

## **NORTH SOMERSET COUNCIL DECISION**



**DECISION OF:** EXECUTIVE MEMBER FOR CLIMATE, WASTE AND SUSTAINABILITY

**IN CONSULTATION WITH:** THE ASSISTANT DIRECTOR (PLACEMAKING & GROWTH); THE ASSISTANT DIRECTOR (GOVERNANCE AND MONITORING OFFICER)

**DECISION NO:** 23/24 DP 195

**SUBJECT: APPROPRIATION OF LAND ADJOINING LADYMEAD LANE CHURCHILL FROM AGRICULTURAL TO EDUCATION PURPOSES**

**KEY DECISION:** YES

**REASON:** The decision affects the lives of vulnerable children across the district

### **BACKGROUND:**

#### **The site**

The Site ("Land west of Ladymead Lane, Churchill") is about one hectare in extent and comprises open grazing land. This is shown on the attached plan at Appendix A.

There is an existing Public Right of Way through gates in the north-eastern corner of the Site, this right continues over land to the north of the Site which does not form part of this appropriation.

#### **Issue and proposals**

The Site previously formed part of Churchill Park Farm that was sold to the tenant farmer in March 2011, however the Site was retained by council in order to meet potential future requirements. The Site was leased to the purchaser for grazing purposes until required by council, notice was served to terminate the occupation on 31 March 2022.

The council is working with the Department of Education (DfE) to allow them to develop a Social, Emotional and Mental Health (SEMH) Special Free School for children and young people in need of such facilities on this site.

North Somerset Council has a statutory duty to provide sufficient high quality school spaces for its children and young people, and has particular duties of care for its most vulnerable children, including those with Special Educational Needs (SEND). Demand for provision for pupils with SEND has grown significantly across North Somerset, in part because of new housing which has increased the size of the pupil population and in part because of the changing needs of children and young people. Despite the Council

investing almost £20m within the last two years to create additional places by expanding existing specialist provisions and creating a new school site, the need continues to outstrip supply.

Local schools are full, and demand continues to rise. The specific rise in the need for places for young people with the district requires the establishment of this new school.

The DfE submitted a planning application for the development of the Site to create an SEMH Special School which was registered on 9 January 2023, this application is still to be determined.

It is proposed under the draft Local Plan 2023 to 2038 that the Site be reserved for “Other Education provision”.

### **The Council’s Power to appropriate**

Section 122 (1) of the Local Government Act 1972 (LGA) 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 section 120 LGA 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.

In relation to point (2) above, Section 531(1) of the Education Act 1996, states that “for the removal of doubt, it is declared that making land available for the purposes of a school ..... is a function of the authority within the meaning of section 120 of the Local Government Act 1972.”

In accordance with the statutory procedures, public notices were advertised in the North Somerset Times on 12 and 19 January 2023. The consultation period ran for 20 days for interested parties to submit representations to the Council. The period for submission of representations expired on 1 February 2023. One response was received, which is detailed below.

## **DECISION:**

1. To consider the representations, along with the information contained in this report, received in respect of the intention to appropriate the land to the west of Ladymead Lane Churchill shown edged red on the plan attached at **Appendix A**, to this report (the 'Site').
2. To agree that the Site, which is currently held by the council for agricultural purposes is no longer required to be held for those purposes as it is required to be appropriated for education purposes for a special educational needs school.
3. To authorise the Director of Place to note the appropriation in the council's records.

## **REASONS:**

The council has a statutory duty to ensure that young people living in North Somerset have access to appropriate education. North Somerset does not have its own bespoke Social Emotional and Mental Health (SEMH) school for pupils across the primary and secondary school age range. Many young people travel to appropriate schools outside the district to receive specialist support.

The biggest increases in SEND demand have been for children and young people with Autism and those with SEMH needs. Over 60% of secondary aged children with SEMH are now educated in out of area independent placements, at over double the cost of local schools and with no guarantee of securing the educational outcomes that they are capable of. Each time we send a vulnerable child to a school out of area, we ask the child to make long journeys in both directions each day and spend much more time away from their friends and family than other children:

The council considers that delivery of a SEMH School is in the interests of the wider community, and that, overall, the benefits are significant.

As a proposed allocated site within the draft Local Plan, 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 shortfall in education facilities for young people with disabilities is required in the interests of the council meeting its obligations in this respect.

The loss of this area of agricultural land therefore needs to be weighed against this purpose and considered in the context of the proposed policy framework which will deliver special education facilities in the district.

Only one response to the public notices was received that expressed concern that the Public Right of Way to the north of the Site would be affected by this appropriation. The respondent was advised that this exercise did not affect any existing rights such as that mentioned. A copy of the redacted exchange of emails is available to view on request.

## **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 school proposal are subject to separate reporting in relation to that project.

## **LEGAL POWERS AND IMPLICATIONS**

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

## **CLIMATE CHANGE AND ENVIRONMENTAL IMPLICATIONS**

The legal and administrative process of appropriation has minimal climate change or environmental implications in itself. The Council is committed to becoming carbon neutral by 2030. Reducing the journey lengths for some pupils attending special schools and offering local provision will assist with this commitment

The development of the Site as a SEMH special School will have climate change and environmental implications, if the proposal is delivered, including a potential overall increase in carbon emissions compared to current use. The Environmental impact of the proposed development is being considered with the planning applications submitted, and, as yet, undetermined (Application 22/P/2920/FUL and 23/P/0059/EIA)

## **CONSULTATION**

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

## **RISK MANAGEMENT**

The appropriation process itself is a legal/administrative process and carries minimal other risks. The key risk to the council is that if the appropriation is not approved there would be implication to council for the provision of SMH Special School provision in the district

Risks relating to the school 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 B.

## **CORPORATE IMPLICATIONS**

The Corporate Plan 2020-24 has a vision for openness, fairness and a green environment. In terms of the priority of a council which empowers and cares about people, this proposal seeks to priorities of:

- A commitment to protect the most vulnerable people of our communities.
- An approach which enable young people and adults to lead independent and fulfilling lives.
- A focus on taking inequalities, improving outcomes.
- A collaborative way of working with partners and families to support children achieve their full potential.
- Partnerships which enhance skills, learning and employment opportunities.

## **APPENDICES**

Appendix A: Plan of the Site


Appendix B: Equality Impact Statement

## **BACKGROUND PAPERS**

S151 Officer decision, CSD 015 2020-21, "Establishment of a Special Free School in Churchill", dated 13 July 2020

## **SIGNATORIES:**

DECISION MAKER:

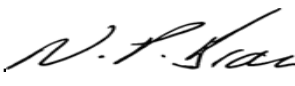
Signed:  Executive Member for Climate, Waste and Sustainability

Date: 12 September 2023

WITH ADVICE FROM:

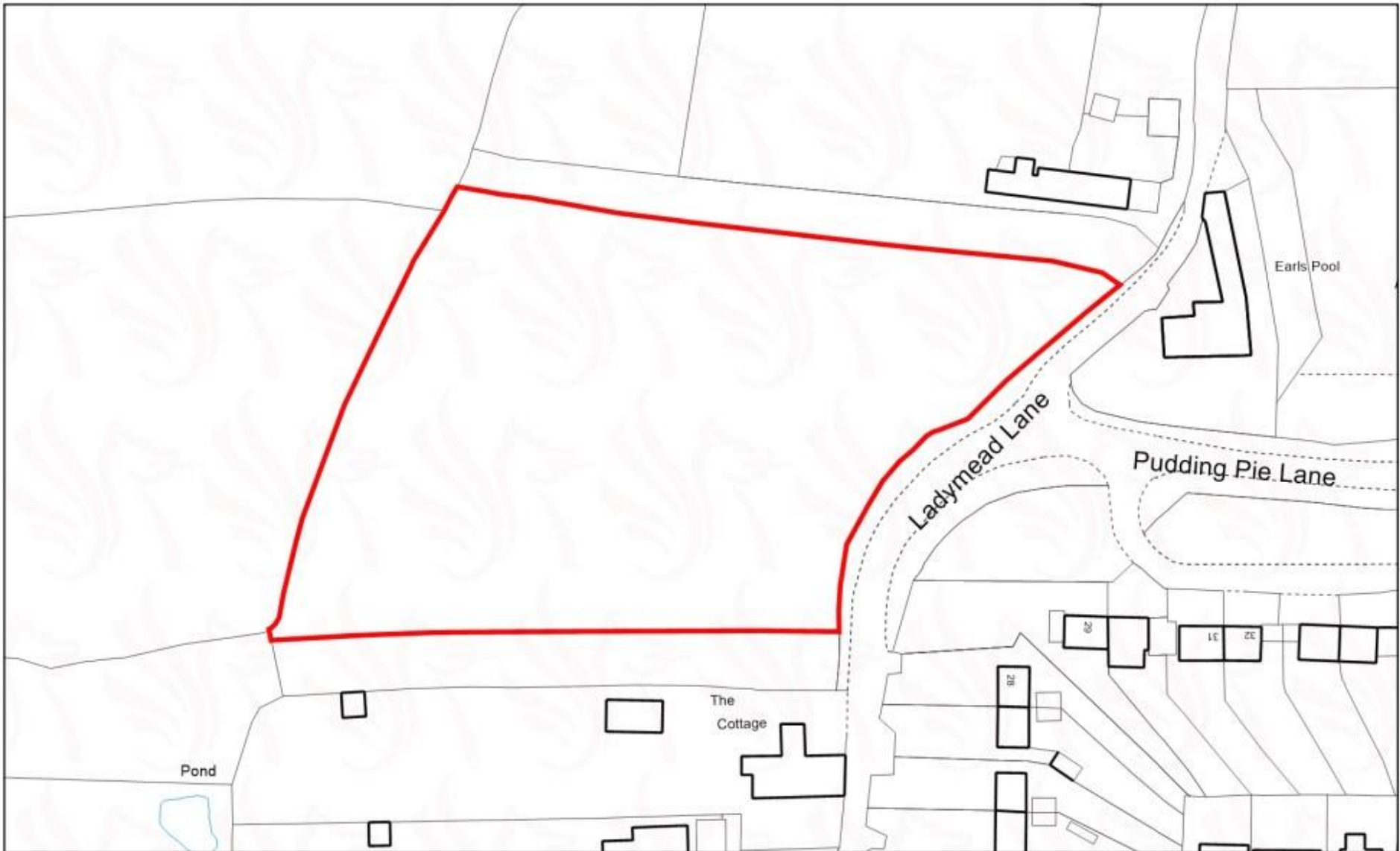
Signed:  Assistant Director, Placemaking & Growth

Date: 12 September 2023

Signed:  Assistant Director (Legal & Governance  
and Monitoring Officer)

Date: 12 September 2023





### Land west of Ladymeard Lane, Churchill - APPENDIX A

Scale: 1:1000

Date: 03 February 2023



© Crown copyright and database rights 2023 Ordnance Survey 100023397. You are permitted to use this data solely to enable you to respond to, or interact with, the organisation that provided you with the data. You are not permitted to copy, sub-licence, distribute or sell any of this data to third parties in any form. © Aerial Photography 2009, 2014 and 2017 Imagery copyright Getmapping PLC. www.getmapping.com. © and database right "Crown Copyright and Landmark Information Group Ltd" (All rights reserved (2023)). © Getmapping Plc and Bluesky International Limited (2023).





**APPENDIX B – EQUALITY IMPACT ASSESSMENT FOR APPROPRIATION  
DECISION**

**North Somerset Council Equality Impact  
Assessment**



**Appropriation of land west of Ladymead Lane, Churchill**

**1. The Proposal**

<b>Directorate:</b>	Place
<b>Service area:</b>	Development
<b>Lead Officer:</b>	Geoff Brakspear
<b>Links to a budget reduction proposal:</b>	No
<b>Date of assessment:</b>	21st June 2023

**Description of the proposal:**

Proposal under this appropriation is to change the legally designated use of the land west of Ladymead Lane, Nailsea from agricultural purposes to educational use. It is not in itself a decision to proceed.

The proposed development of the site will be undertaken under an agreement with the Department of Education, who shall be responsible for undertaking its own Equality Impact assessment. In view of this no further detailed assessment will be undertaken by council

**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

<b>Service area</b>	<b>Value of saving</b>
N/a	
	<b>Total</b>

## 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:** Jenny Ford, Assistant Director, Placemaking & Growth

**Date:** 22/08/2023