

**Written Representations - May to June  
2023**

Comment	Date received	Recommendation	Respondent	Details
P1	12/05/23	1 - Westbury and Heywood	Local Resident	Objects to recommendation to unify area of the Ham under Heywood PC
P2	16/05/23	1 - Westbury and Heywood	Interested Party	Identified typographic error in recommendation
P3	26/05/23	1 - Westbury and Heywood	Interested Party	Provided details of Vivash Park and queries on Community Infrastructure Levy
P4	02/06/23	3 - Castle Combe/Grittleton	Castle Combe PC	Agrees with recommendation
P5	05/06/23	3 - Castle Combe/Grittleton	Grittleton PC	Agrees with recommendation
P6	06/06/23	3 - Castle Combe/Grittleton	Yatton Keynell PC	Agrees with recommendation
P7	07/06/23	1 - Westbury and Heywood	Interested Party	Further to P2 and P3, inf relating to Vivash Park
P8	07/06/23	1 - Westbury and Heywood	Westbury TC	Objects to recommendation

**P1**

This is a nonsensical recommendation out of line with the concept of governance review.

Here on the Paxmans Estate there are high levels of deprivation and many families receive weekly assistance from food deliveries and other aids on a frequent basis. Will a small village council be able to provide the funds and manpower to continue this assistance.

This is an urban community and I am not convinced a small country parish with part time staff and no daily office to attend will be able to deliver all that we now receive.

If I lived in Heywood I would be disturbed to find that a small village community will be transformed into an urban satellite of Westbury and Trowbridge with all the problems that brings.

**P2**

Please accept this e-mail as a duly made response to the additional consultation.

Q2 - My e-mail address is

Q3 - My postcode is

I am an elected member of both Heywood Parish Council and Westbury Town Council, but this response is made purely in a personal capacity.

As you know, I attended and spoke at the meeting of the Electoral Review Committee on Wed 04/01/2023, at its meeting in Heywood Village Hall on Wed 22/02/2023, and at its meeting on Thu 20/04/2023.

Q4 - Unless some fresh re-warding of the town of Westbury I am not aware of is also being proposed before 2025, I consider that the areas marked as B being transferred from Heywood to Westbury should become part of whichever existing Westbury Ward they are adjacent to, and hence that the words "and the Westbury North Ward respectively" should be added to [1.2] of Recommendation 1.

**P3** (appeal decision and CIL income pdfs attached)

I wish to add to my duly made response to the additional consultation on two further points:

a) Vivash Park

This has a complicated history, but essentially it was the disposal site for the large quantity of excess material from the levelling of the mixed waste tip on which David Wilson Homes constructed 117 dwellings along Slag Lane pursuant to the planning permission obtained by an Appeal Decision dated 1 Feb 2012 (APP/Y3940/A/11/2156351; LPA Ref: W/10/03406/FUL). Although Policy OS2 - New grass pitch provision - of the West Wiltshire Leisure and Recreation DPD (adopted Feb 2009) allocated Vivash Park, and it remains a Saved Policy by Appendix D of the Wiltshire Core Strategy (2015), that allocation was in effect overridden by the Appeal Decision.

The specification for and maintenance of an "Urban Park" there is set out in a Section 106 Unilateral Undertaking dated 14 Dec 2011, submitted as part of the Planning Appeal process (but after the Inquiry), and included an "Urban Park Maintenance Contribution" then computed at £225,600 (see at: <https://development.wiltshire.gov.uk/pr/s/planning-application/a0i3z000014ebGVAAY/w1003406ful>).

However, until 2022 it was owned and exclusively maintained by David Wilson Homes.

I have been unable to ascertain the purpose, timetable or precise mechanism by which Westbury Town Council acquired Vivash Park (together with a much greater sum of Maintenance Contribution) late in 2022, but there must have been due diligence procedures undertaken at that time, including a detailed report on the business case for the acquisition.

In view of the suggestion now being made by Westbury Town Council that its acquisition of Vivash Park was exclusively or mainly for the benefit of residents of The Ham, I ask that all the relevant documents relating to its acquisition of Vivash Park should be put into the public domain, as I believe that they will demonstrate very clearly that that was not the case, and that inadequate research went into its previous Submission stating (inter alia):

*"Vivash Park is a Westbury Town project that has been years in the making and has involved much negotiation before its transfer from David Wilson Homes to the Town. It has been totally ignored in the governance review, and it was apparent that the existence of the park was not known to the Committee, otherwise we are sure it would have been mentioned. The running and maintenance of the park requires daily management due to the presence of the lake and access by the public, plus the onerous requirement to deter others from moving onto the land. It currently occupies a large part of staff time. Section 106 money has been spent on capital projects to bring the area up to standard and running costs are estimated, going forward, at in excess of £25,000 per annum, not to mention the salaried staff time and equipment that is taken up, something that Heywood Parish*

*cannot replicate. Whilst a suggestion has been made that this land remains within Westbury, as the town is better staffed and resourced to manage it on a daily basis, this is only part of the issue as the majority of users of the park come from areas that are in or planned to be in Heywood, meaning that in 9 years when the Section 106 monies run out, the people of Westbury will be expected to continue to maintain the park out of their pockets."*

b) Community Infrastructure Levy

Westbury Town Council has already received at least £72,614.05 of CIL monies from Wiltshire Council in respect of The Ham (£67,188.15 under 17/07548/FUL; £2,077.22 under 20/08163/FUL; and £3,348.68 under 16/12397/FUL - shown as 17/12397), and the remaining outstanding CIL monies there will almost certainly be paid to it before 1<sup>st</sup> April 2025. Shouldn't all or most of these amounts be passed on to Heywood Parish Council (as part of the amended Recommendation 1)?

**P4**

I have circulated the email to the councillors of Castle Combe PC and they are happy with the changes, it is as their suggestions when it first came up.

I am sorry if I have already informed you of this.

Kind regards

[Castle Combe Parish Clerk]

**P5**

With regards to the additional consultation regarding Grittleton - Castle Combe,

*The additional recommendation to include the property known as The Lodge at The Gibb was supported by Councillors at their meeting on 16th May 2023. as this achieves the objective of the initial request - to unify (without stating a preference) the community of The Gibb within one parish council area.*

[Clerk to Grittleton Parish Council]

**P6**

Councillors discussed this proposal at their meeting yesterday (5th June) and unanimously supported the proposal on the basis of unifying the collection of properties known as Long Dean within one Parish Council area.

[Clerk to Yatton Keynell Parish Council]

**P7**

I believe the attached is one of the relevant documents. (attached pdf business case Vivash Park)

There is nothing in its text linking it with any of the Community Governance Review proposals of Westbury Town Council, and there is no mention at all in it of The Ham, Heywood or Heywood Parish Council.

There are a number of references in the text to the Vivash Park Task and Finish Group (see at [1], [1.1] on page 4, [4]and[4.1]), which was set up by a resolution of Westbury Town Council on Monday 17 May 2021 (see Minute T.210525, which is on its website, but the Agenda papers for that meeting are sadly lacking). However, it did not meet in public and neither its Agendas nor its Minutes are available on the Westbury Town Council website (nor anywhere else, as far as I am aware).

There is a mention of the Task and Finish Group in the Minutes of a Town Council meeting held on Monday 05 July 2021 - T.210713 Clerk's Correspondence b. Vivash Park, and I gather that there was subsequently a Notice in the White Horse News on Thursday 08 July 2021, a Site Visit on Tuesday 13 July 2021 and a Public Consultation event at The Laverton on the evening of Thursday 22 July 2021.

An interim recommendation of the Task and Finish Group was approved at a meeting of the Town Council held on Monday 06 September 2021 (see Minute T.210918), and the proposed acquisition of Vivash Park (including the Business Case for it dated 19 October 2021) was agreed at a subsequent meeting of the Town Council held on Monday 01 November 2021 (see Minute T. 211112).

On 04 October 2022, Wiltshire Council received the sum of £323,416.54 from the Developers under the terms of the 2011 Section 106 Instrument and the whole of this sum was subsequently passed on to Westbury Town Council following an Extraordinary meeting of the Town Council held on Monday 19 December 2022, which approved the terms of a supplementary Section 106 agreement with Wiltshire Council in respect of Vivash Park (see Minute TE.221203).

There are a number of other documents attached to the Agendas and Minutes of Westbury Town Council referred to above, which may add some further information to the attached Business Case, but none of them indicate that any contact was made by Westbury Town Council with Heywood Parish Council at any stage in the matter, nor provide any basis for the assertion now made by the Town Council that:

*"the majority of users of the park come from areas that are in or planned to be in Heywood, meaning that in 9 years when the Section 106 monies run out, the people of Westbury will be expected to continue to maintain the park out of their pockets."*

I believe that the Electoral Review Committee will quickly be able to conclude from Westbury Town Council's own documents that these words are not a fair or accurate statement of the reasons why Westbury Town Council acquired Vivash Park, nor a fair or accurate description of the very substantial funding it has received in respect of it.

**P8**

**Attached.**



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# Appeal Decision

Inquiry held on 7 December 2011

Site visit made on 7 December 2011

**by David Morgan BA MA MRTPI IHBC**

**an Inspector appointed by the Secretary of State for Communities and Local Government**

**Decision date: 1 February 2012**

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**Appeal Ref: APP/Y3940/A/11/2156351**

**Land at Slag Lane and Hawkeridge Road, Westbury (Vivash Park)**

- The appeal is made under section 78 of the Town and Country Planning Act 1990 against a refusal to grant planning permission.
  - The appeal is made by David Wilson Homes against the decision of Wiltshire Council.
  - The application Ref W/10/03406/FUL, dated 21 October 2010, was refused by notice dated 4 May 2011.
  - The development proposed is erection of 117 dwellinghouses, public open space and associated landscaping, highways and drainable infrastructure.
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## Decision

1. The appeal is allowed and planning permission granted for the erection of 117 dwellinghouses, public open space and associated landscaping, highways and drainable infrastructure at Land at Slag Lane and Hawkeridge Road, Westbury (Vivash Park) in accordance with the terms of the application Ref W/10/03406/FUL, dated 21 October 2010, subject to the conditions set out on the schedule at the end of the decision.

## Application for costs

2. At the Inquiry an application for costs was made by David Wilson Homes against Wiltshire Council. This application is the subject of a separate Decision.

## Procedural matters

3. The planning application was refused by the Council on the basis that the site was not allocated for housing but designated for light industrial use; additionally there were no material considerations presented of sufficient weight to justify setting aside development plan policy in this regard. However, prior to the scheduled date of the Inquiry the Council received further information in the form of a draft employment land study that no longer identified the site as suitable of industrial use. Following further consideration, the Council withdrew its objections to the proposals and there are no longer any substantive matters at issue between the main parties. However, another party sustained their objection, and these representations form the basis of the main issues set out below.
4. After an agreed period following the Inquiry a signed and dated Section 106 Agreement was submitted by the appellant facilitating the provision of affordable housing, financial contributions to local infrastructure, including education, highway works, public open space and waste and recycling. The provision of an urban park and a contribution towards its future maintenance

are also facilitated; this agreement is considered in the reasoning of the decision below.

## **Main Issues**

5. These are a) whether there is a less than five year housing land supply in the West Wiltshire or Westbury Area justifying the application, b) whether there is adequate affordable housing provision within the proposed development, c) whether there is adequate sport and recreational space provided by the proposals, d) whether the proposed development would compromise the delivery of the proposed T4F Western Distributor Road, e) whether the proposed development would compromise the Regionally Important Geological Site (RIGS) within the site boundary, f) whether the proposals would compromise archaeological remains on the site and g) whether the proposals would compromise the use of the footpath in plot D of the development site.

## **Reasons**

### *Housing land supply*

6. The other party relies on the shift in emphasis in consultation documents relating to the Draft Wiltshire Core Strategy (CS) placing less emphasis on housing growth in Westbury to support a view that there is a five year land supply in the West Wiltshire or Westbury Area. However, this Strategy is yet to go out to full public consultation and is still some substantial way short of formal examination or adoption; as such only limited weight may be afforded its policies. Moreover, whilst there are nuanced differences in the availability of a five year housing land supply between the main parties, these differences are not material, and this issue does not constitute a formal reason for refusal. Other than a reliance on the broad thrust of the draft CS, the other party offers no other detailed evidence or evidence-base for suggesting this position is demonstrably flawed. On this basis, existing development plan policy (WWDP DP3) supporting the development of previously developed land, in conjunction with that same expectation set out in Planning Policy Statement 3 *Housing*, further limit the weight that may be afforded such a counter-assertion.

### *Affordable housing*

7. The other party's concerns over inadequate affordable housing provision appear grounded in the belief that the 29 on-site dwelling provision represents the sum contribution to the scheme. The appellant points out in evidence that the total provision is split 83% on site provision with 17% as an off-site financial contribution properly secured through planning agreement. This arrangement is in full accord with the Council's framework for affordable housing provision and no weight may be afforded the other party view, again unsupported by substantive evidence or reasoned justification.

### *Sport and recreation*

8. As the other party states, land at Vivash Park is identified for grass sport pitches in the Council's Recreation and Leisure Development Plan Document, although the supporting text also refers to the land being suitable for formal and informal recreation. Furthermore, analysis of part C of the site demonstrates that due to its size, topography and proximity to both pond and railway, it is better suited to more informal recreational use. This is the view of the Council's officers, who support the provision of the urban park, to mitigate existing under-provision for such space and to provide for future recreational

need. Conclusively, the greater degree of earth and bedrock movement required to facilitate formal pitches would also seem in direct conflict with the other party's concerns over local geology and archaeology set out below.

#### *Western Distributor Road*

9. No substantive technical evidence is put forward by the other party to substantiate the assertion that the proposals would compromise or blight the delivery of the proposed Western Relief Road, part of the funding for which has already been secured through planning consent and an associated Section 106 Agreement. It is asserted that due to a requirement to increase housing numbers on an adjoining site the path of the road will have to be realigned, and as a result the current scheme needs to take account of this consideration. This is a view not shared by the Highway Authority or Planning Officers of the Council. Indeed, further evidence submitted by the appellant demonstrates the appeal proposals can be implemented without compromise to the delivery of the relief road, again, a position unchallenged by detailed evidence from the other party. Moreover, whilst it is clearly desirable that the relief road comes forward, this is dependent on the delivery of development on the adjacent site. The non-delivery of development on the adjacent site though regrettable, cannot, in the circumstances of this appeal, be legitimately applied as a justification for withholding permission in this case.

#### *Regionally Important Geological Site*

10. This site, comprising an exposed section of the Westbury Iron Stone Formation, is located below Hawkeridge Road, and comprises an element of part C of the site. This area is allocated as urban park and the layout plans indicate the eastern boundary (the location of the RIGS site) would be planted. Conditions attached to the consent cover earth moving and landscape details and there is no reason why full consideration could not be given to safeguarding this site through their provisions.

#### *Archaeology*

11. The other party raises concerns over the adverse impact of the proposed development on the potential archaeological remains relating to site C. It is contended that this area has not been the subject of historical iron working (a conclusion apparently predicated on the trial pit analysis relating to Ground Investigation Study by Hydrock Consultants) so suggesting a good survival of Romano-British remains. The County Historic Environment Record confirms the site lies adjacent to a postulated significant Romano-British settlement, a conclusion supported by finds on adjacent ground. However, site C is the area proposed for the urban park, and works here are going to be less invasive than the other areas of the site. It is on this basis that the County Archaeologist has recommended a programme of archaeological investigation is undertaken prior to any works commencing on site. Such a programme can reasonably be secured through condition. On this basis any threat to identified archaeology could be appropriately mitigated.

#### *Footpath*

12. There is no consensus, on the base of the evidence presented, as to whether the footpath crossing plot D is an established public right of way or not. Notwithstanding this point, the safeguarding of access to the strip of land to the south of the arched underpass through the railway embankment could

reasonably be considered through the conditions attached in respect of surface water management relating to this part of the site.

13. A second party raised concerns over the impact of the development on the continued successful management of fishing on the adjacent lake. Whilst the dwellings will clearly be lit at night and so emit some light, the boundary of the site will be landscaped and this planting, in conjunction with the existing and in places extensive cover on Slag Lane, would mitigate any increased light emissions.

### **Conclusions**

14. In light of the withdrawal of their objection to the proposal, the evidence submitted by the Council and in light of the Ministerial Statement *Planning for Growth* published on 23 March 2011, I too find no impediment to allowing the appeal. Whilst all the issues raised by the other party may rightly be considered planning considerations material to the case, none individually or collectively merit sufficient weight to outweigh the benefits of the appeal being allowed.

### **Conditions**

15. The appeal being allowed, conditions are attached requiring the submission of samples of materials, the submission of all earthwork details and details of hard and soft landscaping, all to ensure a satisfactory appearance to the development; conditions are also attached requiring the submission of a Construction Method Statement and a Scheme of Archaeological Investigation, both to safeguard any special archaeological, geological and wildlife on and adjacent to the site; conditions are also attached requiring that a scheme and strategy for the management and discharge of surface and foul water are submitted for approval, to safeguard ground water in the environs of the site and manage surface water run-off; a condition is also attached requiring the submission of a detailed scheme of site investigation and remediation is submitted and approved to ensure the full mitigation of any extant soil contamination; conditions are also attached requiring the submission of details of internal road layouts and the submission of a Traffic Management Plan and the provision of carriageway and path to all dwellings, all to safeguard highway safety and to ensure appropriate access to all dwellings; lastly a condition is attached requiring that the development be carried out in accordance with the approved plans, in the interests of sound planning and for the avoidance of doubt.

### **Section 106 Agreement**

16. The parties have completed a Section 106 Agreement in conjunction with Wiltshire Council which includes a number of obligations to come into effect if planning permission is granted. I have considered these in light of the statutory tests contained in Regulation 122 of The Community Infrastructure Levy (CIL) Regulations 2010. They relate to the following matters.

#### *Education*

17. West Wiltshire District plan First Alteration 2004 (WWDP) policy S1 makes provision for securing financial contributions towards educational infrastructure. Westbury Infants and Junior Schools and Maltrevers Secondary School are all identified as destinations of future appeal site occupants, and all are described as effectively full, with a rising roll forecast. Based on agreed capital building



cost multipliers reflecting increased demand, contributions to primary and secondary school infrastructure totalling £615,000 are sought and facilitated by the Agreement. The increase to future pupil numbers as a result of the proposals would place additional demand on at-capacity institutions. The calibrated contributions to help mitigate this impact set out in the obligation therefore pass the statutory tests of the Regulations.

*Highways Contribution*

18. The Heads of Terms of the Agreement facilitate off-site highway works including the provision of a mini roundabout at the Slag Lane junction and the redesign and reconfiguration of Slag Lane. A Construction Traffic Management Plan is included, as is a financial contribution of £20,000 to necessary works and Traffic Regulation Orders, calibrated and agreed between the parties. Policy I1 of the WWDP facilitates such infrastructure contributions and the provision of the roundabout and upgrading of Slag Lane are directly related to the proposed development. In broad terms therefore, this obligation passes the statutory tests.

*Affordable Housing*

19. WWDP policy H2 seeks a minimum of 30% of the units to be social rented housing, with 83% of the 30% being housing for rent on site, with a financial contribution of 17% towards off-site provision. The Agreement provides for 29 such units and for a financial contribution to be made in respect of the remaining 17%. The units are broken down into two groups, 60% 2 bed units and 40% 3 bed units. In accordance with the Council's Supplementary Planning Guidance, *Affordable Housing*, the units are also grouped in small clusters through out the scheme, giving social diversity to the whole. In these circumstances I consider that this obligation would be fairly and reasonably related to the development proposed and that it passes the statutory tests.

*Public open space and community park*

20. WWDP Policy C41 and policy OS2 of the Council's adopted Leisure and Recreation Development Plan Document that supersedes it support part of the site being utilized for recreational purposes. The relevant obligation seeks to provide a fully equipped and landscaped public open space and community park with a commuted sum contribution for its continued maintenance following its transfer to local authority or other nominated body control, or the establishment of a private management company for its continued maintenance. The proposed open space and urban park would address the shortfall in such provision in the town identified by the Council's District Wide Recreational Needs Assessment (2005), serving local existing housing need and address that created by the proposed development. In these circumstances I consider that this obligation would be fairly and reasonably related to the development proposed and that it passes the statutory tests.

*Public art*

21. Policy I2 of the WWDP anticipates contributions towards public art. This obligation proposes a sum of £30,000 towards such a scheme. Explicit reference is also made to such provision within the open space area in site B on plan 13048/5000/K and the scope and extent of provisions set out within the Agreement. In these circumstances I consider that this obligation would be fairly and reasonably related to the development proposed and that it passes the statutory tests.

*Waste and recycling*

22. Policy I1 of the WWDP also makes provision for more generic infrastructure provision and a financial contribution for £13,221 is facilitated in the Obligation. Whilst this sets the policy framework and the contribution will address a demand of the development, it is not clear from the submitted evidence how the contribution is calculated; as such it fails to meet one of the statutory tests of the regulations.
23. In light of these findings, since the obligation for waste and recycling fails to meet one of the tests set out in CIL Regulation 122, I am unable to take it into account in determining the appeal. However, I give significant weight to the obligations for education, affordable housing, public art, highway improvements and for the improvement of local open space and urban park provision to address the current levels of such provision in the town.
24. For the reasons given above, and having considered all matters raised in evidence and at the Inquiry, I conclude that the appeal should be allowed.

*David Morgan*

**Inspector**

**Schedule of Conditions**

- 1) The development hereby permitted shall begin not later than three years from the date of this decision.
- 2) No development shall commence on site 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.
- 3) No development shall commence on site until a scheme for the discharge of surface water from the site and the provision and implementation of surface water run-off limitation has been submitted to and approved in writing by the local planning authority. The scheme shall accord with the strategy set out in the flood risk assessment (21 October) and the supplementary information provided by the Environment Agency. The drainage scheme shall be implemented in accordance with the approved details and a timetable agreed with the Local planning authority.
- 4) No development shall commence until a foul water drainage strategy, including a timetable for its implementation, has been submitted and approved in writing by the local planning authority. The drainage scheme shall be completed in accordance with the approved details and timetable.
- 5) No development shall commence on site (other than that required to be carried out as part of a scheme of site investigation or remediation approved by the Local Planning Authority under this condition), until steps (i) to (iii) below have been fully complied with. If unexpected contamination is found after development has begun, development must be halted on that part of the site affected by the unexpected contamination to the extent specified by the Local Planning Authority in writing until step (iv) has been complied with in full in relation to that contamination.

**Step (i) Site Characterisation:**

An updated investigation and risk assessment must be completed to assess the nature and extent of any contamination on the site, whether or not it originates on the site. The investigation and risk assessment must be undertaken by competent persons and a written report of the findings submitted to and approved in writing by the Local Planning Authority. The report of the findings must include:

- A survey of the extent, nature and scale of contamination on site;
- The collection and interpretation of relevant information to form a conceptual model of the site, and a preliminary risk assessment of all the likely pollutant linkages;
- If the preliminary risk assessment identifies any potentially significant pollutant linkages a ground investigation shall be carried out, to provide further information on the location, type and concentration of contaminants in the soil and groundwater and other characteristics that can influence the behaviour of the contaminants;
- An assessment of the potential risks to human health, property (existing or proposed and including buildings, crops, livestock, pets, woodland and service lines and pipes), adjoining land, groundwater and surface waters, ecological systems and archaeological sites and ancient monuments;

This must be conducted in accordance with DEFRA and the Environment Agency's "Model Procedures for the Management of Land Contamination, CLR 11" and other authoritative guidance.

**Step (ii) Submission of Remediation Scheme:**

If any unacceptable risks are identified as a result of the investigation and assessment referred to in step (i) above, a detailed remediation scheme to bring the site to a condition suitable for the intended use must be prepared. This should detail the works required to remove any unacceptable risks to human health, buildings and other property and the natural and historical environment, should be submitted to and approved in writing by the Local Planning Authority. The scheme must include all works to be undertaken, proposed remediation objectives and remediation criteria, a timetable of works and site management procedures.

**Step (iii) Implementation of Approved Remediation Scheme:**

The approved remediation scheme under step (ii) must be carried out in accordance with its requirements. The Local Planning Authority must be given at least two weeks written notification of commencement of the remediation scheme works.

**Step (iv) Reporting of Unexpected Contamination:**

In the event that contamination is found at any time when carrying out the approved development that was not previously identified it should be reported in writing immediately to the Local Planning Authority. An investigation and risk assessment should be undertaken in accordance with the requirements of step (i) above and where remediation is

necessary, a remediation scheme should be prepared in accordance with the requirements of step (ii) and submitted to and approved in writing by the Local Planning Authority.

Step (v) Verification of remedial works:

Following completion of measures identified in the approved remediation scheme a verification report (referred to in PPS23 as a validation report) must be produced. The report should demonstrate the effectiveness of the remedial works.

A statement should also be provided by the developer which is signed by a person who is competent to confirm that the works detailed in the approved scheme have been carried out (The Local Planning Authority can provide a draft Remediation Certificate when the details of the remediation scheme have been approved at stage (ii) above).

The verification report and signed statement shall be submitted to and approved in writing of the Local Planning Authority.

Step (vi) Long Term Monitoring and Maintenance:

If a monitoring and maintenance scheme is required as part of the approved remediation scheme, reports must be prepared and submitted to the Local Planning Authority for approval at the relevant stages in the development process as approved by the Local Planning Authority in the scheme approved pursuant to step (ii) above, until all the remediation objectives in that scheme have been achieved.

All works must be conducted in accordance with DEFRA and the Environment Agency's "Model Procedures for the Management of Land Contamination, CLR 11" and other authoritative guidance.

- 6) Prior to the commencement of any development (excluding site investigation and remediation measures), full construction details of all the internal road layouts, generally in accordance with drawing 13048/5000/K, shall be submitted to and approved in writing by the local planning authority, and the internal road layouts shall thereafter be completed in full accordance with the approved details.
- 7) Prior to the commencement of development (excluding site investigation and remediation measures) a construction Traffic Management Plan in relation to the new mini roundabout and improvements to Slag Lane shall be submitted to and approved in writing by the local planning authority and the approved construction Traffic Management Plan shall thereafter be implemented in full accordance with the so approved recommendations.
- 8) The internal road construction shall be completed in such a manner that before it is occupied, each dwelling shall have been provided with a properly consolidated and surfaced footway and carriageway to at least binder course level between the dwelling and the existing public highway.
- 9) No development (excluding site investigation and remediation measures) shall commence on sites A and B respectively until details of all earthworks for that particular site have been submitted to and approved

in writing by the Local Planning Authority. These details shall include existing and proposed site levels, proposed slab levels of new dwellings, proposed grading and mounding of land areas within the site and along boundaries and shall include the levels and contours to be formed, sections where necessary, the nature of the material, and the relationship of proposed mounding to existing and surrounding landform. Development shall be carried out in accordance with the approved details.

- 10) Prior to the commencement of development a Noise Mitigation Scheme in accordance with the recommendations of the submitted Noise and Vibration report dated October 2010 shall be submitted to and approved in writing by the Local Planning Authority. The development shall be carried out in accordance with the approved details prior to the first occupation of the dwellings.
- 11) No development, including the deposition of new soil, shall commence within site C (proposed urban park) until:
  - (a) A written programme of archaeological investigation, which should include on-site work and off-site work such as the analysis, publishing and archiving of the results, has been submitted to and approved by the Local Planning Authority; and
  - (b) The approved programme of archaeological work has been carried out in accordance with the approved details.
- 12) No development shall commence (excluding site investigation and remediation measures) within any part of site C until further details of the scheme of hard and soft landscaping for the proposed urban park have been submitted to and approved in writing by the Local Planning Authority. These details shall include:
  - \* a phasing programme for the proposed works
  - \* indications of all existing trees and hedgerows on the land and those to be retained;
  - \* details of any to be retained, together with measures for their protection in the course of development;
  - \* all new planting including species, planting sizes and planting densities, spread of all trees and hedgerows within or overhanging the site, in relation to the proposed buildings, roads, and other works;
  - \* existing and finished levels and contours and proposed earthworks and identified on a separate plan;
  - \* means of enclosure within, and around the site boundaries;
  - \* car park layouts;
  - \* other vehicle and pedestrian access and circulation areas;
  - \* hard surfacing materials;
  - \* minor artefacts and structures including furniture, play and fitness equipment, refuse and other storage units and signs;
  - \* retained ecological features and proposed mitigation.
- 13) Prior to the commencement (excluding site investigation and remediation measures) of any development, a Construction Method Statement shall be submitted to and approved in writing by the Local Planning Authority. This

shall incorporate a precautionary method of working for all construction works and phasing in relation to the following:

- \* Disturbance avoidance measures to protect waterfowl wintering on Frogmore Lake;
- \* Measures to avoid impacts to badgers and their setts;
- \* Measures to avoid harm to reptiles;
- \* Protection of bats roosting in Hawkeridge Road cave
- \* Protection of Regionally Important Geological Site No ST 85.RIGS27

The development shall subsequently be carried out in accordance with the approved method of working.

- 14) The development hereby permitted shall not be carried out except in complete accordance with the details shown on the submitted plans and documents:

- \* 13048/1000/B received on 21.10.10
- \* 13048/5000/K received on 03.03.11
- \* 13048/3600 and 3601 received on 21.10.10
- \* 13048/6000, 6001, 6002, 6003, 6004, 6005, 6006, 6007, 6008, 6009, 6010, 6011, 6012, 6013, 6014, 6015, 6016, 6017, 6018 received on 21.10.10
- \* CIR.D.0304\_01B received on 07.04.11
- \* CIR.D.0304\_02C received on 07.04.11
- \* CIR.D.0304\_03 received on 25.10.10
- \* CIR.D.0304\_04A received on 09.02.11
- \* CIR.D.0304\_05 received on 09.02.11
- \* P9433 G200 rev A and G201 rev A received on 30.12.10
- \* Planning Statement received on 21.10.10
- \* Design and Access Statement received on 21.10.10
- \* Transport Assessment received on 21.10.10
- \* Flood Risk Assessment received on 21.10.10
- \* Phase 2 Surveys and Ecological Assessment received on 21.10.10,
- Addendum relating to Reptiles received on 14.01.11 and Addendum relating to Wintering Birds and Great Crested Newts received on 09.02.11
- \* Archaeological Assessment received on 21.10.10
- \* Noise and Vibration Assessment received on 21.10.10
- \* Market Feasibility Report received on 21.10.10
- \* Ground Investigation Reports dated May 2006 and June 2006, and letter Report dated September 2010 received on 21.10.10
- \* Statement of Community Involvement received on 21.10.10
- \* Drawing SK001G and SK005F dated 02.03.11

## **APPEARANCES**

### FOR THE APPELLANT:

Mr Richard Phillips QC

Instructed by Mr Neil Bromwich, Osborne Clark,  
Solicitors

He called:

Mr Glen Godwin, Dip TP,  
MRTPI

Mr John Mullholland

### FOR THE LOCAL PLANNING AUTHORITY:

Ms Jacqueline Lean of Counsel

Instructed by Mr Ian Gibson, Solicitor for  
Wiltshire Council

She called:

Mr M Wilmott, Area  
Development Manager

### INTERESTED PERSONS:

Mr Francis Morland

Mr and Mrs Bruce Evans

### **Documents Submitted at the Inquiry**

1. Written Statement – Mr F Morland
2. OS extract map (archaeology) – Mr F Morland
3. Extract for the proceedings of the Wiltshire Geological Society – Mr F Morland
4. Archaeological Report (Hawkridge Pumping Station) – Mr F Morland
5. Signed and dated Statement of Common Ground (SoCG) – Appellant
6. Copy of letter from Barclays Bank (Section 106 Agreement) – Appellant
7. Amendments to SoCG and Mr Godwin's Proof of Evidence – Appellant
8. Amended list of conditions – Council
9. Suggested amendment to conditions (prefix) - Appellant
10. Mr Morland's e mail 7 November 2011 – Mr F Morland
11. Application for full costs – Appellant
12. Rebuttal of costs - Council

WTC CIL Funding

INCOME							Ear Marked EXPENDITURE				EXPENDITURE - must spend within 5 years		
Date Received	Amount Received		Date to be spent by	Spent?	On what?	Date	Amount Paid	Agreed by/minute ref	Year spent	Amount Paid	Detail	Nominal Code	
Total Received	£592,505.85	Detail				Agreed	£723,300.00 Detail		Total Spent	£36,274.00			
5.2.18	£189.75	15/10736 55 Haynes Rd	5.2.23	Y	Play Area	02.09.19	£55,000.00	T.3630	2019-20	£1,000.00	Play Area upgrades		
26.4.18	£843.52	17/00247 24 Phipps Close	26.4.23	Y	Play Area	04.04.22	£73,300.00	F.220412	2019-20	£1,704.00	CCTV Upgrade (MTFS)		
14.11.18	£11,167.41	17/05014 Former Co-op store payments 1&2 of 3	14.11.23	Y	Play Area	04.04.22	£50,000.00	F.220412	2020-21	£15,725.00	Play Area (22-23 MTFS)		
4.4.19	£6,013.22	17/05014 Former Co-op store payment 3 of 3	4.4.24	Y	Play Area	04.04.22	£25,000.00	F.220412	2021-22	£17,520.00	Public Toilet (22-23 MTFS)		
4.4.19	£17,237.71	17/12513/REM Former Westbury Hospital Site 1 of 3	4.4.24	Y	Play Area	04.04.22	£25,000.00	F.220412	2021-22	£325.00	Climate		
01.07.19	£67,987.66	17/01643/REM Land North of Bitham Park 1 of 3	01.07.24			10.01.22	£25,000.00	T.220110			Enviromental Improvement (e.g. lemon bus) (MTFS 22-23)		
01.07.19	£3,348.68	17/12397 Ham Cottages Westbury	01.07.24			11.04.22	£20,000.00				Rotunda Improvements (bricks & motar) 22-23		
01.07.19	£20,110.66	17/12513/REM Former Westbury Hospital Site 2 of 3	01.07.24	Y	Play Area	11.04.22	£0.00				ANPR (approved by HP&D > Town Council in July)		
1.10.19	£1,184.85	15/12308/FUL 47-49 Edward Street	1.10.24		Play Area	04.04.22	£50,000.00	F.220412			Play Area Upgrade (23-24 MTFS)		
1.10.19	£51,629.76	17/12194/REM Westbury Sailing Lake	1.10.24		Play Area	04.04.22	£50,000.00	F.220412			Play Area Upgrade (24-25 MTFS)		
1.10.19	£1,864.70	19/02545/FUL 13a Field Close 1 of 3	1.10.24		Play Area	04.04.22	£50,000.00	F.220412			Play Area Upgrade (25-26 MTFS)		
01.01.2020	£20,110.66	17/12513/REM Former Westbury Hospital Site 3 of 3	01.01.25		Climate	04.04.22	£25,000.00	F.220412			Environmental Improvements (MTFS 23-24)		
01.01.2020	£23,692.65	17/01643/REM Land North of Bitham Park 2 of 3 (tranch 1-5)	01.01.25		Climate	04.04.22	£25,000.00	F.220412			Environmental Improvements (MTFS 24-25)		
01.01.2020	£21,991.62	17/01643/REM Land North of Bitham Park 2 of 3 (tranch 6-11)	01.01.25		Climate	04.04.22	£25,000.00	F.220412			Environmental Improvement (MTFS 25-26)		
01.04.2020	£2,175.49	19/02545/FUL 13a Field Close 2 of 3	01.04.25		Vision	04.04.22	£75,000.00	F.220412			Vision (bricks & motar) (MTFS 23-24)		
01.07.2020	£1,907.08	19/04805/FUL 2-16 Haynes Road	01.07.25		Vision	04.04.22	£75,000.00	F.220412			Vision (bricks & motar) (MTFS 24-25)		
01.07.2020	£504.52	19/05531/FUL Rear of 18 Maristow Street	01.07.25		Vision	04.04.22	£75,000.00	F.220412			Vision (bricks & motar) (MTFS 25-26)		
01.10.2020	£60,234.72	17/12194/REM Westbury Sailing Lake	01.10.25		Public Toilet	09.01.23	£147,000.00				Public Toilets - CIL		
01.01.2021	£33,634.67	17/01643/REM Land North of Bitham Park 3 of 3	01.01.26		Public Toilet	09.01.23	£47,700.00				Public Toilets - RCF		
01.01.2021	£2,175.49	19/02545/FUL 13a Field Close 3 of 3	01.01.26										
01.04.2021	£20,156.45	17/07548/FUL Land off Station Rd 1 of 3	01.04.26										
01.04.2021	£23,692.65	17/01643/REM Land North of Bitham Park 3 of 3 (phase 1-5)	01.04.26										
01.04.2021	£60,234.72	17/12194/REM Westbury Sailing Lake tranch 3 of 3	01.04.26										
01.04.2021	£3,444.38	20/01737/FUL Land adjacent to 45 Chalford	01.04.26										
01.04.2021	£33,634.67	17/01643/REM Land North of Bitham Park 2 of 3 (phase 1-17)	01.04.26										
01.04.2021	£21,991.62	17/01643/REM Land North of Bitham Park 3 of 3 (tranch 6-11)	01.04.26										
09.08.2021	£2,010.00	19/11982/FULGibbs Close trance 1 of 3	09.08.26										
15.10.2021	£2,345.01	19/11982/FULGibbs Close trance 2 of 3	15.10.26										
17.12.2021	£2,077.22	20/08163/FUL Land of Station Rd 2 dwellings	17.12.26										
24.01.2022	£23,515.85	17/07548/FUL Land off Station Rd 2 of 3	24.01.27										
12.04.2022	£2,345.00	19/11982/FULGibbs Close trance 3 of 3	12.04.27										
12.04.2022	£5,227.17	20/06808/FUL Land West of Dartmoor Road Trance 1 of 3	12.04.27										
12.04.2022	£544.88	19/02304 adj 23 Kendrick Trance 1 of 1	12.04.27										
12.04.2022	£2,397.50	20/08785/FUL 66a Westbury Leigh Trance 1 of 1	12.04.27										
17.05.2022	£6,098.37	20/06808/FUL Land West of Dartmoor Road Trance 2 of 3	17.05.27										
24.06.2022	£23,515.85	17/07548/FUL Land off Station Rd 2 of 3	24.06.27										

ATTACHED TO P3





# Westbury Town Council

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## Business Case for Vivash Park



Date: 19<sup>th</sup> October 2021

Version	0.01
Author	N. Burgess, D Urch
Owner	Westbury Town Council
Reviewed & Agreed – Town Council 01.11.2021	

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## 1. Summary

This Business Case is proposing to seek approval from Westbury Town Council to adopt Vivash Park. A Task and Finish group was set up to undertake a feasibility study to understand if the council should take ownership and management of Vivash Park. The ownership of green space provides the town council with an opportunity to achieve some of the priorities identified in its Town Strategy. For example, enriching the town council's green open space; building a single engaged and empowered Westbury community; protecting and enhancing the town's environment for the enjoyment of all; making it a natural home for families

### 1.1 Introduction



Vivash Park is presently owned by David Wilson Homes (DWH). This is an open space/urban park, positioned off Slag Lane. The land has a fishing lake, balancing pond, picnic area and exercise trail, with a vast biodiversity. The ecological report in 2010 indicated a bat cave, with 5 species of bats identified, several birds included on the RSPB red and amber list have been identified. The Park is well used by walkers and dog owners.

In 2019 Wiltshire Council (WC) contacted the town council to understand their appetite for owning and managing Vivash /Park (Urban Park). The town council decided to deal with this park along with other green spaces as in April 2020, the town council was expecting to begin negotiations with WC to take over assets and services in Westbury. Due to the pandemic this project was temporarily shelved as staff resources were reallocated to support the community. We understand that WC has recently (May 2021) appointed a portfolio holder to take a lead for delegated services.

In addition to the above, Vivash Park was not in a condition that allowed WC to adopt the park, there was an issue with the soil, planting, and the boundary. These issues have since been resolved and WC are now able to adopt the site and take receipt of the S106 money (the commuted sum is £287,889.72) that will transfer with this park for ongoing maintenance.

In response to this WC has again approached the town council to understand if now two years later it would like to re-consider its decision and take over the ownership of the park.

Following the agreement to set up a task & finish group to investigate the options, officers have spoken to Warminster Town Council to understand the process they followed and what they have learned in the ensuing years. [Click Here](#) for the full report. In summary, Warminster Town Council outsourced the contract, while they learned about the park, to fully understand the cost and work and involved. They were able to build on this knowledge in the coming years and eventually managed the park in house. This did involve significant training, procurement, and increased costs.

Officers have liaised with local ground maintenance companies to better understand the maintenance required for the urban park, these included Idverde, Westlea, and CutNClear. Meeting with Wiltshire Wildlife Trust and local fishing anglers to better understand the care required for the fishing lake and pond. Officers have spoken to enforcement teams and local police to gain better understanding of security at the park against illegal travellers gaining access and

camping on site and carried out a comprehensive snagging list for David Wilson to respond to and action before the town council will consider taking over the park.

While establishing the boundaries of the Vivash Park the council was notified that a stretch of the public footpath along Hawkeridge Road was on public highway but had not been adopted by Wiltshire Council, this stretch is outside the boundary of the park. Due to the structure of the footpath Wiltshire Council are not willing to adopt the path and any damage to the path or the fencing will not be the responsibility of Wiltshire Council it is also outside the boundaries of the park. To rectify this issue, it would be for the Town Council to fund a path inline with Highway's footpath specifications. There is also Slag Lane highways issue of a lip on the side of the tar mac highway and then slopes down towards the lake a hazard to road users and due to low lighting for cyclists this is planned to be rectified for full details [CLICK HERE](#)

Councillors and officers undertook a full study before making a recommendation to the town council. The group started by developing a Project Initiation Document (PID) [Click Here](#) to confirm the scope of the project, how the project met the business aims, what needed to be achieved, impact and risk assessments, timeline, specialist & skills, budget, dependencies, governance, and benefits. From this followed

- A SWOT and PESTLE analysis
- A comprehensive review of the planning documents (2011) [Document search results for W/10/03406/FUL \(wiltshire.gov.uk\)](#)
- Meetings with suppliers (soft market testing) and other councils in a similar position
- Meetings with specialists such as Wiltshire Council, Wiltshire Police and Wiltshire Wildlife Trust
- Contact with solicitors with experience in this field
- Contact with the town council's insurers
- Reviewed budget impacts.
- Risk assessment [CLICK HERE](#)
- Tree Survey [CLICK HERE](#)
- Ecological Survey [CLICK HERE](#)

The feasibility study identified 4 options:

**Option 1** – Do nothing.

Choose not to adopt and maintain the park, accept it has potential for a different usage in the future. This will not achieve the priorities identified in the Town Strategy.

**Option 2** – Request that the decision is postponed until Wiltshire Council resume the transfer to Parish Councils of services and assets

**Option 3** – Adopt the park and tender out the ground’s maintenance with the average quote approx. £10,000 per year for 12–24-month contract. This will give the officers time to understand requirements to manage the park in house. Any contract above £25,000 for the term of contract will have to go to tender via contract finder / Crown Procurement (framework options).

**Option 4** – Adopt the park and maintain the land inhouse.

The option to maintain the land with an in-house service would require a depot, machinery, staffing, training. A desk top study indicated to lease a property, have a couple of staff, and purchase/lease machinery, with insurances, public liabilities, the annual cost would exceed £50,000.

Benefits	Risks
<ul style="list-style-type: none"> <li>• Local benefits (increased footfall / community events / close to railway).</li> <li>• Diverse site (reach all members of the community – walkers / woodland / family picnics / fishing)</li> <li>• Accessible for wheelchairs from carpark</li> <li>• Attract people from outside Westbury</li> <li>• Eco system – Business Case / Climate Emergency</li> <li>• Green space, protecting a diverse eco system</li> <li>• Biodiversity benefits</li> <li>• Reduce stress and increase wellbeing reduce health care issues and visits to local doctors etc.</li> <li>• Heavy duty benches (longevity)</li> <li>• Exercise equipment sturdy &amp; simple (easy to repair)</li> <li>• Long term (buffer zone)</li> <li>• Economic potential, bring people from outside to the town</li> <li>• Increase use of park through events (Thai Chi, Yoga, bandstand?)</li> <li>• Diverse site supporting wildlife. Wildflowers &amp; meadows. DNA water sample for crested newts / voles</li> <li>• Events</li> </ul>	<ul style="list-style-type: none"> <li>• Council not set up to manage the site in the short term (training, equipment, depot etc.)</li> <li>• Lack of staff resources</li> <li>• Long term financial commitment (post S106). Increase in precept</li> <li>• Lack of staff knowledge of maintenance, water, open space legislation potential insurance claims</li> <li>• Lack of long-term maintenance since the site was established</li> <li>• Not enough bins – and they are a poor design</li> <li>• Council does not have the resources to empty bins</li> <li>• Travellers and homeless (owner responsible for enforcement)</li> <li>• Paths are low lying – standing water erosion of paths</li> <li>• Neighbour disputes</li> <li>• Highways (leading to car park) is eroded</li> <li>• Soil quality (unknown but trees are prolific)</li> <li>• Railway / noise pollution</li> <li>• Ancient hedge / archaeological site</li> <li>• How long / time is required to manage the green space</li> <li>• Increase car park / coffee shop (pollution)</li> <li>• Negotiate with David Wilson Homes</li> <li>• Solicitor / legal / insurance unknown</li> <li>• Travellers / homeless</li> <li>• Public loos (lack of)</li> <li>• Proximity to railway station – anti social behaviour</li> <li>• Risk of vandalism / fires</li> <li>• Safe access from the road</li> <li>• Anti-social behaviour increase</li> </ul>



<ul style="list-style-type: none"> <li>• Family days</li> <li>• Educational for local schools / community (birds, bees, newts, voles, and a bat cave!)</li> <li>• Fitness, walks, exercise</li> <li>• Own green space – attract funding (trees)</li> <li>• Staff training / contract management / green credentials (electric lawn mowers etc)</li> <li>• Secure the site to travellers / locked gates / stones etc.</li> <li>• Fishing income</li> <li>• Increase car park / coffee shop</li> </ul>	<ul style="list-style-type: none"> <li>• Continuous funding after 106 money and any unexpected issues</li> <li>• Political barriers</li> <li>• Increase in litter, dog fouling anti-social behaviour</li> <li>• Loss of trained staff (small team)</li> <li>• Loss of jobs to external contractor / TUPE</li> <li>• Fly tipping</li> <li>• Pollution / contamination</li> <li>• Management of open water (H&amp;S) / signage</li> <li>• Change of administration – not willing to support</li> <li>• Adverse weather – trees falling (who is notified called out)</li> <li>• Increased footfall will have an impact on maintenance / wildlife</li> <li>• Not allowed to increase the size of the car park.</li> <li>• Japanese knotweed</li> <li>• Ancient hedge / archaeological site</li> <li>• Do nothing (transfer to Wiltshire)</li> </ul>
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## 1.2 Service Aims

The Town Council does not have space for woodland or wildflower planting, this would be an ideal opportunity to have a space where it can have an impact on the wellbeing of the community, offering an open space for walking, educational projects for local schools, fitness trail around the park, wildflowers, woodlands, and a fishing lake. Also, this offers an opportunity to apply for green flag award and this forms part of the town council climate emergency policy, and its priorities.

The Climate Emergency Action Plan identifies the need to protect green space and the local eco system. If the town council decide to take over the ownership and management of the park, Vivash park will be a protected and well managed green space for generations.

## 1.3 Conclusion

The business case concludes option 3 will provide Westbury with an urban park, which can be maintained to a high level with scheduled works monitored by a council officer, providing for the wellbeing and educational benefit of residents.

## 2 Background

### 2.1 Aims of Service – Key Priorities

Through the Town Strategy & Business Case 2021-26, the town council has identified several key priorities that will help the council make Westbury an even better place to live. The ownership and management of Vivash Park will contribute to the outcomes identified in key priority 2

### **Protecting and enhancing the town's environment for the enjoyment of all:**

- Protect and enhance our local environment by preserving the natural environment, biodiversity, and important landscapes.
- Be an exemplar of sustainability by setting ourselves high environmental standards and audit the council's impact on the environment.
- Enhance public open space and green areas in suitable locations and address the identified deficit of green sports pitches
- Encourage and facilitate walking and cycling in and around the town.

## **2.2 Funding**

The Council will receive funding of 106 money for maintenance of Vivash park with further funding available via grants potentially from, The Outdoor Recreation Legacy Partnership (ORLP), Parks Community, Funding Grants.

The councils Grants Officer has advised that as a town council we are unlikely to receive any grant funding as it is expected that the town council will use 106 monies or increase precept. It would be possible to apply for grants for benches and exercise equipment if there was not already some in position. The option to create a charitable incorporated institution group such as Friends of Vivash Park they would be able to apply for grants.

Sponsorship options, we need to increase the number of bins in the park, if we were purchase the Gladson jubilee bin, providing two openings for litter with flaps to stop any overflowing litter being pulled out by wildlife and have 3 x A4 advertising slots the bins are approx. £562 [CLICK HERE](#), and like the council's roundabouts these sponsored for an agreed period. The advertising parts can also be used for us to advertise events in Westbury.

Lake income, with a group set up as Friends of Vivash Park and having this as a charitable institute, we can also look at local angling business overseeing the lake and day tickets for fishing which will contribute towards the maintenance of the lake. The local fishing tackle shop owner Phil has given some guidance [CLICK HERE](#) on day tickets for the lake and approx. numbers using the



lake, his thoughts are that it may take a while for users to get use to paying but knowing the money will go to maintenance of the lake will help.

There is an opportunity to hold events, to generate an income, exercise classes, remote control groups, racing cars/ planes for racing and planes for aero dynamic display competitions?

Should the town council decide to change the use of Vivash park in the future and introduce a small café type business, this would also generate income.

106		£287,889.72
Grants	Only potential if a charitable institution set up Grants for trees, could be accessed	
Sponsorship –  assume 5 bins with 3 sides of A4 advertising @ £100 pa  Info boards		£1500
Lake income		£200-£300 per year
Events		
CIL (available as this is considered a community project)		

### 2.3 Premises / Location

Vivash Park is situated off Slag Lane, and Hawkeridge Road near the train station. comprising of over 18,000m2 of grass, woodlands, a pond, and a fishing lake a car park for approx. ten cars. 10.72 acres of land at £15,000 per acre. Estimated value of the land is £160,800

### 2.4 Organisations we work with

The Town Council works with many partners, Heritage Society, community groups, individuals, charities, and organisations. Local conservation groups also feature, for example Wiltshire Wildlife Trust, Bat Conservation Society and Wiltshire Council (senior ecologist)  
Wiltshire Police, Grounds maintenance companies, local anglers, Ecology, and tree specialists.

## 3 Strategic Context

### 3.1 Local and regional

Following the Localism Act 2011, many parish & town councils have taken over assets and services from the principal authority. The town council has expressed its interest in taking over the town's services, assets and green spaces. The council has been putting aside money to fund the cost of futures transfer and minimise the impact on the precept (council tax). Due to delay in the transfer of services (Covid-19) the town council currently has responsibilities for leased play areas and public toilets. Taking over Vivash Park with the dedicated S106 funding would provide a wonderful asset, at no cost for up to fifteen years.

Westbury is a small West Wiltshire town; the community area has a population of approx.19,000. The town is significantly poorer than many communities in Wiltshire. Education and training are issues in Westbury with one Low Layer Super Output Area (LSOA) ranking in the most deprived 10% in England in several categories. The town council does not own or maintain any open space or urban park. The identified uses of the urban park include education, wildlife walks, fun days, picnic in the park that will remain affordable. The Park will allow the town council to encourage and promote wellbeing in the community, aid in educational studies and outings for local schools, artists, exercise groups. There are picnic tables available this will also be encouraging families to meet outside and enjoy the park. The exercise trail will encourage fitness. There are possibilities to have family fun days and open-air events.

### 3.2 Key outcomes

To enable the town council to achieve priority 2 in the business case

- Protecting and enhancing the town's environment for the enjoyment of all (accessible)
- Create a natural habitat and enhanced biodiversity with this amazing opportunity to encourage educational trips to the park
- There are lovely views for artists
- Walking & cycling We will encourage cycling to the park with cycling bars for locking bikes up to have a lovely walk around the ten acres of land, lake and pond
- A well-managed urban park to be able to maintain the land at a level that the town council community would expect and be able to react to requests
- Well trained staff having staff trained on land management and maintenance will be an asset for future projects and the possibility of asset transfer of land from Wiltshire Council.
- Green flag application this would provide recognition of a well-maintained urban park

Building a single engaged and empowered Westbury community

Building on the town's heritage.

Make it a natural home for families.

Sustaining, developing, and promoting the town's economy and employment

#### 4 Engagement with stakeholders?

As part of Task and Finish group, several stakeholders were approached for guidance and support these included:

- Sarah Holloway Wiltshire Council 106 Officer
- Interest groups & specialists wildlife, fishermen,
- Local Police
- Local anglers' associations

Moving forward further stake holders we will be engaging with

- Local schools, encourage education, exercise
- Local companies for potential bins sponsorship
- Local fitness groups
- Wildlife groups
- Grants officer
- Local hobbyist (remote control racing cars/planes)

#### 4.1 Communication Plan

- The Task & Finish group has developed a communication strategy (see link below)
- The town council newsletter has been distributed to every householder.
- Developed and pushed a social media video
- At a U3a event held 21.08.2021 and the Chilli Festival held 25.09.21 100% pf residents asked wanted the town council to take over the ownership of the park to protect it and the wildlife for future generations.
- Gathered feedback (see below)

For	Against
If land can be maintained better than WC	How polluted will it get when incinerator installed
Yes, if we have full control as the maintenance will be kept on top of	
If contractors are monitored and made accountable and have a local company	
Excellent opportunity with possibility of coffee hut, and maintained by the town council	
Concerns that if we don't take it on what would happen to the maintenance and land	
Great asset to Westbury beautiful place for people to use	

Yes, as WC have not set a good example at maintaining the land in Westbury so would like the town council to take ownership	

Other Comments:

[Click Here to see the Vivash park Communication Strategy](#)

## 5 Financial Appraisal

Works required and estimated costs

<b>One off cost</b>	
Legal	£5,000
Ecological tree survey	£2368
Potential highway road repairs	£12,000 (as required)
Security of car park via large stones 15x 2t stones and increased bank / planting	£6000 + delivery
Security Height Barrier	£2000 + fitting
Security gate	£1500 + fitting

<b>Long term costs</b>	
Tree Surveys (every 2 years)	£850- £1500
Maintenance of grass, shrubs, trees, and car park per year	£10,000 - £12,000
Annual lake clearance	£1000
insurance	£283 (outsourced)
RoSPA	£100
On-going replacement of equipment, bins, benches and exercise equipment	£2,500
Maintenance & replacement of information boards	£500

The town council were due to receive £225,600 in 106 monies; based on 106 adoption figures for 2011. As this is index linked the amount of 106 monies is now £287,889.72 it is estimated that this will allow Town Council to support any outsourced maintenance of Vivash Park for approx.15 years before looking at future funding (Outsourcing the contract is estimated at approx. £10,000-£12000 per year, alongside the required maintenance or replacement of benches, bins, exercise equipment and ADHOC maintenance). During this time, the council will establish ways to raise funds, through events, sponsorship of bins, also the option if required to increase precept. If a Friends of Vivash Park charitable organisation can be organised there will be opportunities to get grant money as well.

To maintain the park using in house resources, the cost will escalate, and the 106 monies will be used within less than 5 years. This is attributed to staffing costs such as training, salary, insurance, and pensions. On top of this there would be a requirement to procure seasonal machinery as different machines for grass cutting will be required for summer cuts and winter cuts, large tractor to do meadow cuts and collecting, depot to store machinery with facilities for staff.

Town Council will look to carry out a full report on the last 18 months of the successful contractor and report back to town council before the 24 months of the contract is up for the town council to have time to look at options of extension or look at in house resources

The contract for the maintenance of the park to be outsourced for a period of 24 months initially. If returning quotes exceed £25,000 over the proposed 24 months, tenders must go through The Crown Procurement Services / Contract Finder.

## **6 Recommendation**

It is recommended that the town council choose option 3 and adopt Vivash Park from David Wilson Homes. The maintenance for the park will be outsourced for an initial 24 months during which time the town council will be able to develop its understanding of managing this green space and undertake the necessary training to enable the council to deliver in house (should the town council decide this route) accepting the impact on the precept. The Park will be well maintained and made safe, there will be no major change to the use of the park in the mid-term.



**WESTBURY**  
TOWN COUNCIL

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## Further Submission to Governance Review by Wiltshire Council affecting the boundaries of Westbury Town and Heywood Parish

It is most unfortunate that Westbury Town Council could not be represented at the recent Governance Review Panel as it clashed with an important Town Council meeting that morning. We have, however, been able to view the video record of the meeting and take issue with some of the points raised therein. We were therefore perturbed that at the recent Panel meeting the Panel heard representations from Cllr Frances Morland, who is a Parish Councillor in Heywood and a Town Councillor in Westbury but failed to clarify which Council he was there representing and accepted without challenge what was said, in spite of contrary written evidence that it had already received.

We heard how Heywood have rebutted concerns that they are a “moribund or redundant parish” one example having been put forward that they are incapable or lack the resources to keep their own play park open to residents. One only needs to look at the record over several years, of complaints received by Westbury Town Council concerning the play park remaining locked and out of use. These complaints are reinforced by similar opinions on Facebook. Comments such as:

- *9th May 2022 “Today I spoke to several people to try to get the ball rolling on hawkridge park. Many say they don’t have anything to do with it and others do not have a clue it existed. I also had several people saying the same thing regarding a wealthy resident not happy that their garden backs onto the park and they don’t want children making noise. I get the feeling they have paid the council to keep the park closed but that’s only speculation. One person said that the key holders have all become too complacent over the years with their role and as a result, the park has become neglected and beyond repair. To get the park opened again it would need all new equipment and new key holders and it’s not on the agenda. So, lots of finger-pointing and excuses. Looks like the park will never be opened unless more people ask for it to be dealt with”.*
- *19<sup>th</sup> May 2021 – “Update on hawkridge park play area: I have spent the last month contacting various people and being given the run around on who owns the park. I have finally gotten a convincing email stating the park will remain closed for the foreseeable future until a plan is made up. It’s been said that the park will be replaced by houses and a new park will be built later down the line to replace the one we currently have. Seems a huge waste to keep the park from our kids at a time we all need an area to play and relax. I spoke to a neighbour who highlighted noise and nuisance complaints from the gardens that back onto the park and that was a large factor in why the park will not be reopened. I am now looking to get a petition going to get the park opened again until a suitable substitute can be built.”*
- *29<sup>th</sup> March 2022 – “know they are planning on building a house on the park along hawkridge park but does anyone know if the park will reopen before this goes ahead, please? I moved on the road 2 years ago and the park has never been opened and it’s a very long walk to another park with good equipment for children to play on. I have spoken to 2 key holders and both have been told not to open the park until further notice.”*

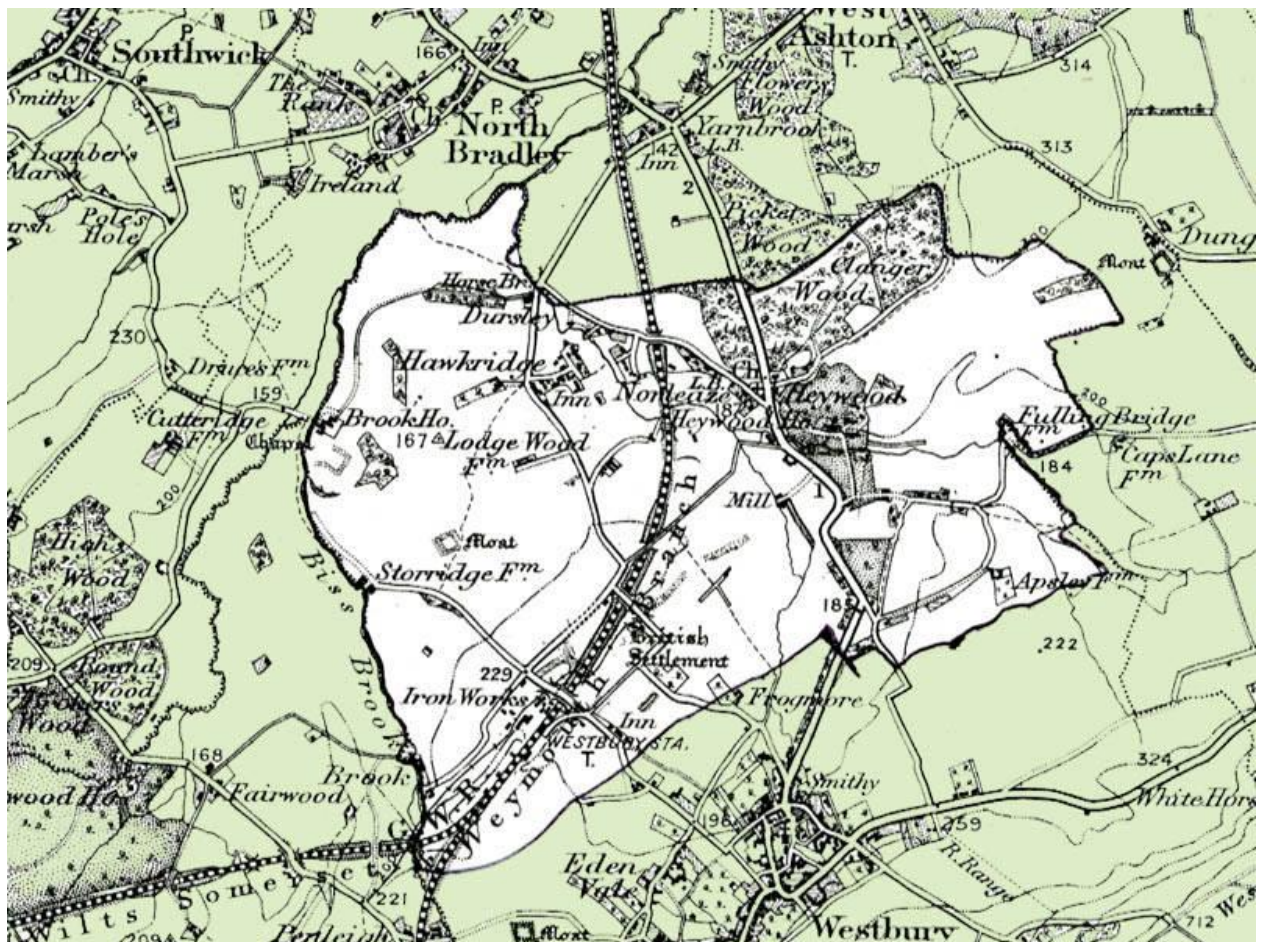
These comments on the play area contradict what the Heywood Councillors have told the Panel. Heywood parish does, indeed, struggle to maintain its few amenities. This is not a new phenomenon. You have already been made aware that about 20 years ago Heywood Parish approached Westbury Town Council asking for £5,000 to help it maintain its play area. Westbury willingly agreed to help its neighbouring parish but took no action to fund or refund these monies itself. It is little wonder that



Heywood Parish would balk at taking on Vivash Park. For the Panel to simply amend their recommendation by redrawing the boundary lie to now exclude Vivash Park makes a mockery of the previously stated need to have boundaries linked to fixed physical features.

Now we see what we believe is some sort of knee jerk reaction to what Heywood and the Panel saw as some sort of land grab by Westbury which was, in reality merely an endeavour by Westbury to consolidate a single urban area that comprises Westbury.

Far from Westbury being the Council engaging in a land grab, a more disturbing demonstration of the intentions of Heywood is illustrated in the below plan. This extract from the Heywood Neighbourhood Plan includes this map as the principal illustration of the Neighbourhood Plan area, the clear inference being that this is really what they think is Heywood. It includes all of the remainder of the Industrial estate (Brook Lane and Stephenson Road) including the incinerator site and Arla, Vivash Park, Spinnaker housing development, The station, Frogmore Lakes, the sewage works and the “future bridge” off the end of Mane Way. And this is a Parish Council that made no financial contribution to fighting the incinerator proposals, and even recorded no objection to applications by NREL, despite all the traffic to and from the incinerator having to pass through Heywood Parish.



The Panel has not fully considered the motives or implications here. Instead, it has decided to arbitrarily take a part of Westbury, thereby damaging the Town’s viability, and transfer it into Heywood for no other reason that it needs to somehow prop up another Parish. Westbury responded to the proposed Governance Review with some ideas for the future structure of the town and surrounds. The exchange

of ideas should never be discouraged but the Panel treated the thoughts of Westbury council as an outrage and proceeded to find ways to remove sources of revenue and to punish the town for daring to have such a suggestion. The panel could have just declined those comments. It feels that the majority on the Panel clearly have preferences for small parishes and were unsympathetic to the views of a large town. In the 21<sup>st</sup> Century it is becoming increasingly important to support the ability of urban areas to consolidate and grow. It is unlikely to encourage any future consultation if participants are punished for their views.

We are of the opinion that the process of this review has been flawed from the outset, and the Panel, regrettably, has not properly carried out its function. In preparing draft recommendations the Panel must take account of the statutory criteria for reviews and the need to ensure that community governance within the areas under review reflects the identities and interests of the community in that area; and is both effective and convenient. We respectfully submit that the decision to transfer large parts of the Westbury urban area has been made without proper regard to this provision and fails to respect the identities and interests of either the Westbury or Heywood communities. It is neither effective nor convenient.

The rules of governance state that any review should take note of public movements and identity and not follow outdated boundaries such as rivers, footpaths or railway lines. The Committee has ignored all the arguments regarding public movement, identity and the concept of Westbury and then drew meaningless boundaries based on railway lines and such like. Exactly what they were not meant to consider.

In any review a Panel should be aware of the facts before making any recommendation. In proposing a transfer of an area including Vivash Park the Panel were completely unaware that this was a large urban park requiring great resources and money. They appear to have initially proposed transferring it to Heywood on the grounds it was open scrubland. This demonstrates a lack of the Panel's knowledge of the areas they were proposing to transfer. Understandably, Heywood recoiled and quickly stated that they had neither the resources nor ability to manage such a large park. For the Panel to make recommendations without having all the relevant data and facts before them suggests a failure of process and brings any recommendation.

To suggest, as Panel members have done, that walking from the Station to The Ham they emerged into an area that was so alien to the rest of Westbury that they undeniably felt that were in another place, the rural parish of Heywood, is so surprising that we do not know how to respond. In line with our previous submissions on the Review, The Ham is undoubtedly part of Westbury. After all, it is home to Westbury's only Post Office. Similarly, the West Wilts Trading estate is a distinctly urban development, out of place in a rural parish.

Most residents of Ham, Hawkeridge Park and Storridge Rd identify strongly with Westbury, use its facilities, contribute to societies and clubs, and participate entirely to its night-time economy. It is telling that two residents one of Ham and the other of Storridge Rd chose to be Westbury Town & Wiltshire Councillors than Heywood Parish Councillors, to contribute to development of those services, clubs & societies and facilities mentioned above. Indeed, Cllr Kate Knight (Westbury Town Council) was a resident in Ham for years and said recently "it never occurred to me that I was a resident in Heywood, I always believed I lived in Westbury. I often drove past Heywood, but I had no reason to go there."

We have previously pointed out that the proposal to transfer of a large number of housing units will result in a loss of revenue for Westbury Town Council, which will reduce the amount available for the town to spend which is catastrophic, and patently unfair on its residents, as those households



transferred to the neighbouring Parish will continue to enjoy the amenities as before, Westbury being a town of high deprivation. This is not about precept but about the economic delivery of quality services to residents. It is further concerning to have heard of visits to residents of The Ham and the Paxman Estate by politicians promising them a lower precept if they support the transfer. We are left wondering what the real motivation is.

Be this as it may, and ignoring what appears to be even grander aspirations from Heywood to expand their boundaries, we believe that the process of this review should be paused as regards any major alterations to the boundaries between Westbury and Heywood, save for modifying this to the extent that the Westbury boundary is amended to align with the London rail line by the former cement works, thereby making the small land swaps in the current proposal. Instead, we have offered to engage in a dialogue with Heywood to see how we can work together, as we clearly did 20 years ago, in a manner that will benefit both Councils. To date Heywood have declined to engage with us.

This now means that, of our three options below, as set out previously, only Option 3 with the above tweaks should be progressed as a recommendation.

1. Transfer back into Westbury the areas historically ceded to Heywood, namely the West Wiltshire Trading Estate, the residential areas north of The Ham, the former Cement Works, Park Lane, Hawke Ridge Business Park. We would be prepared to modify this to the extent that the Westbury boundary is amended to align with the London rail line by the former cement works, thereby making the small land swaps in the current proposal, and then follow the loop to the Trowbridge line, but where it joins, the boundary should then follow Hawkeridge Road.
2. Merge Heywood entirely into Westbury. We realise that this may compromise other matters and suggest an alternative whereby the part of Heywood west of the A350 transfers to Westbury with the part east of the A350 merging with Bratton.
3. The status quo but ensuring that the Governance Boundary for Westbury aligns with the Settlement Boundary.

Community Governance Review

Westbury Town Council

07.06.2023