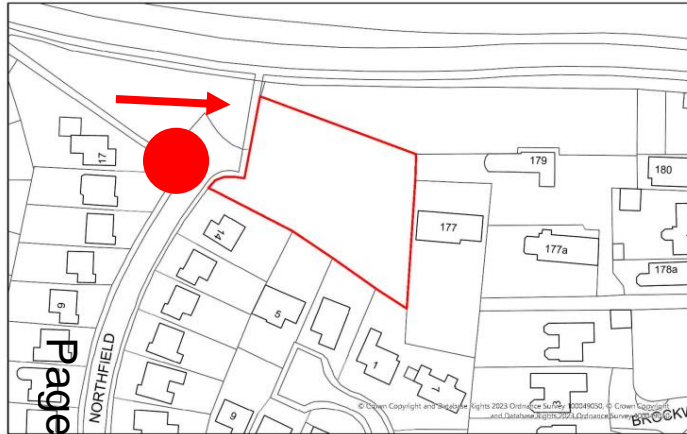
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# The application land looking generally east

Wiltshire Council

Northfield Playing Field, Winsley



18/07/2023

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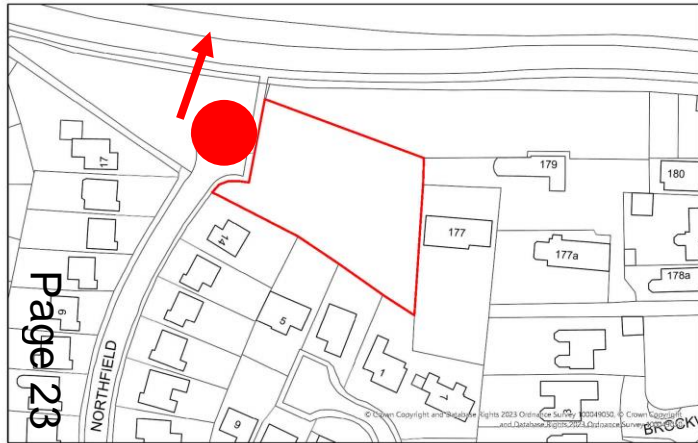
Scale - 1:750 @ A4



# Adjacent to the application land, looking generally north towards the B3108 Road, Winsley Bypass

Wiltshire Council

Northfield Playing Field, Winsley



18/07/2023

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Scale - 1:750 @ A4



# The Legislation

**Application to register land as a Town or Village Green (TVG), Northfield Playing Field, in the parish of Winsley, is made under sub-sections 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.*

Where the application is made in 2021, the 20 year user period in question is 2001 – 2021, with use continuing at the time of application.

# The Application

- The application is made by Winsley Parish Council.
- The application is date stamped as received by Wiltshire Council as the Commons Registration Authority (CRA): Application no.2021/01TVG, 1<sup>st</sup> March 2021.
- The application land is located within the parish of Winsley, to the west of Bradford-on-Avon and north-west of Trowbridge.

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The application land is known as Northfield Playing Field, located at the northern end of Northfield, on the Tynings Estate, to the south of the B3108 Winsley bypass.

- The land is in the registered ownership of BK Land and Estates Ltd (BKLE), who purchased the land in March 2021.
- 171 parties provide evidence in support of the application.
- There are 2 objections to the application:
  - (i) on behalf of the landowner BKLE
  - (ii) Mr B Cooper
- Wiltshire Council as the CRA must remain neutral and determine the application in a manner which is fair and reasonable to all parties.

# Planning Trigger and Terminating Events

Growth and Infrastructure Act 2013 Section 16 – insertion of Section 15C into Commons Act 2006 - the removal of the right to apply to register land as a TVG where specified planning “trigger” events have 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

Right to apply to register land as TVG is revived where corresponding planning “terminating” events have occurred, e.g:

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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, or adopted
- A Development Plan is revoked, or a policy contained in the document which relates to the development of the land in question is superseded

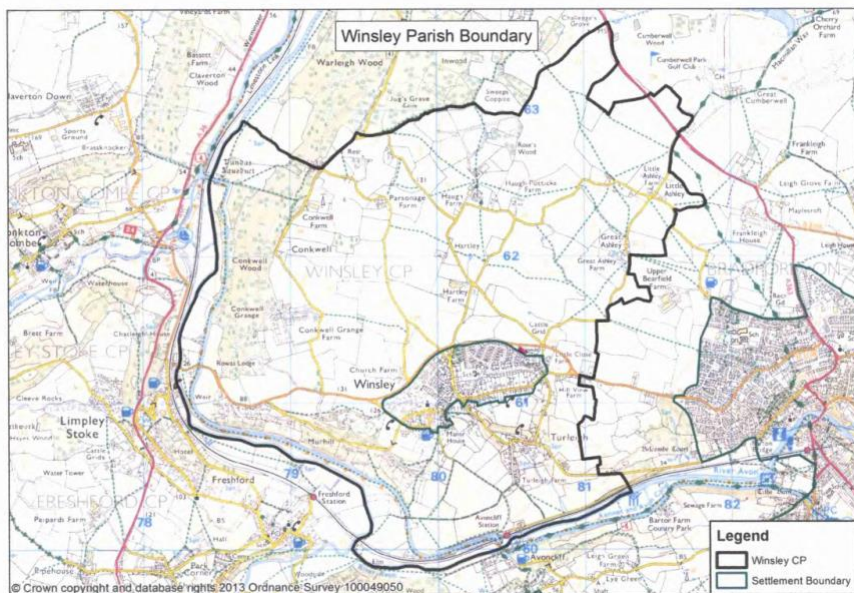
*List is not exhaustive and a full list of planning trigger and terminating events is included at Schedule 1A of the Commons Act 2006 (as amended)*

In the Winsley case, the Planning Authorities have confirmed that there are no planning trigger events in place over the land which would extinguish the right to apply to register the land, or any part of it, as a TVG.

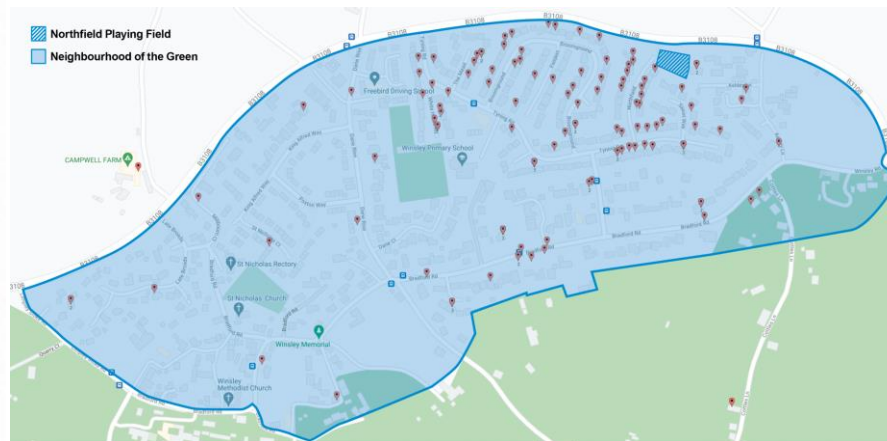
# Neighbourhood Within a Locality

- The Applicant has identified Winsley Settlement Boundary, (with some additions), as the relevant neighbourhood within the locality of Winsley Parish.
- 171 parties provide evidence, including 153 current inhabitants and 13 former inhabitants of the Winsley settlement area identified, (where addresses are provided).

## Locality – Winsley Parish:



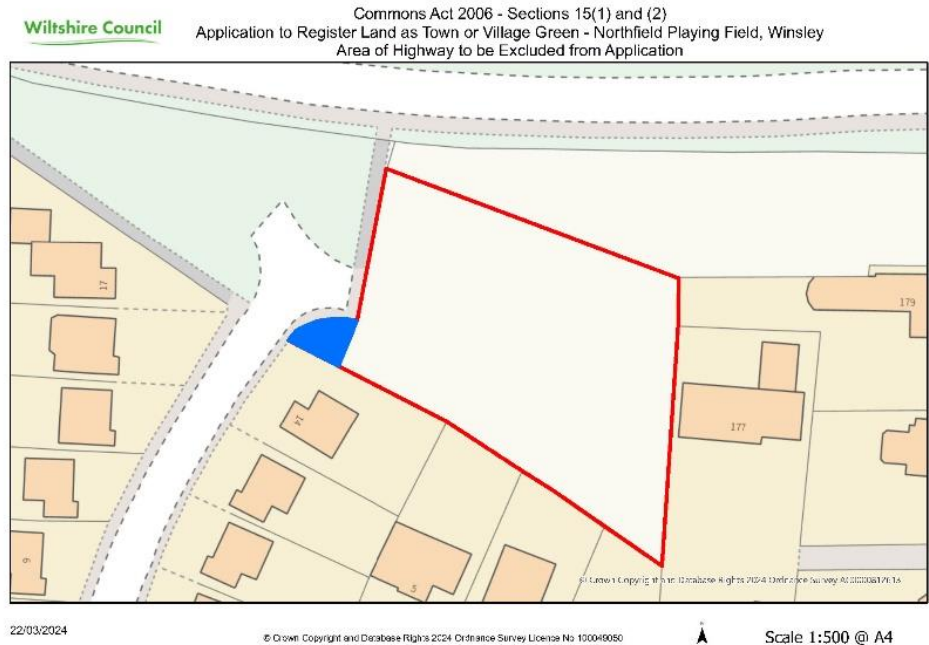
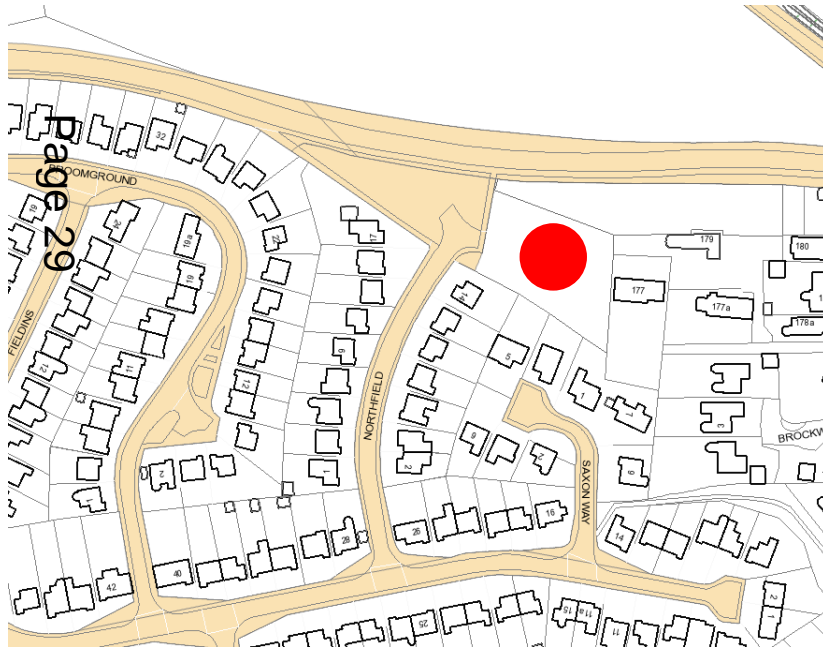
## Neighbourhood – Winsley Settlement Boundary (with some additions):



# Extent of Highway

- It is not possible to register highway land as a TVG where the exercise of highway rights would be use “by right” and not qualifying use “as of right” to support TVG registration.
- Officers consider that for the purposes of the TVG application it is possible to rely on the current highway record:

## Current Highway Record:



- A small section of the land within the red application boundary, is recorded as highway (shaded blue). If the land is successfully registered as a TVG, it will be necessary to exclude this section of highway from the registration.

# The Burden of Proof

- In order for an application to be successful each element of the legal test (sub-section 15(2) of the Commons Act 2006), must be satisfied, where it is no trivial matter for a landowner to have land registered as a green, (*R v Suffolk County Council ex parte Steed [1996] 75 P & CR 102*).
- The burden of proof lies with the applicant.
- The CRA has no investigative powers.
- The standard of proof is the balance of probabilities.

# The Evidence

**Evidence is key and no other matters may be taken into account in the determination of the application.**

**The evidence of whether 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, with use continuing at the time of application, is disputed by the Objectors.**

**3 main grounds of objection:**

- i) Identification of Locality or Neighbourhood Within a Locality;**
- ii) User 'as of right';**
- iii) Sufficiency of evidence to satisfy statutory test.**



# Non-Statutory Public Inquiry

- It is the duty of the CRA to determine the application in a fair and reasonable manner.
- It is open to the CRA to hold a non-statutory public inquiry where there is substantial dispute of fact, which is likely to be resolved by hearing from the witnesses, or the matter is of great local interest:  
*R (on the Application of Whitmey) v Church Commissioners*  
*[2004] EWCA Civ 951*
- An Inspector appointed by the CRA to preside over the inquiry will hear evidence from all parties and produce a recommendation to the CRA, to assist in its determination of the application. There is no requirement for the CRA to follow the Inspectors recommendation, however, any alternative decision must be supported by clear evidential reasons.
- Oral evidence provided at a public inquiry may be given weight where it is subject to cross examination.



## **Officers' Recommendation**

**To appoint an independent Inspector on behalf of the Commons Registration Authority (CRA) to preside over a non-statutory public inquiry at which the evidence of all parties will be heard and tested through cross-examination, and to produce an advisory report regarding the application to the Western Area Planning Committee to assist the CRA in its determination of the application to register land known as Northfield Playing Field, Winsley, as a Town or Village Green, as soon as is reasonably practicable.**

# 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.**
- **If the Committee uses its power to determine the application against the Officers recommendation to hold a non-statutory public inquiry, the Committee must give legally valid reasons for this determination, which must be supported by evidence.**