

Public Document Pack

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Date: 28 July 2021

**** CALL IN OF EXECUTIVE MEMBER DECISION**

Dear Sir or Madam

**Partnerships, Corporate Organisation and Overview Management Policy & Scrutiny
Panel
Thursday 5 August 2021, 6pm, New Council Chamber, Town Hall**

A meeting of the Panel will take place as indicated above.

Please Note that any member of the press and public may listen in to proceedings at this meeting via the weblink below –

<https://youtu.be/yXlz8ad8Hh4>

The agenda is set out as follows.

In accordance with the provision of Policy and Scrutiny Panel Procedure Rules (SSO14), Councillors Mark Crosby and Peter Crew have served notice to call in the decision of the Executive Member for Assets and Capital Delivery regarding Decision Number 21/22 DP 130 Appropriation of open space to planning purposes: land south of The Uplands, Nailsea to the Partnerships, Corporate Organisation and Overview Management Policy and Scrutiny Panel.

The reasons for the call in have been given as –

“ I believe this action is merited on the grounds of whether sufficient and legitimately expected scrutiny has been given to the depth of public concern prompted by the prospect of this site being appropriated for proposed residential development.”

Clearly, under the 1972 Act; a Principal Council may appropriate land that is no longer required for the purpose for which it is held.

However, in doing so the Council must provide compelling evidence demonstrating that that it has properly addressed the issue of whether the site is no longer needed for its current purpose which, in this case is public-open-space.

And ...

that the (Council's) claimed 'benefits' for its appropriation genuinely outweigh its current benefit to the community.

I believe that this particular issue requires further scrutiny by the Panel.”

The Panel after consideration of the Executive Member's decision may give its opinion to the Executive Member on the decision, and in doing so may ask the Executive Member to reconsider the decision.

Yours faithfully

Assistant Director Legal & Governance and Monitoring Officer

To: Members of the Partnerships, Corporate Organisation and Overview Management Policy and Scrutiny Panel

Councillors:

Geoffrey Richardson (Chairman), Stuart McQuillan (Vice-Chairman), Gill Bute, John Cato, James Clayton, Peter Crew, Mark Crosby, Huw James, John Ley-Morgan, Robert Payne, Terry Porter, vacancy.

This document and associated papers can be made available in a different format on request.

Agenda

1. **Public Discussion (Standing Order SS09) (Agenda item 1)**

To receive and hear any person who wishes to address the Panel. The Chairman will select the order of the matters to be heard.

Members of the Panel may ask questions of the member of the public and a dialogue between the parties can be undertaken.

Requests to speak must be submitted in writing to the Head of Legal and Democratic Services, or the officer mentioned at the top of this agenda letter, by noon on the day before the meeting and request must detail the subject matter of the address.

2. **Apologies for Absence and Notification of Substitutes (Agenda item 2)**

3. **Declaration of Disclosable Pecuniary Interest (Standing Order 37) (Agenda item 3)**

A Member must declare any disclosable pecuniary interest where it relates to any matter being considered at the meeting. A declaration of a disclosable pecuniary interest should indicate the interest and the agenda item to which it relates. A Member is not permitted to participate in this agenda item by law and should immediately leave the meeting before the start of any debate.

If the Member leaves the Chamber in respect of a declaration, he or she should ensure that the Chairman is aware of this before he or she leaves to enable their exit from the meeting to be recorded in the minutes in accordance with Standing Order 37.

4. **Call in of Executive Member Decision - Appropriation of open space to planning purposes: land south of The Uplands, Nailsea (Agenda item 4) (Pages 5 - 34)**

A copy of the Executive Member decision no. 21/22 DP 130 is attached.

Exempt Items

Should the Panel wish to consider a matter as an Exempt Item, the Panel will be invited to pass the following resolution –

“(1) That the press, public, and officers not required by the Members, the Chief Executive or the Director, to remain during the exempt session, be excluded from the meeting during consideration of the following item of business on the ground that its consideration will involve the disclosure of exempt information as defined in Section 100I of the Local Government Act 1972.”

Also, if appropriate, the following resolution should be passed –

“(2) That members of the Council who are not members of this Panel be invited to remain.”

Mobile phones, PDAs and other mobile devices

All persons attending the meeting are requested to ensure that these devices are switched to silent mode. The chairman may approve an exception to this request in special circumstances.

Filming and Recording of Meetings

The proceedings of this meeting may be recorded for broadcasting purposes.

Anyone wishing to film part, or all of the proceedings may do so unless the press and public are excluded for that part of the meeting or there is good reason not to do so, as directed by the Chairman.

Members of the public may also use Facebook and Twitter or other forms of social media to report on proceedings at this meeting.

Emergency Evacuation Procedure

ON HEARING THE ALARM – (a continuous two-tone siren)

Leave the room by the nearest exit door. Ensure that windows are closed.

Last person out to close the door.

Do Not stop to collect personal belongings.

Do Not use the lifts.

Follow the green and white exit signs and make your way to the assembly point.

Do Not re-enter the building until authorised to do so by the Fire Authority.

Go to Assembly Point C – Outside the offices formerly occupied by Stephen & Co

NORTH SOMERSET COUNCIL DECISION

DECISION OF: COUNCILLOR STEVE BRIDGER, EXECUTIVE MEMBER FOR ASSETS AND CAPITAL DELIVERY

WITH ADVICE FROM: THE DIRECTOR OF PLACE AND THE ASSISTANT DIRECTOR, LEGAL & GOVERNANCE AND MONITORING OFFICER



DECISION NO: 21/22 DP 130

SUBJECT: APPROPRIATION OF OPEN SPACE TO PLANNING PURPOSES:
LAND SOUTH OF THE UPLANDS, NAILSEA

KEY DECISION: YES

REASON: Reasons for appropriation relate to two or more wards

BACKGROUND:

The site

The Site ("Land south of The Uplands, Nailsea) is a roughly 2 hectare 'L' shaped area of grassland located adjacent to the south western edge of Nailsea. This is as shown on the attached Plan at **Appendix A**.

There is a pedestrian access from The Uplands and the southern bridleway. At the eastern side of the site is a small woodland and at the south is a bridleway/cyclepath set within mature trees and a hedgerow.

At the northern boundary are single storey houses, separated from the Site by a low stone walls and hedges. Adjacent to the western boundary are single storey houses, the vehicle access and protected Red Oak trees.

The site slopes downwards to the south. An adopted footpath gives access to the site from the north between numbers 20 and 22 The Uplands.

Issue and proposals

The Council is proposing to develop the Site for 52 dwellings and one substation building, with the provision of car parking, footpaths and other associated works (planning application reference 20/P/2000/R3).

The Site is currently used as open space. Therefore, the Council cannot use its statutory powers to appropriate the land to planning purposes for the development without following a statutory process.

The purpose of this report is to note that the statutory process has been followed and to seek authority to appropriate the land for planning purposes in order to facilitate the carrying out of the development.

The Council's Power to appropriate

Section 122 of the Local Government Act 1972 permits a 'principal council' to appropriate any land which belongs to them and is no longer required for the purpose for which it is held immediately before the appropriation, for any purpose for which it is authorised by the Local Government Act 1972 or any other enactment to acquire land by agreement.

The Council already owns the freehold of the Site, and is a 'principal council'. Therefore, the Council needs to be satisfied that:

1. The land is no longer required for the purpose for which it is currently held;
2. The purpose for which the Council is appropriating is authorised by statute.

In relation to point (1) above, the question of whether the land is no longer required for its current purpose is solely for the Council to decide in good faith. There is no requirement for the land to have fallen into disuse or disrepair, and the Council is entitled to balance the loss of the current use against the benefits to the wider community in making that decision.

The applicable principles for the Council in deciding whether or not the land is no longer required as open space were distilled by the High Court in the case of *The Queen on the application of Lorraine Elizabeth Maries v The London Borough of Merton* [2014] EWHC 2689 (Admin). *Maries* was a judicial review challenge against an open space appropriation for a school, and the challenge was lost on all grounds. The Court confirmed that:

1. Whether land is no longer required for a particular purpose, meaning no longer needed in the public interest of the locality for that purpose, is a question for the local authority, subject to *Wednesbury* principles of reasonableness, and not the Court;
2. The power to appropriate is concerned with relative needs or uses for which public land has been or may be put. It does not require it to fall into disuse before the authority may appropriate it for some other purpose;
3. The authority is entitled when exercising its appropriation power to seek to strike the balance between comparative local (public interest) needs: between the need for one use of the land and another with the wider community interests at heart. It is for the authority to keep under review the needs of the locality and is entitled to take a broad view of local needs.

In relation to point (2) above, Section 246(1)(b) of the Town and Country Planning Act 1990 provides that "reference to the appropriation of land for planning purposes is a reference to the appropriation of it for purposes for which land can be acquired under sections 226 (compulsory acquisition) and 227 (acquisition by agreement) of the TCPA 1990".

Therefore 'planning purposes' in this context means appropriation which will facilitate the carrying out of development, re-development or improvement of land which is likely to contribute to the economic, social or environmental well-being of the area, or which is required in the interests of the proper planning of the area in which the land is situated.

Section 122(2A) of the Local Government Act 1972 also requires that, prior to appropriating any land consisting of or forming part of an open space, the Council must advertise the proposed appropriation for two consecutive weeks in a local newspaper and consider any objections to the proposed appropriation which may be made to them.

In accordance with the statutory procedures, public notices were advertised in the North Somerset Times on 14 April 2021 and 21 April 2021. The consultation period ran for 21 days for interested parties to submit representations to the Council. The period for submission of representations expired on 5 May 2021.

Appropriation of land under section 122 of the Local Government Act 1972 is a distinctly different process from the compulsory acquisition of open space or common land under section 19 of the Acquisition of Land Act 1981. The appropriation procedure is not one that involves the compulsory purchase procedure to acquire freehold interests in land. The appropriation of land under section 122 concerns land that is already in the local authority's ownership. Accordingly, matters which are relevant to the grant of a certificate by the Secretary of State for the acquisition of open space or common land under section 19 are not relevant to the section 122 procedure. For example, there is no legal requirement to provide replacement alternative provision.

DECISION:

1. To consider the representations, along with the information contained in this report, received in respect of the intention to appropriate the open space land to the south of The Uplands, Nailsea shown edged red on the plan attached to this report (the 'Site').
2. To agree that the Site, which is held by the Council for the purpose of open space/recreation is no longer required to be held for those purposes and should be appropriated for planning purposes with a view to its subsequent future development.
3. To resolve to authorise the appropriation of the Site from open space/recreation purposes for planning purposes under Section 122(1) of the Local Government Act 1972, in order to facilitate the carrying out of residential development.
4. To authorise the Director of Place to note the appropriation process in the Council's records.

REASONS:

A total of 131 representations were received in relation to the Site. To assist the Executive Member in his consideration of the objections a summary of the main issues, together with an analysis and responses/comments, is at **Appendix B**. Redacted copies of all representations will also be shared with the Executive Member and are available for others to view on request.

The Council acknowledges the importance of this Site to residents in the immediate vicinity and it does not take the decision to appropriate lightly. The matters raised in objections, including loss of recreation areas, the significance of the Site for the well-being of its users, and cumulative pressure on open space from other development have been carefully weighed.

The Council considers that delivery of sufficient and high-quality, sustainable houses across North Somerset is in the interests of the wider community, and that overall the benefits are significant.

As an allocated site in compliance with North Somerset's Core Strategy, delivery of the Site is required in the interests of the economic, social and environmental well-being of the area. It is part of a wider strategy to address a housing shortfall and ensure delivery of housing numbers required in the interests of proper planning in the area and to meet the needs of current and future residents.

The loss of this area of open space therefore needs to be weighed against this purpose, and considered in the context of the adopted policy framework which will deliver new housing needed in the area.

On balance, there are sufficient open space and recreation facilities in the local area to off-set this loss, therefore it is considered that the Site is no longer required for open space and appropriation for planning purposes is justified.

OPTIONS CONSIDERED:

Options considered are:

- To proceed with the appropriation as proposed: this is recommended for the reasons detailed above.
- Not to proceed with the appropriation: this is not recommended, for the reasons detailed above.

FINANCIAL IMPLICATIONS:

The financial implications of the appropriation process in itself are minimal, relating to the costs of newspaper advertisements, legal advice and officer time. These costs have been absorbed within existing budgets.

The potential financial implications of the development of the Site are subject to separate reporting in relation to that project.

LEGAL POWERS AND IMPLICATIONS

The legal powers and implications are dealt with in the body of this report.

CLIMATE CHANGE AND ENVIRONMENTAL IMPLICATIONS

The legal and administrative process of appropriation has minimal climate change or environmental implications.

The appropriation of the site from open space to planning purposes for residential development will have climate change and environmental implications, if development is delivered, including a potential overall increase in carbon emissions compared to current use.

The appropriation process in itself does not specify or guarantee the details of development that may or may not follow. However, the planning application for this site details the ways in which efforts have been made to reduce and mitigate any impact on the environment. These include:

- All homes to be Passivhaus certified. This is a flagship standard of sustainability which also helps ensure good build quality and low energy bills.
- The scheme will not include any provision of domestic gas.
- A landscape led approach, with a high proportion of green space.
- Electrical vehicle charging for all homes, as well as contributions to fund an electric vehicle car sharing club.
- Compliance with planning policies demonstrating ecological mitigations and enhancements.

The site is allocated in the North Somerset Sites and Allocations Plan for residential development.

CONSULTATION

The appropriation proposal has been subject to public consultation, as set out above.

RISK MANAGEMENT

The appropriation process in itself is a legal/administrative process and carries minimal other risks. The key risk to the council is the risk of legal challenge. External specialist support has been taken to mitigate this risk.

Risks relating to the potential development proposal are considered as part of the reporting and governance for that project.

EQUALITY IMPLICATIONS

Have you undertaken an Equality Impact Assessment? Yes

The appropriation process, in that it relates to the legal purpose for which the land is held and is not in itself a decision to proceed with the act of development, has minimal equality implications. An EIA for the appropriation is attached as Appendix C1.

For completeness, a copy of the first stage EIA for the development proposals is attached for the Executive Member to consider (Appendix C2).

CORPORATE IMPLICATIONS

The appropriation of the Site in itself has limited corporate implications.

Consultation responses have been considered by the Director of Place and a report on her consideration of the responses is appended

APPENDICES

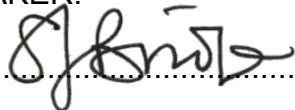
- Appendix A: Plan of the Site
- Appendix B: Report of Director of Place on the Consideration of Representations
- Appendix C1: Equality Impact Assessment for appropriation decision
- Appendix C2: Equality Impact Assessment for development proposal

BACKGROUND PAPERS

Redacted copies of consultation responses are available on request and have been shared with the Executive Member.

SIGNATORIES: In addition to the responses summarised in Appendix B and Appendix D, I have today received a further response from Nailsea Town Council. I have carefully read and considered the response, but do not believe that it raises anything substantively new or different to those I have already considered.

DECISION MAKER:

Signed:  Executive Member for Assets and Capital Delivery

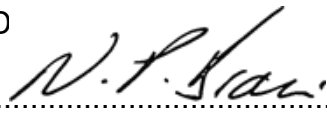
Date: 16 July 2021.....

WITH ADVICE FROM

Signed:  Assistant Director Placemaking and Growth. In accordance with 21/22 DP 62

Date: 16 July 2021

WITH AD

Signed:  Assistant Director Legal & Governance and Monitoring Officer

Date: 15 July 2021.

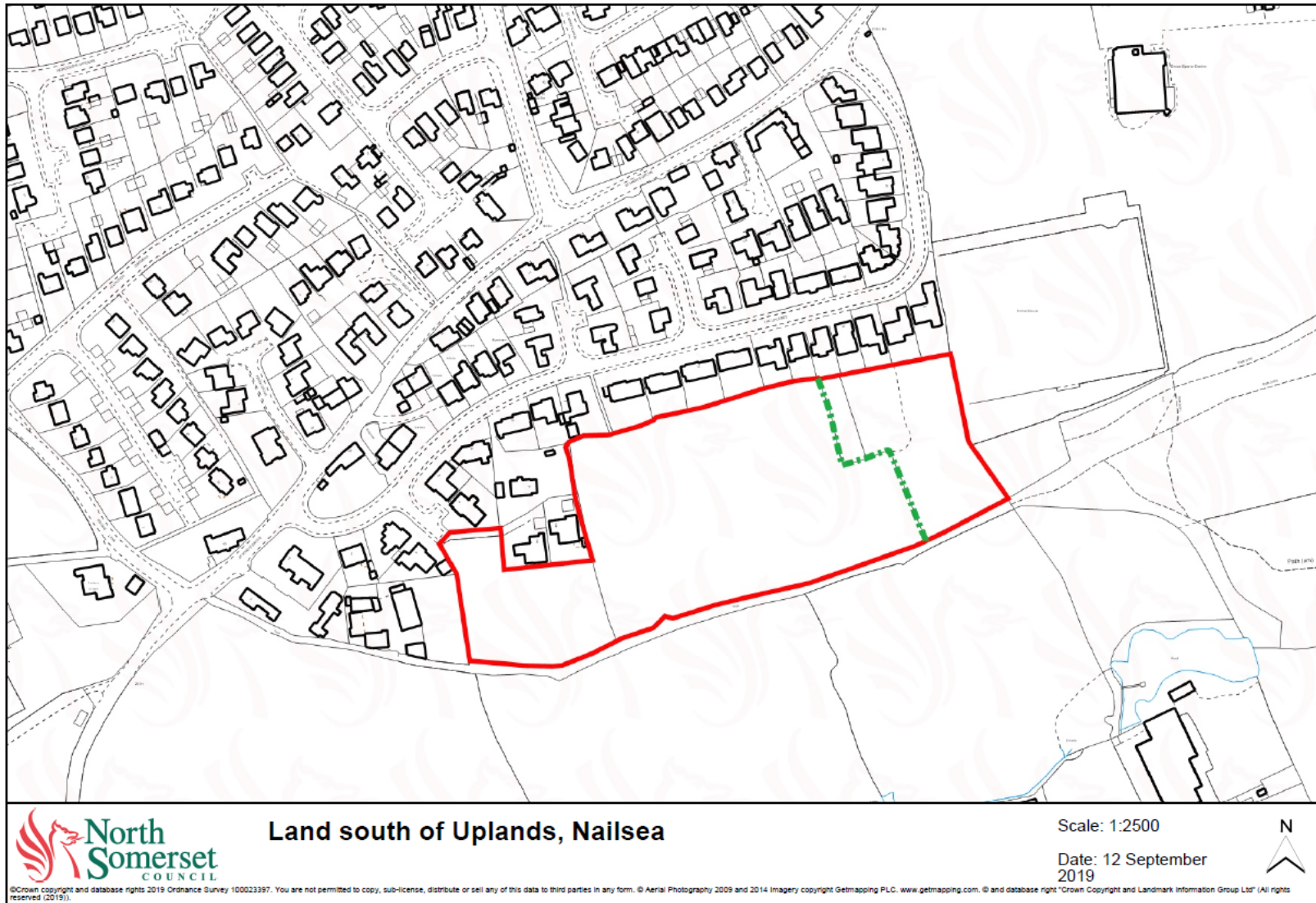
Footnote: Details of changes made and agreed by the decision taker since publication of the proposed decision notice, if applicable:

Please see additional Appendix D, which details and comments on further responses received after the publication of the proposed Decision Notice. This has been provided for the Executive Member's consideration in making his decision.

APPENDIX A - PLAN

LAND TO BE APPROPRIATED AT LAND SOUTH OF THE UPLANDS, NAILSEA (THE SITE)

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Appendix B

Summary of representations and responses

Appropriation of Open Space to Planning Purposes – Land south of The Uplands, Nailsea

1. Summary of representations

- 1.1 The Council received a total of 131 representations to the public notice of the proposed appropriation.
- 1.2 Of this total, 2 were representations in support, and 129 were objections.

2. Themes of response

- 2.1 A large number of objections raised matters which relate to the proposed development of the land and to the planning merits of the proposals. These are not matters which are relevant to the appropriation of the Site.
- 2.2 The main points of objections raised which are relevant to the appropriation related to the following themes:
 - A. Loss of well-used and long-standing open space and recreation area; specifically:
 - i. Loss of amenity value and recreational opportunity.
 - ii. Site is flat, accessible, open and safe, away from traffic. It is particularly suitable for and well-used by older people, children and dog-walkers.
 - iii. Beauty and peace of site/open space.
 - iv. Importance to physical and mental health and wellbeing, which has been increased by the nature of the Covid emergency.
 - B. Ecology impacts and loss of wildlife; richness of flora and fauna on site.
 - C. There is a lack of alternative similar open space nearby, specifically flat open land away from traffic and where dogs are allowed off-lead. Other developments in the area are contributing to an increase in residents, increasing the need for this open space.
 - D. Proposals are contrary to NSC policies:
 - i. Climate change policies / environmental credentials.
 - ii. Green infrastructure policy.
 - iii. Health & well-being.

E. Planning allocation:

- i. This housing is not needed, in particular given that 450 homes will be delivered on adjacent land. The benefits of the land as open space exceed the benefits of the housing it will deliver.
- ii. Housing should be built at more sustainable locations, in particular on brownfield sites.
- iii. Cumulative housing impacts are eroding the countryside and the strategic gap between Nailsea and Backwell; this site sets a further negative precedent in that regards.

F. Process issues:

- i. The land was purchased in the 1970s for the purpose of protecting it as public open space. It is the duty of the council to uphold this historic purpose and intent.
- ii. Oversight/error meant that the land was not properly identified and protected as Local Green Space as part of the Sites & Allocations Plan process. An audit of green infrastructure provision should have been carried out prior to allocation and planning.
- iii. A planning application in the 1970s was refused; unclear what has changed to allow a different position to be taken.
- iv. The principle of the council promoting its land for commercial purposes is wrong/immoral; the council should not be allowed to judge its own planning applications.

2.3 The two representations of support for the appropriation both suggested there is sufficient other open spaces within Nailsea. One stresses that additional housing was greatly needed.

3. Other matters raised

3.1 Various issues relating to the planning merits of the proposed housing development were raised, including:

- (a) Traffic impacts;
- (b) Inappropriate development on this Site;
- (c) Insufficient local infrastructure and amenities to support new residents;
- (d) General objection to any development on open space.

3.2 The proposed housing development on the Site is the subject of a full planning application (Ref. 20/P/2000/R3) made in August 2020. The Planning and Regulatory Committee resolved to grant approval on 17 February 2021.

3.3 As part of the planning application process, the proposals have undergone full public consultation, and have been assessed and found to be in compliance with relevant local and national planning policy.

3.4 The issue in the present case is whether the Site is still required for the purpose for which it is currently held having regard to relative needs for the land in the interests of the local authority's area. The planning merits of the housing proposals are not relevant to this balancing exercise.

3.5 Many objections also gave personal views, observations or simply stated factual matters, not in themselves relevant to the open space appropriation process.

4. Council's responses/comments

4.1 Section 6 of this Appendix B contains a table summarising the objections and the Council's specific responses to/comments on each theme, as well as other discrete and specific matters which have been raised by objectors.

4.2 The points raised by objectors in relation to the themes identified in paragraph 2(b) above are important issues which the Council takes very seriously in weighing up the relative needs for the Site.

4.3 The Council is sympathetic to the long-standing use of the Site by local residents. Many objections pointed to the fact that the Site is well-used as open space, and that it has not been demonstrated that the Site is 'surplus' to requirements.

4.4 The Council does not dispute that the area is regularly used by local residents and has been so for many years. It has been a particularly important place for physical and mental well-being during the Covid-19 pandemic restrictions, providing space for distanced recreation. A number of groups are listed as experiencing particular benefits from the site as open space, including people from groups with protected characteristics. Please see Equality Impact Assessments for further information and consideration.

4.5 Many objections also raised the point that various housing developments have been approved in the vicinity of the Site. This will lead to an increase in the number of residents, and therefore the open space at the Site is seen as being necessary to cater for the new residents of these areas.

4.6 These are all matters to be weighed carefully by the Council. The issue in the case of appropriation is not whether the land is unused or is surplus, but whether in striking the balance between local needs and wider community interests, the land is no longer needed as open space but for some other purpose.

4.7 The public interests being met in this context are those which are being met by the 'planning purposes' for which the appropriation is proposed. The planning purposes for the appropriation will facilitate the carrying out of development, re-development or improvement of land which is likely to contribute to the economic, social or environmental well-being of the area, or which is required in the interests of the proper planning of the area in which the land is situated.

4.8 North Somerset is required to adopt a planning policy framework (Core Strategy) in accordance with national planning policy objectives set out in the NPPF. This includes the allocation of sites to deliver quality and sustainable housing.

- 4.9 North Somerset has an identified housing need for 20,985 dwellings to 2026, and of 20,085 for the period from 2023 - 2038. The land at the Uplands is one of the sites allocated to meet this housing need. The housing number and the development locations/land allocations were subject to extensive analysis, consultation and an Examination in Public, prior to being confirmed by the Secretary of State.
- 4.10 In the event that development is not delivered in this location, an alternative location for 50 homes would be required to be identified. The lack of a five-year housing supply in North Somerset means that a “presumption in favour of sustainable development” applies. This has led to a number of speculative, unallocated developments gaining consent through appeal, with unplanned consequences for communities and infrastructure.
- 4.11 The health and well-being benefits of open space are fully acknowledged by the council. However the provision of housing is also recognised as having an important role to play in health and well-being, particularly the provision of affordable housing and adaptable/accessible housing units, and particularly in the light of the health and social impacts of residential overcrowding during the pandemic.
- 4.12 Loss of open space at this site will not be total. Development proposals have been developed in line with a “landscape led” approach, which maximises the amount of green space to be retained and in some cases improved. Around 57% of the site will remain as woodland, bridleway or other forms of green infrastructure, and surfaced footpaths will improve access for those previously unable to cross the site.
- 4.13 Ecology impacts and the loss of habitat have been addressed in the planning application. Overall the development proposal seeks to deliver biodiversity net gain.
- 4.14 Whilst not comparable in all aspects, a range of other publicly accessible open space is available in the vicinity of the site. New development of other nearby sites are required through planning policies to provide an adequate quantity and range of green and open space for their new residents.
- 4.15 It is not agreed that the proposals are counter to NSC’s policies in relation to climate change or green infrastructure. Development proposals set high standards of sustainability and ecological mitigation and green spaces are integrated into the site.
- 4.16 The purposes for which a Council needs to use its assets may change over time. The Council is acting legally and properly in considering different options for this site and has followed the necessary processes.

5. Conclusions

- 5.1 The Council acknowledges the importance of this Site to local residents and it does not take the decision to appropriate lightly. The matters raised in objections, including loss of recreation areas, the significance of the Site for the well-being of its users, and cumulative pressure on open space from other development have been carefully weighed.
- 5.2 As the population of North Somerset grows the Council needs to balance the quantity and quality of its open space against its housing requirements in the short, medium and long term. It will not always be possible to meet both of these needs and the Council must take difficult decisions in releasing open space in order to provide future housing sites.
- 5.3 The Council considers that delivery of sufficient and high-quality, sustainable houses across North Somerset is in the interests of the wider community, and that overall the benefits are significant. This site will deliver new homes for an expected 125 – 150 residents, including an estimated 30 – 50 residents of the affordable housing.
- 5.4 As an allocated site in compliance with North Somerset's Core Strategy and Sites and Allocations Plans, delivery of the Site is required in the interests of the economic, social and environmental well-being of the area. It is part of a wider strategy to address a housing shortfall and ensure delivery of housing numbers required in the interests of proper planning in the area. Failure to deliver allocated sites increases the prospects of planning appeals succeeding in relation to unallocated, unplanned locations.
- 5.5 The loss of this area of open space therefore needs to be weighed against this purpose, and considered in the context of the adopted policy framework which will deliver new housing needed in the area.
- 5.6 On balance, there are sufficient open space and recreation facilities in the local area to off-set this loss, therefore it is considered that the Site is no longer required for open space and appropriation for planning purposes is justified.

6. Table of responses

No.	Summary	Response/commentary
A	<p>Loss of well-used and long-standing open space and recreation area; specifically:</p> <p>(i) Loss of amenity value and recreational opportunity.</p> <p>(ii) Site is flat, accessible, open and safe, away from traffic. It is particularly suitable for and well-used by older people, children and dog-walkers</p> <p>(iii) Beauty and peace of site/open space.</p> <p>(iv) Importance to physical and mental health and wellbeing, which has been increased by the nature of the Covid emergency.</p>	<p>The Council recognises that the Site has been used for recreation and exercise for many years. It is acknowledged that the loss of this space will have local effects on regular users of the Site (including visitors from elsewhere in the town) and this is a matter to be carefully weighed.</p> <p>Impacts on specific groups with protected characteristics are noted as particularly important and are considered in the Equalities Impact Assessments included with this report.</p> <p>However, the provision of housing is also recognised as having an important role to play in health and well-being, particularly the provision of affordable housing and adaptable/accessible housing units. This is particularly important for those on the waiting list for affordable housing who have been living in overcrowded homes (or who are homeless) during the pandemic. The housing mix has been designed in line with policy requirements to meet local needs for the Nailsea area, including a higher than normal proportion of smaller houses and homes that are designed specifically for those who wish to “downsize”. The homes will be highly energy efficient, which has been shown to benefit health.</p> <p>Loss of open space at this site will not be total. Development proposals have been developed in line with a “landscape led” approach, which maximises the amount of green space to be retained and in some cases improved. This includes the retention of the eastern woodland (0.5ha) and a 10m wide green buffer at the southern boundary. Existing pedestrian routes and the bridleway are to be improved and new routes will be provided, enhancing the access for those with mobility issues (at present, all paths are informal and unsurfaced). With the exception of some birch trees and one Ash tree suffering from dieback, all trees are to be retained.</p>

No.	Summary	Response/commentary
		<p>Overall if built to the current planning application, around 57% of the site will remain as woodland, bridleway or other forms of green infrastructure, with only 12% of the site being taken up by building footprint and the remainder being car parking at 4%, private amenities at 22% and roads at 5%.</p>
B	<p>Ecology impacts and loss of wildlife, richness of flora and fauna on site</p>	<p>The planning application for the Site proposes a landscape-led design with protection and biodiversity enhancement of the public woodland and bridleway corridor. A full Habitat Regulations Assessment was submitted with the planning application and its mitigation adopted in the draft conditions.</p> <p>The ecological features will therefore not be adversely affected by the appropriation and will be protected by planning condition.</p> <p>The proposals will result in a net biodiversity gain, and the Council does not foresee any net loss of quality of ecology or habitat as a result of the appropriation.</p>
Page 09	<p>There is a lack of alternative similar open space nearby, specifically flat open land away from traffic and where dogs are allowed off-lead.</p> <p>Other developments in the area are contributing to an increase in residents, increasing the need for this open space.</p>	<p>As set out under (A) above, the loss of open space at this site is not total and areas will remain open to the public as part of a landscape-led approach.</p> <p>In addition, whilst not wholly comparable in all regards, alternative public open space is available at the following locations:</p> <ul style="list-style-type: none"> • Land off Sedgemoor Close (2ha): approx. 400m to the east along the Bridleway. • Hannah Moore Park (1.1ha), approximately 500m north. <p>Immediately to the east are the Grove Sports recreation grounds, which although privately owned, have public rights of way through. In general, there are good linkages of public rights of ways throughout the area.</p> <p>Land off The Perrings, approx. 1,000m to the east off the bridleway and leading to Backwell Lake is not in public ownership but has recently</p>

No.	Summary	Response/commentary
Page 20		<p>been designated as a “Village Green” and protected as accessible green space.</p> <p>New housing development elsewhere will include green space for public use. This is a requirement of NSC planning policies to ensure that each site provides a sufficient quantity and mix of green spaces to meet the needs of its new residents. The spaces are normally also available for use by non-residents.</p> <p>At the adjacent Youngwood Lane site open space will include two play areas, a Multi-Use Games Area, 8,798sqm of neighbourhood open space, 10,350sqm of woodland, 7,763sqm of orchard and 2,588sqm of allotments, as well as green corridor routes. These provisions are intended primarily to serve the 450 homes within that development, but will also be easily accessible from the Uplands site. The land in question was previously agricultural, meaning that none of it was available to the public. In granting consent for Youngwood Lane, the Planning Inspector commented that:</p> <p><i>“Beyond the rights of way network, there is currently no public access to the appeal site and therefore the opportunity for the local community to use the extensive areas of open space created by the development, is also a benefit, albeit one that is primarily intended to address the needs of the occupants of the appeal scheme itself.”</i></p> <p>New developments (including the Uplands site) will make financial contributions through the Community Infrastructure Levy (CIL), which can be used to enhance existing green spaces or to create new provision.</p>
D.	<p>Proposals are contrary to NSC policies:</p> <ul style="list-style-type: none"> i. Climate change policies / environmental credentials. ii. Green infrastructure policy. iii. Health & well-being. 	<p>(i) Climate change and environmental credentials:</p> <p>Proposals are consistent with the council’s climate change policies. This site is one of the locations identified as a contribution to the council’s Corporate Plan priority action of delivering 500 precision-manufactured energy efficient homes.</p>

No.	Summary	Response/commentary
		<p>Development proposals have sought to minimise impacts on the environment and to set a higher standard for sustainability of development. Features include:</p> <ul style="list-style-type: none"> • All homes to be Passivhaus certified. This is a flagship standard of sustainability which also helps ensures good build quality and low energy bills. • The scheme will not include any provision of domestic gas. • A landscape led approach, with a high proportion of green space. • Electrical vehicle charging for all homes, as well as contributions to fund an electric vehicle car sharing club. • Compliance with planning policies demonstrating ecological mitigations and enhancements. <p>(ii) Green infrastructure strategy:</p> <p>The Council's draft Green Infrastructure Strategy is a high-level strategy document for enhancing and connecting Green Infrastructure across the North Somerset area. It is a plan-level document that is relevant to strategic planning and designations, not to the appropriations process.</p> <p>The strategy is not simply about open space for public use, but also about the habitat and ecology benefits of green infrastructure. The Uplands proposals will deliver overall net biodiversity gain, thereby contributing to the delivery of the strategy.</p> <p>(iii) Health & well-being:</p> <p>Please see response to theme A above. Whilst the loss of green space is generally recognised as having a negative impact on health and well-being, this has to be balanced about the positive health and well-being impacts of the provision of much-needed housing, particularly affordable housing.</p>

No.	Summary	Response/commentary
E.	<p>Planning allocation:</p> <ul style="list-style-type: none"> i. This housing is not needed, in particular given that 450 homes will be delivered on adjacent land; the benefits of the land as open space exceeds the benefits of the housing it will deliver. ii. Housing should be built at more sustainable locations, in particular on brownfield sites. iii. Cumulative housing impacts are eroding the countryside and the strategic gap between Nailsea and Backwell; this site sets a further negative precedent in that regards. 	<p>As set out in the Sites and Allocations Plan (SAP), North Somerset has a housing requirement of 20,985 dwellings to 2026. The land at the Uplands is one of the sites allocated to meet this housing need. The housing number and the development locations/land allocations were subject to extensive analysis, consultation and an Examination in Public, prior to being confirmed by the Secretary of State. The Uplands site is not located in the designated Strategic Gap between Nailsea and Backwell.</p> <p>Subsequent to the Sites and Allocations Plan (SAP), government has established a national methodology for the calculation of housing need, which has set a target for North Somerset at 20,085 from 2023 - 2038.</p> <p>NSC's planning policies prioritise the development of brownfield sites, and the council pro-actively supports such proposals, including through its own investment. The SAP includes allocations for 8,862 homes on brownfield sites, however to date only 897 homes have been delivered since the adoption of the plan. Even if all such sites are built out, this nonetheless leaves around 12,000 homes that must be delivered elsewhere in the 2006 – 2026 period.</p> <p>Planning consents on other sites close to The Uplands have contributed to improving the supply of housing, but the council nonetheless remains unable to demonstrate the requirement of a five-year housing supply to meet the numbers required by the SAP and national assessments of need. In the absence of a five-year supply, a “presumption in favour of sustainable development” applies which means that unallocated sites are more likely to secure planning consent on appeal. This can have significant negative impacts as the council and other partners cannot plan properly for such sites. Such sites are primarily in greenfield locations at the edge of or outside of settlements, as was the case with Youngwood Lane. Therefore if development is not delivered at The Uplands, an alternative location for 50 homes would be required to be identified, which in many cases would have similar impacts and could have potentially fewer benefits.</p>

No.	Summary	Response/commentary
F.	<p>Process issues:</p> <ul style="list-style-type: none"> i. The land was purchased in the 1970s for the purpose of protecting it as public open space. It is the duty of the council to uphold this historic purpose and intent. ii. Oversight/error meant that the land was not properly identified and protected as Local Green Space as part of the Sites & Allocations Plan process. An audit of green infrastructure provision should have been carried out prior to allocation and planning. iii. A planning application in the 1970s was refused; unclear what has changed to allow a different position to be taken. iv. The principle of the council promoting its land for commercial purposes is wrong/immoral. v. The council should not be allowed to judge its own planning applications. 	<ul style="list-style-type: none"> i. It is acknowledged that the original purpose of the land may have been for the purposes described, however there is no covenant on the land binding it for this use in perpetuity. While the Council wishes to avoid the loss of open space wherever possible, the needs and priorities of the area have changed over time. It is envisaged in Section 122 that the purposes for which the Council holds land may change – and the Council has a duty as landowner to manage its assets in a way that best serves the public interests taking into account the evolving needs and resources of the wider local area. ii. Whilst this land was not identified in the list of Local Green Spaces in Nailsea Town Council’s submission to the Local Plan, submissions were made by approximately 30 residents requesting that the site be protected as green space. These submissions were properly recorded and the site allocations process was duly undertaken in accordance with all statutory requirements. After consultation and a public inquiry it was found sound. iii. Previous planning history is not relevant to the issue of appropriation. Each planning application is judged on its own merits according to the policies and priorities applicable at the time. iv. As discussed above, the purposes for which a Council needs to use its assets may change over time. The Council has followed the correct process in the appropriation exercise, and in the planning process. The proposal is in line with the Council’s Assets, Accommodation and Development Strategy adopted in February 2021 with the objectives to: <ul style="list-style-type: none"> • Deliver where the market fails. • Set higher standards and drive the market forward for better quality, more sustainable buildings.

No.	Summary	Response/commentary
		<ul style="list-style-type: none"> • Make the most of our assets and capture value to fund other council pressures and priorities – including reinvestment in the asset programme. • Provide homes, employment and other facilities that meet the needs of our communities – current and future. <p>v. The determination of planning applications is not relevant to the appropriation process, however the council is legally permitted (and expected) to determine its own planning applications and has followed proper process in this regard.</p>
M	Infrastructure impacts of traffic and other planning-based objections.	These are planning matters which have been assessed as part of the planning application process for the housing proposals. They are not relevant to appropriation.

**North Somerset Council
Equality Impact Assessment**



Appropriation of land at The Uplands, Nailsea

1. The Proposal

Directorate:	Place
Service area:	Development
Lead Officer:	Jenny Ford
Links to a budget reduction proposal:	No
Date of assessment:	21 June 2021

Description of the proposal:

Proposal under this appropriation is to change the designated use of the land south of The Uplands, Nailsea, from open space to a residential development site.

Nothing will change until development commences on site. A separate EIA will be required for that decision.

Summary of changes:

Listed legal purpose for which the land is held will be changed.

2. Customer equality impact summary

Will the proposal have a disproportionate impact on any of these groups?

Insert X into one box per row, for impact level and type.

H = High, M = Medium, L = Low, N = None

+ = Positive, = = Neutral, - = Negative

Impact Level	Impact type						
	H	M	L	N	+	=	-
Disabled people				X		=	
People from different ethnic groups				X		=	
Men or women (including those who are pregnant or on maternity leave)				X		=	
Lesbian, gay or bisexual people				X		=	
People on a low income				X		=	
People in particular age groups				X		=	
People in particular faith groups				X		=	
People who are married or in a civil partnership				X		=	
Transgender people				X		=	
Other specific impacts, for example: carers, parents, impact on health and wellbeing, Armed Forces Community etc. Please specify:				X		=	

3. Explanation of customer impact

Please describe the reasons for the impact level in the table above.

No impact will occur as a result of this proposal

4. Staff equality impact summary

Are there any staffing implications for this proposal? No

Explanation of staff impact

If yes, please describe the nature of the impact, including how many posts could be affected.

Please state whether they are vacant, or filled permanently or temporarily: N/a

5. Consolidation savings

Please complete for medium or high impact areas

Does this budget saving include many service areas/savings/projects?

If so, please identify the areas included in this proposal that could potentially have a medium or high impact for equality groups

Service area	Value of saving
N/a	
	Total

6. Review and sign off

Service Manager Review

Insert any service manager comments here: None

Is a further detailed equality impact assessment needed? No (not for this purpose)

If 'yes', when will the further assessment be completed? N/a

Service Manager: Alex Hearn, Assistant Director, Placemaking & Growth

Date: 22 June 2021

APPENDIX C2 – EQUALITY IMPACT ASSESSMENT FOR DEVELOPMENT PROPOSAL

North Somerset Council

Initial Equality Impact Assessment for proposed residential development on land to the south of The Uplands, Nailsea



1. Proposal

Directorate: Place

Service area: Development Team

Lead Officer: Jenny Ford, Head of Development

Links to a budget reduction proposal: No

Date of assessment: 21 June 2021

Description of the proposal:

Proposed development of 52 homes on land owned by NSC to the south of The Uplands, Nailsea.

2. Summary of changes:

- Delivery of 52 high-quality, Passivhaus certified homes.
- 30% of homes to be affordable.
- 30% of all homes to meet M4(2) building regulations as “accessible and adaptable buildings.” 53% of affordable homes to meet M4(3) standards which means they are fully accessible for wheelchair users.
- Landscaping of site including new footpaths.
- Loss of informal open space as a result of development.
- Impact of development on surrounding areas, e.g. loss of amenity, increased traffic.

3. Customer equality impact summary

Will the proposal have a disproportionate impact on any of these groups?

Insert X into one box per row, for impact level and type.

H = High, M = Medium, L = Low, N = None

+ = Positive, = = Neutral, - = Negative

Impact level

Impact type

	H	M	L	N	+	=	-
Disabled people		X			Yes		Yes
People from different ethnic groups			X				Yes
Men or women (including those who are pregnant or on maternity leave)			X			Yes	
Lesbian, gay or bisexual people			X				Yes
People on a low income	X				Yes		
People in particular age groups		X			Yes		Yes
People in particular faith groups				X			
People who are married or in a civil partnership				X			
Transgender people			X				
Other specific impacts, for example: carers, parents, impact on health and wellbeing, Armed Forces Community etc. Please specify: Parents Carers Young people Armed Forces Health & wellbeing Community Homelessness/rough sleepers					Yes		Yes

4. Explanation of customer impact

a) Negative impacts:

Change and reduction in open space could have negative impacts for those who benefit physically and mentally from the use of such space. Particular impacts identified are:

- i. Disabilities: open space has positive benefits for many people with disabilities, in particular those suffering from mental health issues. Development proposals could also add to mental health stress and anxiety for some people.
- ii. Several of the groups identified as suffering potential negative effects above are because those people in those groups are known to have a higher prevalence of mental health issues than in other population groups. As with (i), this means that there could be negative impacts as a result of the development. The government's JSNA mental health kit identifies the following groups as at high risk of mental health problems (see <https://www.gov.uk/government/publications/better-mental-health-jsna-toolkit/3-understanding-people>):
 - Black and minority ethnic groups (BAME).
 - People living with physical disabilities.
 - People living with learning difficulties.
 - People with alcohol and/or drug dependence.
 - Prison population, offenders and victims of crime.
 - People who are lesbian, gay, bisexual or transgender.
 - Carers.
 - People living with sensory impairments.
 - Homeless people.
 - Refugees, asylum seekers and stateless persons.
- iii. People in particular age groups: the population of the surrounding area has a demographic with a relatively high proportion of older people. Consultation responses suggest that many enjoy the use of the open space and the peace and quiet it offers. These groups would experience a negative impact through the loss of space.
- iv. Those who are pregnant, on maternity leave, parents, carers, and young people are also thought to be frequent users of the space who may experience a negative impact if it is lost.
- v. In general, the open space offers health and wellbeing benefits and offers opportunity for positive community activity.

b) Positive impacts

The proposed change of use to development and the associated development proposals offer a number of benefits of relevance:

- The provision of 30% affordable housing, which will be available to those on a low income as well as those with specific needs including homelessness and rough sleepers.
- 30% of all homes will meet M4(2) building regulations as "Accessible and adaptable buildings". This exceeds the planning policy requirement of 17%. 53% of affordable homes will meet M4(3) standards which means they are fully suitable for wheelchair users. This exceeds the planning policy requirement of 10%. The availability of these homes offers significant benefits for people with disabilities and for older people who want to be able to move into an adaptable property.

- New and improved pedestrian routes through the site will be suitable for people with disabilities and other mobility issues, increasing their access to the site and the adjacent bridleway.
- A number of the homes have been designed to be suitable for ‘downsizing’, targeted at older people who may wish to stay in the area but who lack a suitable range of choice of properties.
- The housing mix is in line with local need as specified in the Local Plan. This includes a higher than normal proportion of smaller, two-bedroom homes which may be of benefit to younger people seeking to access the housing market.
- Other aspects of the proposals offer benefits for health & wellbeing and community:
 - Homes are proposed to meet Passivhaus standards which will lead to low energy bills, which are of benefit to those on low incomes. Good insulation of homes also brings health benefits.
 - Homes will exceed National Described Space Standards by a minimum of 10%.
 - The proposal is “landscape led” with a relatively high proportion of green space including communal gardens for some properties.

5. Staff equality impact summary

Are there any staffing implications for this proposal? No

Explanation of staff impact: None expected.

6. Consolidation savings

Please complete for medium or high impact areas

Does this budget saving include many service areas/savings/projects? No

If so, please identify the areas included in this proposal that could potentially have a medium or high impact for equality groups.

Service area	Value of saving
N/a	
	Total

7. Review and sign-off

Service Manager review

Insert any service manager comments here:

N/a

Is a further detailed equality impact assessment needed? Yes

If 'yes', when will the further assessment be completed? Award of contract

Service Manager: Alex Hearn, Assistant Director, Placemaking & Growth

Date: 22 June 2021

Executive Member decision on appropriation of open space to planning purposes: Land South of The Uplands, Nailsea

REVIEW OF RESPONSES RECEIVED AFTER PUBLICATION OF DECISION NOTICE (9th – 15th July 2021)

Ref	Issue	NSC response
1	Request delay in signing for a week i.e. the 22nd as the local Ward Members and the Town Council have reservations with this document and need more time to respond to it.	<p>The appropriation process has been followed in line with statutory requirements.</p> <p>A submission from the Town Council was received in response to the consultation on the appropriation held from 14th April – 5th May 2021. The comments were reviewed and considered accordingly.</p> <p>Local ward members are able to request that members of the PCOM Scrutiny Panel call in the decision for further examination, if they feel that the issues have not been fully and properly considered.</p>

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