

DECISION-MAKER:	PLANNING AND RIGHTS OF WAY PANEL
SUBJECT:	CERTIFICATE OF APPROPRIATE ALTERNATIVE DEVELOPMENT FOR THE FORMER CIVIL SERVICE SPORTS GROUND (FREEMANTLE WARD)
DATE OF DECISION:	18 JANUARY 2011
REPORT OF:	PLANNING AND DEVELOPMENT MANAGER
STATEMENT OF CONFIDENTIALITY	
N/A	

BRIEF SUMMARY

An application for a Certificate of Appropriate Alternative Development (CAAD) under S.17 of the Land and Compensation Act 1961 has been made by the Council's Children's Services and Learning Directorate (ref: 10/01585/FUL).

This report requires the Planning and Rights of Way Panel to determine an application for a CAAD for land at the former civil service sports ground at Malmesbury Road. As background to this application the City Council as Education authority is seeking to acquire the land from Stonechat Development Ltd and Bovis Homes Ltd, both of whom have an interest in the land.

RECOMMENDATION(S):

- (i) That authority be given to the Planning and Development Manager to issue the S.17 Certificate (attached to this report at **Appendix 1**) confirming that if the land subject of the application for a Certificate of Appropriate Alternative Development were not proposed to be acquired by an authority possessing compulsory purchase powers, planning permission would have been granted for:
- (a) D1c (non residential institutional for the provision of outdoor sports associated with education); and/or
 - (b) D2e (assembly and leisure for outdoor sports)
- and not for any other use - including C3 (residential) in full or in part - for the reasons given in this report and set out at in the attached Certificate.

REASONS FOR REPORT RECOMMENDATIONS

- 1 An application for a CAAD is not a planning application. The purpose of the CAAD procedure is to provide valuers, and the Lands Tribunal, with guidance on the fair market value of land being acquired by an authority with compulsory purchase powers.
- 2 The role of the Local Planning Authority (LPA) in this matter is to consider any land use for which planning permission would have been granted *"in respect of the land in question, if it were not proposed to be acquired by an authority possessing compulsory purchase powers"*.
- 3 In this case the applicant (the City Council) has stated that in its opinion only the land uses specified above would be appropriate on the land in the absence of any scheme.

- 4 In this instance, the site is directly affected by the recent permission for its change of use from private open space (class D2) to school playing fields (class D1) which was approved by the Planning and Rights of Way Panel on 16th March 2010, with planning permission issued on 24th March (LPA ref: 10/00105/R3CFL). This decision is material to the application for a CAAD.

DETAIL (Including consultation carried out)

Site and Context

- 5 The application site forms a 3.43 hectare open, undeveloped, former private sports-ground, purchased from the Civil Service in 2005 by Bovis Homes Ltd which, save for a small portion in the south-eastern part of the site, has remained largely unused since that time.
- 6 The site boundaries are partly marked by mature trees, some of which are protected by a Tree Preservation Order. A variety of boundary treatments exist. A narrow private road marks the south-western boundary (going between Stafford Road and Malmesbury Place), beyond which is St Mark's School.
- 7 Whilst a vehicle can enter this from the Stafford Road end, pedestrian access is only possible from the Malmesbury Place end. Both ends are gated and in the control of St Marks School. Vehicular and pedestrian access to the site is currently taken from Malmesbury Place, a cul-de-sac off Malmesbury Road. The former main vehicular access between numbers 43 and 53 Malmesbury Road still exists, but is currently unused and boarded up. The site is otherwise bounded by traditional housing that backs onto the application site.
- 8 The playing field is currently within private ownership and closed to the public with limited licensed use by the neighbouring Primary School (St Marks).

Relevant Planning Policy and Guidance

- i) The Land Compensation Act (1961)
- 9 Applications for a CAAD are covered by Part III of the Land Compensation Act (1961) and the Land Compensation Development Order (1974). The relevant national guidance is contained in Circular 06/2004 (Appendix P refers).
- 10 An application for a CAAD is not a planning application, although the planning merits of a suggested land use are to be considered. The classes of development indicated in a certificate can briefly be described as those with which an owner might reasonably have expected to sell their land in the open market if it had not been publicly acquired.
- 11 The main differences between a CAAD and a planning application are that a LPA should consider any alternative land use that planning permission would have been granted *"in respect of the land in question, if it were not proposed to be acquired by an authority possessing compulsory purchase powers"*. S17(7) of the Land Compensation Act (1961) adds that a CAAD may not be refused for a particular class of development solely because it would be contrary to the relevant development plan. Instead, the LPA may take account of broader policies if these imply that the classes of alternative

development suggested by the applicant would not have been acceptable in the “no scheme world”

12 A Compulsory Purchase Order for the land was made on the 30th March 2010 and was subsequently confirmed on 16th August 2010. The Order became operative 6 weeks following this date.

13 **For the purposes of this report the 30th March 2010 is taken as the “effective date” to which the considerations apply.**

14 The LPA should now assess the likelihood of a planning permission being granted on the effective date. Regard should, therefore, be had to any extant planning permissions relating to the site and also to a hypothetical “no-scheme world” where the planning merits of other land uses should also be assessed. This exercise is not restricted to those land uses specified by the applicant in the above description of development.

ii) The Development Plan

15 At the effective date (identified above) the development plan for Southampton comprised the “saved” policies from the adopted City of Southampton Local Plan Review (March 2006) and the adopted Local Development Framework Core Strategy (January 2010) as supported by the South East Plan (also known as the Regional Spatial Strategy for the South East) (May 2009). This is still the case.

16 The determination of a CAAD application is not simply a question of considering the adopted development plan, as other material considerations apply. An assessment of other land uses (not included within the application) is also required to satisfy the requirements of the Land Compensation Act (1961), and any material considerations that might outweigh the development plan need to be identified and addressed. That said, the relevant planning policies to be considered in this case are scheduled in **Appendix 2** to this report. The Council’s normal considerations in terms of context, access and residential amenity also apply.

17 The application site is designated on the Proposals Map of the adopted (“saved”) City of Southampton Local Plan Review (March 2006) as Protected Open Space (notwithstanding its current private ownership). Policy CLT3 states that “*development will not be permitted which would result in the loss of the areas of public and private open space listed in Appendix 5 of the Local Plan Review*”. The former sports ground is one of the sites identified. This policy is, therefore, one for broader application with a function beyond the site itself, and is protective of both public and private Open Space within the City. This policy, as supported by the adopted Core Strategy, is pivotal to the above recommendation.

18 Policy CS21 from the adopted LDF Core Strategy (2010) strengthens that approach by stating that “the Council will retain the quantity and improve the quality and accessibility of the City’s diverse and multi – functional open spaces and help deliver new open space both within and beyond the City to meet the needs of all age groups through:-

- Protecting and enhancing key open spaces including Southampton Common, central, district and local parks;
- Replacing or reconfiguring other open spaces in order to achieve wider

community benefits such as improving the quality of open space, or providing a more even distribution across the City

- Safeguarding and, when opportunities arise, extending the green grid; Seeking developer contributions to provide high quality, accessible open spaces.”

19 The Core Strategy Inspector took the view that the Council needs to address the current shortfall in various types of open space by helping to deliver new open space, and safeguard against the net loss of public open space through redevelopment. The Inspector’s report gives very clear direction that, with respect to the provision of open space, the Council should be safeguarding existing provision and achieving more (paragraph 4.143 refers).

20 Policy CS4 (Housing Delivery) from the adopted Core Strategy indicates that 16,300 additional homes will be provided over the plan period (to 2026), with 5,750 homes to be provided on allocated and identified sites between April 2009 and March 2014. The figures demonstrate that the City has a housing supply from identified sites sufficient to meet requirements until and beyond 2018/19, without reliance on windfall and/or greenfield sites.

21 At the time of writing the current South-East Plan recognises the need to improve green infrastructure, education and skills to strengthen the region’s health and economy (in particular Policy CC8 refers).

iii) National Planning Guidance

PPS1 Delivering Sustainable Development (2005)

22 PPS1 (2005) sets out the overarching planning guidance on the delivery of sustainable development through the planning system. It advocates sustainable design and states that a proposal that is inappropriate in its context or that fails to take the opportunities available for improving the character and quality of an area should not be accepted (paragraph 34 refers). It also confirms that new development should be integrated into the existing urban form and the natural and built environments to which it will relate. Good planning results in the right development, in the right location at the right time.

PPS3 Housing (2006) as now superseded

23 In response to the landowners submission that the site could, in principle, be suitable for residential use the Government’s guidance in relation to housing becomes relevant. At the effective date of March 2010 the now superseded 2006 version of PPS3 (Housing) would have been relevant. It’s guidance in relation to previously developed land, and the character of the area, is a relevant consideration in this case.

24 Previously developed land is defined by PPS3 (2006) as land “which is or was occupied by a permanent structure, including the curtilage of the developed land and any associated fixed surface infrastructure. The definition includes defence buildings, but excludes:

- a) Land that is or has been occupied by agricultural or forestry buildings.
- b) Land that has been developed for minerals extraction or waste disposal by landfill purposes where provision for restoration has been made through development control procedures.

- c) **Land in built-up areas such as parks, recreation grounds and allotments, which, although it may feature paths, pavilions and other buildings, has not been previously developed.**
- d) Land that was previously-developed but where the remains of the permanent structure or fixed surface structure have blended into the landscape in the process of time (to the extent that it can reasonably be considered as part of the natural surroundings).

There is no presumption that land that is previously-developed is necessarily suitable for housing development nor that the whole of the curtilage should be developed.”

- 25 On this basis of c) above the application site is not considered to be previously developed as defined by the 2006 guidance.
- 26 PPS3 states that the priority for development should be PDL (Paragraph 36 refers). It explains that the planning system should provide “a flexible, responsive supply of land that is managed in a way that makes efficient and effective use of land, including re-use of previously-developed land, where appropriate” (Paragraph 10 refers). The national annual target that “at least 60 per cent of new housing should be provided on previously developed land” is applicable, suggesting that residential development can still take place on other land subject to the local circumstances of each site involved. However, PPS3 (2006) also states that design which is inappropriate in its context, or which fails to take the opportunities available for improving the character and quality of an area and the way it functions, should not be accepted (Paragraph 13 refers). Further details of how to assess design quality are provided at paragraph 16 of PPS3.

PPG17 – Planning for Open Space, Sport & Recreation (2002)

- 27 PPG17 explains the role that easily accessible open space, sport and recreation have in delivering the Government’s broader objectives of supporting an urban renaissance, promoting social inclusion and community cohesion, health and well being and promoting more sustainable forms of development. It explains that underpinning the success of an open space strategy is a strong evidence base.
- 28 “Assessments and audits will allow local authorities to identify specific needs and quantitative or qualitative deficits or surpluses of open space, sports and recreational facilities in their areas. They form the starting point for establishing an effective strategy for open space, sport and recreation at the local level (tied into the local authority's Community Strategy), and for effective planning through the development of appropriate policies in plans” (paragraph 4 refers).
- 29 PPG17 advises that “existing open space, sports and recreational buildings and land should not be built on unless an assessment has been undertaken which has clearly shown the open space or the buildings and land to be surplus to requirements” (paragraph 10 refers).
- 30 The annex to PPG17 refers to the definition of Open Space from the Town and Country Planning Act 1990 as “land laid out as a public garden, or used for the purposes of public recreation...”. That said, the paragraph continues by adding that “in applying the policies in this guidance, open space should

be taken to mean all open space of public value... which offer important opportunities for sport and recreation and can also act as a visual amenity". The annex confirms that all land in either public or private ownership is relevant (paragraph 2 of the annex refers), and that even without public access "people enjoy having open space near to them to provide an outlook, variety in the urban scene, or as a positive element in the landscape" (paragraph 3 of the annex refers).

Consultation paper on a new Planning Policy Statement: Planning for a Natural and Healthy Environment (9th March 2010)

- 31 This consultation draft would have been a material consideration at the effective compulsory purchase date. It states that open space "plays a vital role in promoting healthy living and in the social development of children through play, sporting activities and interaction with others".
- 32 Policy NE5 adds that, "LPAs should provide sufficient high quality, multifunctional open space, sports and recreational facilities, and space suitable for play to meet the needs of local communities. This should take account of the differing needs of those living, working in and visiting the area. This includes areas of open space that provide a community resource and can be used for informal or formal events such as religious and cultural festivals, agricultural shows and travelling fairs. Local planning authorities should also identify priorities for protection, investment, rationalisation and reallocation for different types of open space, and sport, recreation and play facilities".
- 33 The Policy also explains that, "where deficiencies in open space, or land and facilities for sport, recreation and play have been identified, LPAs should identify opportunities to enhance existing areas or facilities, or to create new ones".
- 34 Finally, "LPAs should identify opportunities for the co-location of facilities, so that different types of open space and land and facilities for sport and recreation, can be located next to each other and also in proximity to other community facilities for education and health".
- 35 Policy NE9 explains that planning permission should be refused for proposals which would result in the loss of existing areas of open space or land and buildings used for sport, recreation or play, unless the assessment of open space (NE1.3) has clearly shown that the land or buildings are surplus to requirements or there are wider public benefits from the development which outweigh the harm. For open space to be considered 'surplus to requirements', consideration should be given to all the functions that the open space can perform".
- iv) Other material considerations
- 36 The Land Registry title contains notice of restrictive covenants and rights reserved over two small sections of the playing field, dating back to 1901. The restrictive covenants do not affect the proposed use of the land as open space. In planning terms this covenant should be afforded little weight.
- 37 The LPA is also required to have regard to reasonably foreseeable policies when determining an application for a CAAD. At the effective date there

were no relevant emerging planning policies or guidance that would affect the determination of this application, and only after the election on 6th May 2010 did the Government's definition of previously developed land change. This later amendment does not affect the definition as applied to recreation grounds.

Relevant Planning History

- 38 The site was previously used by the Civil Service as a private sports club with access taken from Malmesbury Road. Two ancillary buildings were erected and extended before their demolition between 1999 and 2004. An area of hardstanding, and its vehicular access exists, but are currently unused.
- 39 A planning application for housing development was refused in 1964 due to the site's designation within the development plan for open space and playing field uses.
- 40 Permission was granted on 24th March 2010 for a change of use from private open space (class D2) to school playing fields (class D1) (LPA ref: 10/00105/R3CFL refers).

Publicity and Consultation

- 41 Following the receipt of the application a publicity exercise, in line with department procedures, was undertaken which included notifying adjoining and nearby landowners. The applicants have also notified the landowner in accordance with the relevant Regulations.
- 42 At the time of writing the report **11** representations have been received from affected landowners and surrounding residents, including a response from Alan Whitehead MP, Jeremy Moulton (Ward Cllr) and the Headteacher of St Mark's Church of England Primary School.
- Any additional comments will be reported verbally at the Panel meeting.

The Applicant's Case

- 43 The Council's Children's Services and Learning Directorate is the applicant in this instance and, on behalf of the Council, has sought to acquire the land since 2007. Their application for a CAAD confirms that the Council seeks to acquire the application site for the uses listed above so as to support the outdoor recreational needs of children attending the neighbouring St Mark's CE Junior School (and other local schools including Banister School) and the wider community.
- 44 The Council has undertaken a review of Primary School places, in view of a change in the area's demographics, and has concluded that there is a significant shortage of playing fields at the local schools where pupil numbers are projected to continue to rise in future years (and, particularly in the Freemantle Ward). The acquisition of this site is reported to provide much-needed facilities for school sports, after school and school holiday activities for children and young people as well as providing managed community sports use. Low-key ancillary buildings are also proposed to support these uses.

The Landowner's Case

45 The current landowners have suggested that the site could, in principle, be acceptable in planning terms for residential use (either in part – utilising the previous car park - or fully).

46 As the site is privately owned, with no public right of use, the land is currently unavailable for the intended use. A full copy of the response to this CAAD application from Stonechat Development Ltd and Bovis Homes Ltd (as parties with a legal interest in the land) is appended to this report at **Appendices 3/4.**

Other “Third Party” Representations Received Include:

- 47
- The protection of the open space is supported as the area is deficient
 - Restrictive covenants prevent housing
 - The local area cannot take additional traffic and congestion
 - Only the “brownfield” part of the site should be considered for redevelopment
 - The site has a biodiversity value

Consultation Responses

48 SCC Planning Policy –

The former Civil Service Sports Ground is listed as open space in appendix 5 of the Local Plan Review. This list was originally protected under Local Plan Review policy CLT3. Following the adoption of the Core Strategy, appendix 5 was saved and these open spaces are now protected under policy CS21. In accordance with CS21, the Council will retain the quantity of open space in the City and will protect and enhance key open spaces. The Council will also improve the quality and accessibility of open spaces and to help deliver new open space within and beyond the City.

Policy CS21 was informed by the Open Space Audit (2006) produced in accordance with national planning guidance in PPG 17. The audit identified an overall deficiency of most types of open space in Southampton including outdoor sports facilities. The Civil Service Sports Ground is in Freemantle, a built up area located within the central area. The central area has the smallest amount of outdoor sports facilities in the City. It is deficient in all categories of open space except Formal Parks and Gardens (as the Central Parks are located in this area). There is not the opportunity therefore to reconfigure and convert other open spaces to address this deficiency.

PPG 17 specifically includes privately owned outdoor sporting facilities in its typology of open space. Paragraph 10 states that ‘existing open space, sports and recreational buildings and land should not be built on unless an assessment has been undertaken which has clearly shown the open space or the buildings and land to be surplus to requirements’. In addition paragraph 24 states that local authorities should consider procuring ‘public use of privately owned areas of land or sports facilities’. There is also strong advice from government to resist the redevelopment of playing fields.

Southampton's overall approach to open space was tested at the Core Strategy examination in July 2009. During this examination, the Inspector recognised the importance of open space in the City. He strengthened the protection given to existing open spaces with the requirement that the Council 'will', as opposed to 'will seek to', retain the quantity of open space.

The site is not allocated for residential uses in the Local Plan Review. It was considered and rejected in the SHLAA (Strategic Housing Land Availability Assessment) which was completed in March 2009. The SHLAA identified sites potentially suitable for housing and was examined and accepted as part of the evidence base for the Core Strategy. Although it does not allocate housing sites, it demonstrated that the City has the potential to identify sufficient sites in future plans to deliver a 5, 10 and 15 year supply of homes as required by PPS 3.

The SHLAA is in the process of being reviewed. Although annual completions have fallen since the initial assessment was undertaken, draft figures show that the City continues to have a 5 year supply. This is partly due to high levels of completions in the past few years in Southampton. However, a number of large sites have planning permission and are expected to go ahead in the next 5 years when economic conditions improve. In addition, windfall sites are not included in estimates of the 5 and 10 year housing supply but continue to be the source of the majority of completions in the City.

In conclusion, the site is allocated as open space in an area with a low level of provision of outdoor sports facilities and a deficiency in all types of open space. Southampton's approach to protecting existing areas of open space has been recently considered and was strengthened at the Core Strategy examination (July 2009). In addition, the site is not needed for residential use as the Council has demonstrated through the SHLAA that there are sufficient potential housing sites to meet the City's targets.

49 **SCC Trees, Allotments and Parks Improvement Manager** - The Green Space Strategy (2008) sets out some standards for parks, one of which is a 200m – 400m walking distance from a local park (that being the distance that most people can walk in 5 minutes). When this is applied to Council owned publicly accessible space across the City it can be demonstrated that this area of Southampton is deficient in this type of green space. The Playing Pitch Assessment shows that this area has very limited sports pitch provision and is an area of high density population. It notes the Civil Service Sports Ground as a potential specific site for development for sport. It places Freemantle Ward in the Central Area and identifies only 2 community accessible football pitches and 2 community accessible cricket pitches for the whole area. This shows that there is also a deficiency of this type of open space in this area.

50 **SCC Senior Tree Officer** - The trees on this site are protected by the Southampton (Civil Service Sports Ground, Shirley) TPO 2000. This makes them a material consideration in the planning process. Any proposals should consider the retention of important amenity trees in accordance with BS 5837.

- 51 **SCC Ecologist** - Due to problems gaining access the application site has not undergone any ecological assessment. The 2008 aerial photographs show a range of trees, scrub and managed and unmanaged grassland areas which have the potential to support protected species. In particular, the visual difference in the grassland areas suggests that the unmanaged grassland areas may have the correct structure to support slow worm. This species receives protection under the Wildlife and Countryside Act 1981 (as amended). The site also supports a number of trees and scrub which provide potential foraging and nesting habitat for bats and common birds. Before any development takes place ecological surveys should be undertaken. The proposed continued use of the site for outdoor sports provides scope to retain biodiversity interest around the margins. This could be developed into a circular route to provide opportunities for informal recreation. The close proximity of the school would also enable this area to be used as a teaching resource. Alternative uses that result in built development covering the majority of the site would lead to a reduction in the biodiversity value. This would occur as a consequence of habitat loss and an increase in levels of light, noise and physical disturbance.
- 52 **SCC Highways** – No objections raised as there is an existing access
- 53 **SCC Rights of Way** - In his Decision Report (2009) into the alleged public right of way between Malmesbury Place and Stafford Road the Inspector did not confirm the Order. The status of the route, therefore, is that of a permitted footpath under the jurisdiction of the land owner and lessee. As there are no public rights over any part of the site, other than those afforded by the public highways previously mentioned, and that the footpath that links them is a permitted path, the rights of way section has no comment.
- 54 **SCC Archaeology** - No objection, in principle, to the development of the site due to its size and location. A Heritage Statement should be submitted that assesses the archaeological potential of the site in light of any development proposals. In addition, it is apparent from the Historic Map that the immediate area suffered significant bomb damage during WWII. There are at least 18 known bomb impact sites on the roads surrounding the site, and many more in the wider area. Consequently, it is also recommended that an Unexploded Ordnance Survey be carried on the site in advance of any development.
- 55 **Sport England** – The formal response from Sport England is appended to this report at **Appendix 5**.

Key Issues

- 56 Circular 06/2004 (Appendix P) explains that there are three main issues to consider in reaching a decision for a CAAD application. These should be assessed at the effective date and are identified as:
- The physical considerations;
 - The current and foreseeable planning policies; and
 - Identifying and disregarding the planning consequences of the acquisition scheme and the underlying public purpose for it.
- These are addressed below in consideration of the planning merits.

Planning Considerations

- 57 In terms of the key issues identified above, the success of the Certificate depends on the suitability of the proposed uses (by both the applicant and the landowner) in planning terms. In reaching its decision the LPA is also required to have regard to any reasonably foreseeable policies and the likely need.
- 58 In urban areas such as Southampton all sites (apart from those covered by specific designations) are considered, in principle, suitable for residential development. This means that unless the site is designated or protected for another use, i.e. open space, employment, operational port land then it is likely to be suitable for housing.
- 59 The former Civil Service Sports Ground is designated as open space, and has been certainly since 1964 when an application for residential development was refused (LPA ref: 6489/1275/P3). Furthermore, the land is not regarded to be previously developed land as defined by PPS3 (2006 or 2010).
- 60 The principles set out in PPG17, the adopted South East Plan (Policy CC8), and the recent Consultation Paper on new PPS "Planning for a Natural and Healthy Environment" take a specific approach to safeguarding open space. The current national and local planning policy framework, as set out above, suggest that development proposals should avoid any erosion of recreational function and maintain or enhance the character of open spaces.
- 61 The Council undertook an audit of its Open Spaces in 2007 as part of the requirements under PPG17, and this identified an overall under provision of open space in the City (with the exception of allotments). The Council's subsequent Green Spaces Strategy was adopted by Cabinet in October 2008, and forms part of the evidence base to the Core Strategy. There is a clear need for open space across the City, including the Freemantle Ward where a deficiency has also been identified.
- 62 Policy CS21 of the adopted Core Strategy (as revised and strengthened by the Inspector in relation to loss of open space) makes it clear that the Council is committed to retaining the quantity and improving the quality of open space on an overall basis (paragraph 4.143 refers).
- 63 The Inspector took the view that the Council needs to address the current shortfall in various types of open space by helping to deliver new open space, and safeguard against the net loss of public open space through redevelopment. This policy was adopted at the effective date of the Order and is considered to hold broader weight as the classes of alternative development suggested by the landowner, in particular, would not have been acceptable in the "no scheme world".
- 64 In terms of the application for a CAAD the site's continued use as open space (class D2) is clearly acceptable. Planning permission was also granted for school playing fields (class D2) prior to the effective date (LPA ref: 10/00105/R3CFL). In a "no scheme world" as the local and national policies remain unaltered it is again likely that D2 uses would have been appropriate for the site. As such, the applicant's case is valid. It is also noted that these uses are not contested by the landowners.

- 65 The Council's recent Strategic Housing Land Availability Assessment provided a clear steer away from development on protected open space. However, in terms of the landowners' challenge to the application the LPA should consider the merits of a residential land use for the site (either in full or in part).
- 66 The Government's PPS3 (2006) explains that the priority for residential development should be previously developed land (Paragraph 36 refers). The national annual target that "at least 60 per cent of new housing should be provided on previously developed land" suggests, however, that residential development can still take place on other land subject to the local circumstances of each site involved. Despite the landowner's statement to the contrary the application site is not regarded as previously developed for the purposes of planning control.
- 67 Furthermore, PPS3 (2006) gives LPAs greater powers to resist greenfield development where there is a demonstrable harm *inter alia* to the character and appearance of an area. The judgement as to whether such proposals are acceptable will need to consider, amongst other factors:
- the loss of open space;
 - the contribution the land currently makes to the character of the area;
 - the impact on the defined character of the area; and,
 - the contribution that the scheme makes to meeting housing need.
- 68 PPS3 (2006) explains that design which is inappropriate in its context, or which fails to take the opportunities available for improving the character and quality of an area and the way it functions, should not be accepted (Paragraph 13 refers). The criteria for assessing design quality are set out at paragraph 16 of the PPS. Whilst no formal design is provided at this stage it is considered that the release of this greenfield site (either in full or in part) in a backland location would harm the character of the area, and reduce the visual amenity and openness currently enjoyed by residents living in property that backs onto the site. Any such proposal may also reduce the future potential for good access to community and green and open amenity and recreational space, and would fail to create or enhance a distinctive character that is currently provided by the open field.
- 69 The assertion by the landowners that part of the site could be developed for housing also fails to satisfy these requirements, as any such development would also result in a backland development that is alien to the frontage pattern of development that defines the local context. Any such development will also impact on the residential amenities of its neighbours and reduce the perceived and actual feeling of openness that such residents currently enjoy (particularly from the upper floors of their homes). PPG17's Annex refers. Whilst a lesser residential scheme may also retain a significant proportion of useable open space, the principle of any housing remains contrary to the development plan and there are no material considerations that outweigh these provisions.
- 70 Furthermore, currently (and at the effective date), the LPA has a robust five year land supply without the need to release greenfield sites for residential development, and especially ones that are currently designated as open

space, and which could provide public access to improve current identified open space deficiencies within this part of the City. The comments of the Council's Planning Policy Officer (as set out above) refer.

- 71 For these reasons, a residential development on the former Civil Service Sports Ground at the present time and within the foreseeable future, would not be supported by local or national planning policy and the CAAD application should be approved (without modification to include a residential land use).

Summary and Conclusions

- 72 On the basis of the characteristics of the site and its surroundings, and the relevant planning framework that was in force at the time that the Compulsory Purchase Order for the land was made; the CAAD application correctly identifies that the only appropriate land use for the former civil service sports ground at Malmesbury Road is for D1c (non residential institutional for the provision of outdoor sports associated with education) and/or D2e (assembly and leisure for outdoor sports) with limited associated development of a single storey.
- 73 It is recommended that a S.17 Certificate should be issued on this basis. There are no other material considerations to suggest otherwise.

RESOURCE IMPLICATIONS

Capital/Revenue

- 74 The likely cost of purchase was reported to Cabinet on 27th July 2009 as confidential. The outcome of the application for a CAAD will affect the true market value of the land. The issue of the costs of the application is for the Council as applicant and not for the Council as LPA. Costs could be incurred in respect of any appeal against the terms of the certificate.

Property/Other

- 75 The issue of the certificate will provide a valuation basis for the acquisition of the Land.

LEGAL IMPLICATIONS

Statutory Power to undertake the proposals in the report:

- 76 Section 17 of the Land and Compensation Act 1961 provides that where an interest in land is proposed to be acquired by an authority possessing compulsory purchase powers, either of the parties directly concerned may, subject to subsection 2 of this section, apply to the LPA for a certificate under this section. The determination of such an application falls within the remit of the Planning and Rights of Way Panel. There is a right of appeal under section 18 of the Act against a certificate to the Secretary of State and such appeals are determined by an inspector appointed by PINS.

Other Legal Implications:

- 77 None

POLICY FRAMEWORK IMPLICATIONS

- 78 As above

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SUPPORTING DOCUMENTATION

Appendices

1.	Certificate of Appropriate Alternative Development for the site
2.	Planning Policy
3.	Response from Landowners
4.	Further Response from Landowners
5.	Sport England comments

Documents In Members' Rooms

1.	None
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Integrated Impact Assessment

Do the implications/subject/recommendations in the report require an Integrated Impact Assessment to be carried out.	No
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Other Background Documents

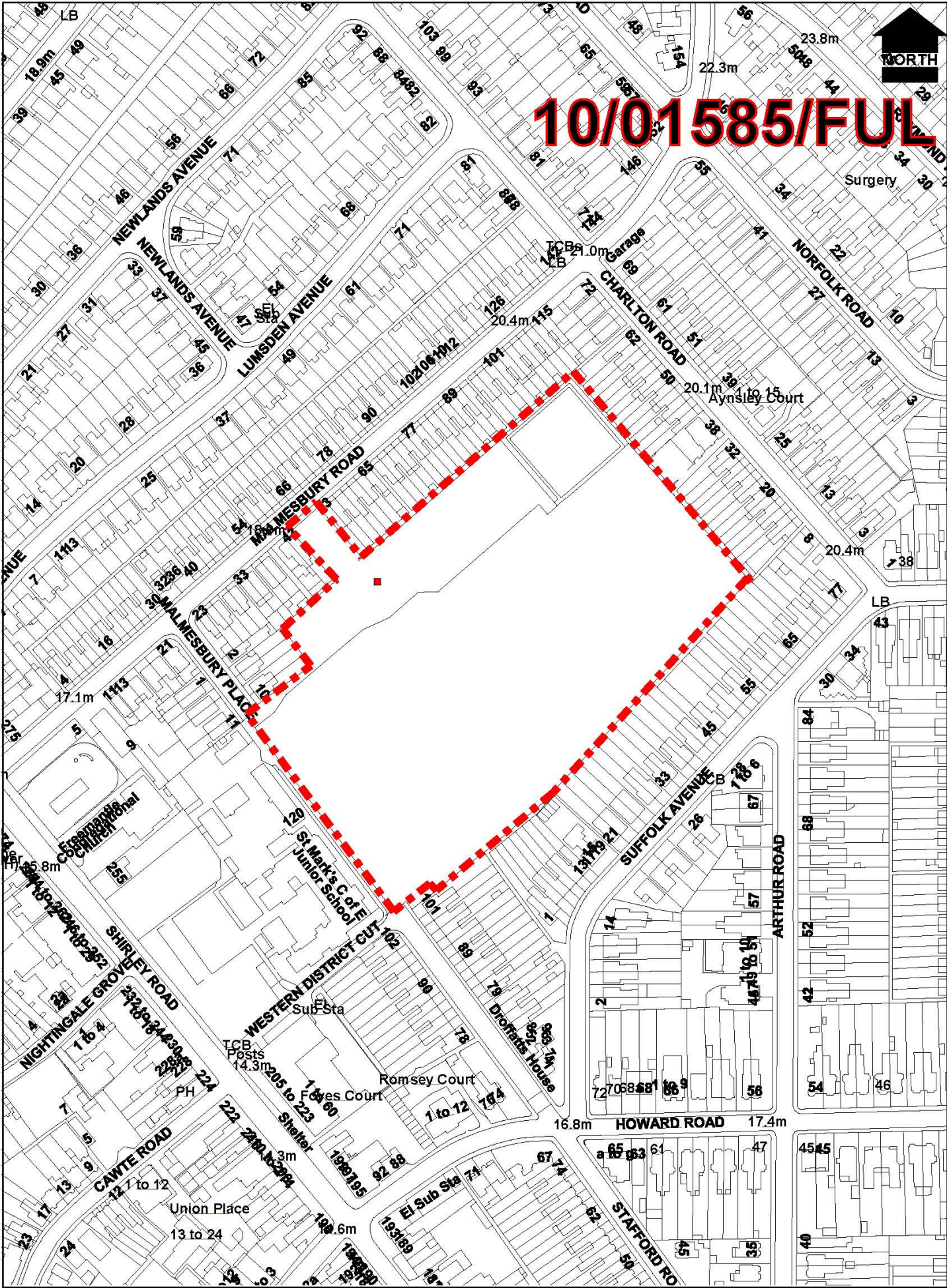
Title of Background Paper(s)

Relevant Paragraph of the Access to Information Procedure Rules / Schedule 12A allowing document to be Exempt/Confidential (if applicable)

1.	S.17 of the Land and Compensation Act 1961	
2.	The Land Compensation Development Order (1974)	
3.	Circular 06/2004 (Appendix P refers)	

Integrated Impact Assessment and Other Background documents available for inspection at: N/A

WARDS/COMMUNITIES AFFECTED:	Freemantle/Shirley/Millbrook/Bargate
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10/01585/FUL

Scale : 1:2500

Date :06 January 2011

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