

### Appendix Three – Objections received and responses given

	Point Raised	Objection	Response
<b>Statutory approval</b>			
	Secretary of State consent should be obtained for less than best consideration	Objection unless SoS consent obtained to the disposal	The consideration to be received by the Council for the parcels of land are in line with the Service Devolution and Asset Transfer policy, which considered this point.
<b>POS covenants removed</b>			
	Disposal of most of the public open space is not in the public interest unless the transfer includes a covenant on WTC to continue to use the land as POS	Object unless the disposal gives suitable guarantees of this kind	The precedent transfer includes a covenant to continue to use the land for community purposes.
	My understanding of the relevant legislation is that the effect of Section 123 Public Notices, if not objected to, is to wipe the land clean of any and all public open space requirements, whether arising under the Open Spaces Act 1906 or otherwise (see the judgment of the Supreme Court given on 1 March 2023 in the case of R (on the application of Day) v Shropshire Council [2023] UKSC 8). In respect of the Open Spaces at Westbury listed in the Public Notices, that outcome is not in the public interest.	X	Where a statutory trust currently exists whilst the statutory trust will, by operation of law, cease upon a disposal the transfer to WTC will impose fresh covenants as to use of the land, which will restrict the use to community use.
	I need to object to the proposals because the effect of Section 123 Public Notices is to wipe the land clean of any public open space requirements; as someone who was a former town and district councillor who battled for over five years to register Penleigh Park as a Town Green these proposals are a serious concern.	X	Where a statutory trust currently exists whilst the statutory trust will, by operation of law, cease upon a disposal the transfer to WTC will impose fresh covenants as to the use of the land, which will restrict the use to community use.
<b>Consultation approach</b>			
	No informed public consultation	X	The publication of the Notices is accordance with the requirements of S123 (2A) of the Local Government Act 1972 and having regard to the fact that the land is identified as open spaces and reference is made to the published

			Serviced Devolution and Asset Transfer policy there was sufficient information for an informed public consultation.
	The procedure followed does not comply with the Gunning Principles for public consultations (attached), which require (inter alia) that "there is sufficient information to give intelligent consideration", etc.	X	The publication of the Notices is in accordance with the requirements of S123 (2A) of the Local Government Act 1972. The Gunning Principles apply to disposals under s123 of the Local Government Act 1973 and have been fulfilled. Having regard to the fact that the land is identified as open spaces within the notices and reference is made to the published Service Devolution and Asset Transfer policy and any comments will be taken into consideration within the decision making process the process does comply with the Gunning principles.
	I am working through the Gunning Principles which I feel that the Council has failed to adhere to. Just making plans available at Westbury Town Council is totally insufficient to inform the public of the relevant information and issues about any of the sites listed and a deadline of noon on Friday 4 October 2024 is far too short a period for anyone to make informed responses.	X	The publication of the Notices is in accordance with the requirements of S123 (2A) of the Local Government Act 1972. The Gunning Principles apply to disposals under s123 of the Local Government Act 1972 and have been fulfilled. Having regard to the fact that the land is identified within the notice as open spaces and reference is made to the published Service Devolution and Asset Transfer policy and any comments will be taken into consideration within the decision making process the process does comply with the Gunning principles.
<b>Timescale</b>			
	Short time table for the consultation and lack of documents	X	The publication of the Notices is in accordance with the requirements of S123 (2A). Plans of the land referred to in the Notices were available for inspection on request at the offices of Westbury Town Council.

	Furthermore, the deadline for responses of only 13 1/2 days clearly does not meet the further requirement that "there is adequate time for consideration and response", particularly in view of the sheer volume of the proposals, and the incomplete and chaotic means of presentation of the very limited amount of information that has been made available. For example, there are at least 7 headings under which plans are duplicated. There are also material misdescriptions in some of the headings.	X	The publication of the Notices is in accordance with the requirements of S123 (2A) of the Local Government Act 1972. Having regard to the fact that the land is identified as open spaces within the notices and reference is made to the published Service Devolution and Asset Transfer policy there was sufficient and adequate time for consideration.
	Too short a period under the notice to give informed responses	X	The publication of the Notices is in accordance with the requirements of S123 (2A) of the Local Government Act 1972. Having regard to the fact that the land is identified as open spaces within the notices and reference is made to the published Service Devolution and Asset Transfer policy there was sufficient and adequate time for consideration.
	How does the consultation ensure a broad stakeholder and community engagements? Consultation does not comply with accessibility standards	X	The publication of the Notices is in accordance with the requirements of S123 (2A) of the Local Government Act 1972 and was publicly notified in accordance with statutory requirements.

#### Information quality

	"Primmers Place Open Space Land" - this is an almost complete misdescription of the 8 plots shown on the Plans, only one of which is anywhere near Primmers Place. Does the WT314464 LR Title Plan include Penleigh Road (a public bridleway)? LR Title Plan WT318097 is duplicated under "Land at Area R15 Westbury Leigh Way"; LR Title Plan 314463 is duplicated under "Bashkir	Potentially - this is an almost complete misdescription of the 8 plots shown on the Plans	Public footpath WEST26 is included in title number WT314464 WEST22 does not fall in the first plan for WT466844. A small part of WEST16 passes through WT466844 in plan 2. The Transfer will not affect the status of this public footpath.
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	Road Open Space 1"; LR Title Plan WT314465 is duplicated under "Bashkir Road Open Space 2"; LR Title Plan 314462 is duplicated under "Westbury Leigh Exmoor Road Open Space Land" (with a slight discrepancy). Do the two LR Title Plans WT466844 include public footpaths?		
	It is incredible that here is a public consultation and access to specific information is only available in one place!	X	The plans referred to in the Notices were published in accordance with the requirements of S123 (2A) of the Local Government Act 1972 were available for inspection on request that the Offices of Westbury Town Council.
	"Westbury Leigh Car Park" - no Plan made available at Westbury Town Council's offices. Why is it considered not to include "any land consisting or forming part of an open space" in Section 123(2A)?  "All Saints Churchyard" - why is the Plan marked "Maintenance only"? How will the access easements to the church itself and to the other properties around it be safeguarded, and is the existence of ancient public rights of way through it challenged or at risk?	X	Westbury Leigh Car Park was included in error. The land is not an open space within the meaning assigned to it by S336(1) of the Town & County Planning 1990 pursuant to S270 of the Local Government Act 1972.  The Plan for All Saints Churchyard is marked "Maintenance Only", because Wiltshire Council intends to delegate its maintenance obligations at All Saints Churchyard to Westbury Town Council.
<b>Requests for information or clarification</b>			
	Various requests for information or clarification have been made by e-mail to the Solicitor to the Council.	X	These requests are being responded to separately by Wiltshire Council Legal Services on behalf of the Solicitor to the Council.