

Friends of River Park's response to Regulation 19 consultation

Submissions about the soundness of Policy W10 are made on behalf of Friends of River Park, a group set up in November 2021 to protect the River Park Leisure Centre site from development for any purposes other than public recreational use. We enjoy wide public support from Winchester residents and visitors to River Park, with over 1690 on our list of supporters.

We have organised our response to the allocation in Policy W10 in sections as follows:

1. Overall failure of tests of soundness and conflicts with national policy
2. Details of why W10 is unsound on matters of biodiversity and water issues
3. Details of why W10 is unsound on matters of landscape impact
4. Details of why W10 is unsound on allocated use
5. Details of why W10 is unsound on transport and accessibility issues
6. In view of its unsoundness, the allocation for development under W10 should be withdrawn and River Park designated as a Local Green Space

Appendix A: History/context

Appendix B: Legal and procurement implications

Figures 1-4: Illustrations referred to in footnotes

1. Overall failure of tests of soundness and conflicts with national policy

Policy W10 is unsound and it is not justified: it is a new allocation and it is not consistent with other policies in the Reg 19 Plan and with national policy

- a) This new allocation fails the soundness tests under paragraph 35 of the National Planning Policy Framework ('NPPF'), as follows:
 - a. It has not been positively prepared in accordance with an objective needs assessment – there simply isn't a needs assessment of any kind. There is no evidence of any agreement with other authorities, or of any unmet need from neighbouring areas that has to be accommodated. And it is not consistent with achieving sustainable development.

- b. It is not justified: there is no appropriate strategy, no account has been taken of any reasonable alternatives, and it is not based on any proportionate evidence.
 - c. It is not effective, as there is no evidence that any development would be deliverable over the plan period.
 - d. It is not consistent with national policy as it is not accordance with the policies in the NPPF.
- b) There is no evidence to demonstrate the need for a change of user from the River Park site from its existing public recreational use (Class F2) to learning and non-residential institutions (Class F1), as is proposed.
 - c) The site is not 'brownfield', within the meaning of the Town and Country Planning (Brownfield Land Registers) Regulations 2017. The land is not previously developed land considered to be appropriate for residential development (see NPPF Glossary). Indeed, it is not 'previously developed land' as it is held under statutory trust by the Council for public recreation, and residential development is precluded by a covenant (see Section 4).
 - d) The Policy (with its supporting text) contains inaccuracies and it takes absolutely no account of the legal constraints and complexities inherent in the transfer of this particular piece of land from public to private ownership¹.
 - e) WCC has not undertaken any, or any sufficient, assessment of the effect on the adjacent River Itchen, designated SAC and SSSI and of international importance, of the proximity to the South Downs National Park and Winnall Nature Reserve and of the landscape character, as well as the adjoining historic Hyde Abbey Garden, nearby Hyde Gate (Grade 1 scheduled ancient monument), St Bartholomew's Church (Grade 11* listed) and the Hyde Conservation Area (see Sections 2 and 3).
 - f) There is no up-to-date flood risk assessment (see Sections 2 and 3).
 - g) There is no mention or recognition, in W10, of the shortfall in the provision of public open space in the centre of Winchester (see Section 4).
 - h) The Policy conflicts with the Council's Climate Emergency Action Plan and the associated Plan policies as well as the NPPF (see Section 4).
 - i) The Policy is predicated on a future agreement, to lease ("sell") the land for 150 years, between the Council and the University of Southampton. There is no guarantee of this agreement ever coming into being. The Council made

¹ Appendix B at p12

a decision on 4th March 2022 to grant a five-year option period to the University, for which no consideration has passed and there is no signed contract. There appears to be no legal obligation on the University to apply for planning consent or to take forward any plans to develop the site; and no development, as envisaged in W10, is assured before the end date of the Local Plan in 2040 (addressed in Section 4).

- j) The five-year option period precludes consideration of alternative proposals for the site and the building is falling into disrepair and dilapidation. It is costing the taxpayer thousands of pounds to insure, to keep secure and to maintain. WCC has budgeted for its demolition but the Leader has said they will not undertake this until wider plans for the site have been determined². There is no timeframe for those wider plans to be formulated, let alone determined (See section 4).
- k) There is no evidence that this development allocation has been considered from the earliest stage of Plan making or that it has been prepared with the active involvement of the highway authority. No account has been taken of the accessibility issues, of the effect of the extra traffic on the already overburdened road infrastructure in Winchester City, or of the serious parking difficulties (addressed in Section 5).
- l) The Policy is therefore unsound. To overcome this failure and to ensure that the Plan is sound, the allocation W10 should be removed from the Plan.

References

Conflict with Policies in the Reg 19 Plan:

SP3 (p27) Development in the countryside (land outside the settlement boundaries)

NE1 (p136) Protecting and enhancing Biodiversity and the Natural Environment

NE5 (p150) Biodiversity

NE6 (p151) Flooding, flood risk & the water environment

NE8 (p159) South Downs National Park

NE9 (p161) Landscape character

NE10 (p163) Protecting open areas

NE13 (p169) Leisure & recreation in the countryside

NE14 (p171) Rural character

NE16 (p177) Nutrient enrichment & neutrality

² WCC Cabinet meeting on 08/02/24

NE17 (p179-181) Rivers and their Settings
CN1 (p37-38) Mitigating & adapting to climate change
HE1-HE7 (p184-192) Historic environment
HE8 (p198-199) Development in conservation areas
HE12 (201) Registered historic parks & gardens
T1 (p119) Sustainable and Active Transport and Travel
T2 (p123) Parking for New Developments
T3 (p124) Enabling Sustainable Travel Modes of Transport and the Design and Layout of Parking for New Developments
T4 (p126) Access for New Developments

Conflict with NPPF:

Para 104 & 105

Paras 108 – 117

Paras 180, 185-188

Paras 189-194

WCC Open Space Assessment 2022

Habitats Regulation Assessment IIA and Summary (HRA)

2. Biodiversity/water environment

Policy W10 is unsound and it is not justified: it is a new allocation and it is not consistent other policies in the Reg 19 Plan and with national policy

- a) It is inconsistent with policies in the Plan which seek to protect biodiversity both on and off site. It is also inconsistent with the Habitats Regulations which provide, for instance, that from February 2024, developments must result in a minimum of 10% biodiversity net gain (HRA IIA p20).
- b) Harm to Biodiversity: there is a serious conflict between Policy W10, which seeks to maximise the development potential of the site, as 'previously developed' land, and the current status of the site, which is public land designated for public recreation, held by under statutory trust and protected by a covenant (and it is contrary to policies NE1, NE5, the HRA and the NPPF).

- c) Flooding: The site is located between two branches of the River Itchen, and there are numerous surface water streams and drainage ditches crossing the site, including one flowing west to east immediately to the rear of the leisure centre building. The main watercourses are flowing from north to south past the site, which is bounded on three sides by the River Itchen's clear, chalk streams.
- d) The site is at a pivotal point in the formation of the flood plain which underlies the whole of the lower part of the City of Winchester³. The site is underlain by the Seaford Chalk Formation which is designated a "principal" aquifer and the superficial alluvium deposit at the site is designated as a Secondary Aquifer A, defined as "permeable layers capable of supporting water supplies at a local rather than strategic scale, and in some cases forming an important source of base flow to rivers".
- e) An Environment Agency report, of great significance, commissioned by the Council in 2013, said that 'The land mostly lies in a zone (3A) where floods are highly probable, and it is upstream of the city and the Cathedral'⁴. In the Report, it is said that 'a new design that increased the existing building footprint or the impermeable area within the floodplain would not be appropriate in this location'; also, 'replacing the existing leisure centre buildings with open space might have a beneficial effect on downstream flood risk'.
- f) Policy W10 is inconsistent with the Council's declaration of a climate change emergency in 2019 (and see Policies CN1, NE1 and paras 5.95-6 Integrated Impact Assessment Report). The Reg 19 Plan aims to play a key role in moving the district towards Carbon Neutrality by 2030 and support the City Council's strategy to avoid a Nature Emergency by creating a 'greener district'. This commitment is embodied in paragraph 7.14 of the Plan, referring to the Environment Act 2021, which emphasises the importance of nature in the drive to tackle climate change. It sets clear statutory targets for the recovery of the natural world in four priority areas: air quality, biodiversity, water and waste. It includes an important new target to reverse the decline in species abundance by the end of 2030.
- g) Paragraph 7.41 of the Reg 19 Plan goes on to state "Wildlife sites and habitats within this area and across the district that are of regional and

³ See Figure 1

⁴ See Figure 2

national importance include 17 SSSIs, almost 600 Sites of Nature Conservation (SINCs) and 9 Local Nature Reserves (LNRs). These sites support important natural assets, such as ancient woodlands, grasslands and chalk rivers. These sites will be protected, with opportunities for enhancement encouraged”.

- h) The allocation site is a key link in the Nature Recovery Network as it provides connections between the surrounding landscape and other designated sites. Any large-scale development on this site is likely to put pressure on other nearby designated sites including the River Itchen Site of Importance Scientific Interest (SSSI) and Special Area for Conservation (SAC), and Winnall Moors Nature Reserve.
- i) Winnall Moors Nature Reserve, directly adjacent to the site, forms part of the River Itchen SSSI. It spans 64 hectares of natural floodplain invaluable to the City’s flood defences. It is also a popular, peaceful city oasis, with a diverse range of wildlife, and it is managed in partnership by Hants and IOW Wildlife Trust and Winchester City Council: both organisations are publicly committed to environmental conservation. The SSSI is designated for its classic chalk river characteristics and the additional habitats it supports, including fen meadow, flood pasture and inland and riparian vegetation. The river also supports a range of nationally rare invertebrates, riparian mammals (including Water Vole), various breeding bird species and freshwater fish. The SAC is designated primarily due to the aquatic plants it supports and the presence of Bullhead (a freshwater fish) and Southern Damselfly, but also due to the presence of White Clawed Crayfish, Brook Lamprey, Atlantic Salmon and Otter. Under the Conservation of Habitats and Species Regulations 2010, a competent authority must determine whether a proposed development is likely to have a significant effect on an SAC when assessing a planning application, through the process of a Habitats Regulations Assessment.
- j) Insufficient consideration has been given to the River Itchen, a uniquely important chalk river which is a designated SAC and SSSI. The river and its tributaries form the boundary on three sides of the site. The river is vulnerable to impacts such as siltation and diffuse pollution, which can affect water chemistry and nutrient loads and render the habitat unsuitable for the species for which it has been designated. In the absence of avoidance and mitigation measures, the proposed development activities

at the River Park site have the potential to contaminate the tributary streams running through and adjacent to the site, and consequently the River Itchen. Potential pollution sources include the run-off of fuel, fertiliser and soil particles from the site. Any change in water quality in an area of such local, national and global importance would be environmental vandalism.

- k) The delicate ecosystems within the rural, sensitive environment would be put at risk, by any development of this land, through noise and light pollution. River Park is adjacent to the South Downs National Park, and it contains some of the most tranquil areas and darkest night skies of the Park, despite its proximity to the City centre. While the South Downs Local Plan has now been adopted to cover planning decisions within the entire National Park, development guided by the Winchester Local Plan could impact the setting of the National Park and other sensitive landscapes.
- i) Soundness failure: Policy W10 is not justified as it renders the Reg 19 Plan internally inconsistent. It conflicts with Policies NE1, NE5, NE6, NE16, NE17 and CN1 of the Plan. It is inconsistent with the supporting text in paragraphs 7.14, 7.17-7.19, 7.22, 7.41 and 12.56 of the Plan and it conflicts with national policies set out in paragraphs 180, 185, 186 and 187 of the NPPF. And it is not consistent with findings in the Habitats Regulation Assessment. For instance, from February 2024, developments must result in a minimum of 10% biodiversity net gain.
- j) Remedy: To overcome the failure and to ensure that the Plan is sound the allocation W10 should be removed from the Plan.

3. Character and impact on the landscape

Reasons: The policy is not justified and is inconsistent with other policies in the Plan and national policy

- a) The proposed allocation for development will adversely affect the landscape and tranquillity of the River Park Recreation Ground and the Winnall Nature Reserve which forms part of the South Downs National Park (see Policy NE1 and Objective 10 of the Reg 19 IIA report).
- b) The character of River Park itself is one of multi-layered community use which requires easy pedestrian access and parking for its users, spread as

they are locally and countywide (see Section 5 regarding the effect of taking away most of the car park). It is used regularly for sport and contains pitches, including cricket and rugby, tennis courts, indoor and outdoor bowling greens, a canoe club, a skate park and play area. It is also used for football training, rugby training and other fitness activities including a large Parkrun weekly event. There is also popular cycle path. Many of these activities actively seek to include children and families, putting at their heart the national target of increasing the wellbeing and health of children.

- c) But it is as a green, open informal space that its real worth lies. The Recreation Ground, of which the site forms a significant part, lies in the City Ward of St Bartholomew. Following the boundary changes to the Winchester Wards in 2016, the population of St Bartholomew's Ward has increased, leading to a corresponding decrease in the adequacy of open space when assessed against the council's own Open Space standards. At present it stands at -1.70 for informal green space, -0.25 for natural green space and -4.25 for play space (see Figure 3⁵: Open Space Assessment 2022 pp74-75: St Bartholomew Ward). This last is particularly of importance given the recent increase in young families in the area. All this cannot fail to suffer further negative impact by some large-scale development on the redundant leisure centre site. We say that this supports our view that the Council cannot allow this significant part of the Park's open space, where people can play, exercise and enjoy their leisure time, to be handed over for development to augment the adjacent School of Art campus for the University of Southampton.
- d) The policy is inconsistent with NPPF's Nature Recovery Network (see Glossary on p72-73) which envisages a plan for an expanding, increasingly connected, network of wildlife-rich habitats supporting species recovery, alongside wider benefits such as carbon capture, water quality improvements, natural flood risk management and recreation. This includes the existing network of protected sites and other wildlife rich habitats as well as landscape or catchment scale recovery areas where there is coordinated action for species and habitats.
- e) It is inconsistent with Policies NE3 and NE10, with paragraphs 7.26-7.29 and also with NPPF's policies regarding Open Space and recreation (see paras 102 and 103): the Plan should provide access to a network of high-quality

⁵ Figure 3

open spaces and opportunities for sport and physical activity all of which is important for the health and well-being of communities and can deliver wider benefits for nature and support efforts to address climate change. As stated, W10 fails a robust and up-to-date assessment of the need for open space, sport and recreation facilities and fails to recognise the opportunity for new provision. Existing open space, sports and recreational buildings and land, including playing fields, should not be built on unless an assessment has been undertaken which has clearly shown the open space, buildings or land to be surplus to requirements. This is clearly not the case.

- f) It is inconsistent with NPPF's policy regarding provision of recreational facilities (see para 97) in that it decreases the City's provision of social, recreational and cultural facilities and services that the community needs. While the Bar End sports and leisure facility has improved provision for the broader region, the removal of this sizeable area of River Park will downgrade facilities which are easily accessible to residents of Central, Western and Northern Winchester. This is a negative proposal, depriving the community of an important shared space for use as a sports and recreation venue and a valuable part of the City's open space, enhancing the sustainability of the community and its surrounding residential environment.
- g) The proposed allocation will adversely affect the immediately adjoining Hyde Abbey Garden, on the Western boundary of the site (see Policies NE1-7, HE12 and Objective 11 of the Reg 19 IIA report). The Garden is on the Hampshire Gardens Trust Register as an Historic Park and Garden and it was created in 2003 as the Queen's Jubilee Project for Winchester. It marks the east end of Hyde Abbey's Great Church, founded by Henry I in 1110 to house the remains of King Alfred, Ealhswith his wife and his son Edward the Elder. The grave markers are within a garden designed by international acclaimed landscape architect Kim Wilkie and maintained by the community group Hyde900 (incorporating Friends of Hyde Abbey Garden). This is a unique site of precious historic importance, and a space enjoyed, used and appreciated by many in the community. The Garden is also increasingly visited as part of Winchester's popular tourist trails and it forms an essential part of the attractions that play an important role in Winchester's local economy. The context and nature of this heritage and community resource would be irreversibly changed by any development in

immediate proximity: at the moment it is a peaceful place, occupying a prominent position, which links the park and the conservation area of Hyde. It holds the unique heritage of the remains of the great Abbey of Hyde.

- h) The site is of archaeological significance in that it is immediately adjacent to the area covered by Hyde Abbey. Community Archaeological Digs have been held in the area (King Alfred Terrace, Alswitha Terrace and King Alfred Place in particular) since 2016 by Hyde900, in conjunction with local archaeology group, WARG. They have increased our knowledge of the Abbey and it is hoped to continue the exploration under the area on the western boundary of the site. Any development of the site is likely to have a major effect on what remains under the surface of the car park and its immediate surroundings (see HE1-7).
- i) Development of an enlarged student campus immediately adjacent to the Hyde Conservation Area will adversely affect the landscape, the setting and the distinctiveness of what is a small-scale, solely residential part of the City which includes buildings of major historical importance. Hyde Gate (a Grade 1 scheduled ancient monument) and St Bartholomew's Church (Grade 11* listed) are the remaining buildings of Hyde Abbey still extant⁶. St Bartholomew's Church was the lay church for Hyde Abbey and it is the only building still in use. It is next to the South Downs Way and is now known to be the official start point for the Winchester to Southampton leg of the Camino Ingles. The Church's mainly mediaeval fabric is currently being restored as a centre for worship and community use.
- j) Hyde is a small, peaceful, contained suburb of Winchester, with unspoilt Georgian houses and Victorian terraces; tributaries of the River Itchen flow through the streets, under Roman bridges and past mediaeval walls. Development as proposed under Policy W10 is contrary to Policy HE1: the unique character, significance, quality and integrity of the district's historic environment is an irreplaceable resource, which positively contributes to the district's distinctive local 'sense of place' and cultural offer which needs to be conserved, enhanced and enjoyed in accordance with the NPPF (Ch 16).
- k) Remedy: To overcome the failure and to ensure that the Plan is sound the allocation W10 should be removed from the Plan.

⁶ Figure 4

4. The change from Policy MTRA4 (in extant Local Plan) to educational use is not justified or supported by evidence

Policy W10 is unsound and it is not justified: it is a new allocation and it is not consistent other policies in the Reg 19 Plan and with national policy

- a) There is no assessment of, nor any demonstrable need for, an innovation/education hub, let alone on this particular site which is part of a park of historical importance (Policy HE12).
- b) There is no impact assessment on the effect of built development on this site immediately adjacent to the Hyde Conservation Area, the Winnall Nature Reserve, the South Downs National Park, the surrounding waters of the River Itchen, the flood danger to the City downstream, both air and water pollution, the increase in traffic and lack of accessibility or of parking, and the deprivation of a valuable area of public open space.
- c) Statements made in the Policy document are inaccurate and misleading, as below.
- d) The former River Park Leisure Centre Site definition in W10 para 12.102, as illustrated in the Site Plan on LP p355, is inaccurate: a large proportion of the site is dedicated to car parking primarily used by the indoor and outdoor bowls club members, users of the tennis courts, football pitch and wider River Park Recreational Ground (see Section 5 below).
- e) The proposed remaining car park area is totally inadequate to meet the needs of the River Park Recreational Ground users (see Section 5 below).
- f) The site, as defined, is not on the Council's 2023 Brownfield Site Register and should not be registered as such. A large proportion of the site is not occupied by permanent structures or fixed surface infrastructure (and see Section 1 above).
- g) The statement in W10 para 12.108 is inaccurate. The Primary School is not adjacent to the site but is located on the south side of a playpark and the river. There are learning facilities nearby, including the Winchester School of Art, but, again, they are not adjacent, nor are they 'linked'.
- h) Winchester Cathedral is not currently viewable from the site (W10 para 12.104). Any building which proposed, as part of its purported attractions, a view of the Cathedral would compromise the view from the Cathedral across the City to the north.

- i) The majority of the building of the redundant leisure centre comprises of an open sports hall and 6-lane, 25 metre, swimming pool with only the roof cavities of these areas extending beyond a build height of two floors. The remainder of the building is limited to two floors.
- j) Allocated use of the building on the site is currently F2 'local community use'. Use Class F2 uses are protected for local community use. There are no permitted development options for use Class F2; therefore, any changes of use will require full planning permission.
- k) The site has only ever been for the principal use of the local community for recreational purposes and, additionally, the provision of an indoor swimming pool. The proposals for allocated development of the site bring Policy W10 into conflict with other policies in the Local Plan, such as NE3 and NE13 and with NPPF paras 97 and 101-102.
- l) W10 para 12.111 is inaccurate in that the skatepark is not adjacent to the site but is wholly contained within the site. The only building on the site other than the leisure centre is the indoor bowls club, which is held on a long lease by the club. The site as a whole is, and always has been, dedicated to public recreational use.
- m) The site is sizeable part of the wider River Park recreational park, with the whole park held in trust for the residents of Winchester and protected under a Covenant for the purposes of public recreational use only.
- n) There are no demonstrable "interested parties" in acquiring the site, apart from the University of Southampton which has been granted a five-year 'lock-out' period with no requirement to commit to completing any form of contractual agreement. Because of the option period, no reasonable alternatives have been considered for the River Park Leisure Centre site because no other bodies or members of the public have been permitted access to the site in order to work up any proposals. The council's arrangements, in which it has a vested interest beyond that as solely a planning authority, are shrouded in mystery. It is also of note that the University of Winchester was not consulted before the agreement with the University of Southampton was formulated and announced.
- o) There are currently no demonstrable development proposals for the former River Park Leisure Centre site, even from the University of Southampton. Moreover, there is no evidence that any development would be achieved during the currency of the emerging Local Plan.

- p) The building is deemed to be structurally unsafe, so how can 'meanwhile' uses be considered (W10 para 12.115)? As is said above, any such uses outside class F2 will require full planning consent. The building is scheduled for demolition and is costing the taxpayer large sums of money the longer it remains in its dilapidated state, and it is a magnet for antisocial behaviour and vandalism. At a Cabinet meeting on 08/02/24, councillors approved the following: "Proposals for the future use of the old River Park Leisure Centre site have not been determined but a provisional budget for its demolition was added to the capital programme in February 2020; £2m is profiled in 2024/25. The exact timing is uncertain and to be determined as part of the wider plans for the site. This expenditure will be funded from the capital receipts reserve and offset by any capital receipt from the disposal of the site".
- q) The proposals in W10 are harmful to the Community Strategy outcome: Local Plan 1 MTRA4 'Active Communities': "Maximise new and existing opportunities for walking, cycling, sport and recreation/play to promote healthy lifestyles for all members of the community". They are also in conflict with policies NE3 and NE13 in the Reg 19 Plan.
- r) This is valuable public open space in Winchester City centre, of which there is a deficit (see Section 3).
- s) Remedy: To overcome the failure and to ensure that the Plan is sound the allocation W10 should be removed from the Plan.

5. Transport issues and accessibility

Reason: The allocation is not effective. It is not justified and it is not consistent with national planning policy

- a) The site is technically 'outside the settlement boundaries', but it is situated effectively in the centre of the small City of Winchester.
- b) Access to the site is from North Walls, a major, very busy but narrow route from west to east of the City, into Hyde Abbey Road and Gordon Road, both small, residential streets without through traffic. It is probable – although nothing has been proposed – that a new access will be created off

North Walls to the east, down Park Avenue, which is a narrow, tree-lined road housing the University's School of Art buildings.

- c) The University's School of Art currently busses students from Southampton to Winchester and those busses stop at a public bus stop in North Walls, blocking the traffic lane for long periods of time while picking up and dropping off students, and preventing public use of the bus stop.
- d) There is no evidence to indicate that any proposed development can be delivered within the Plan period.
- e) There is no evidence that this allocation has been considered from the earliest stage of Plan making or that it has been prepared with the active involvement of the highway authority.
- f) The Plan encompasses a large part of the car park which currently services the River Park Recreation Ground and its public activities such as rugby, football, tennis, cricket, the junior and senior Park Runs, the canoe club, the indoor and outdoor bowls club, the skatepark, and informal recreation such as dog-walking and ball games.
- g) The park is regularly used for large-scale events enjoyed by a wide audience. Four festivals have been held there this year and the Annual Round Table Fireworks display, which is Winchester's biggest charity event, is held in the park, as are many runs for charities such as the Race for Life event and the finish point of the Winchester half marathon, and triathlon. The future of all these events would be compromised should development take place affecting access, parking and environmental space. The car park is a necessary facility which could not be privatised without a major effect on the public use of the Recreation Ground. This would impact on the enjoyment and well-being of significant numbers of city and county-wide residents.
- h) There is no obvious proposal for public access to the small, northern part of the car park, said to be earmarked for parking for the Recreation Ground users.
- i) There are issues of traffic congestion and air quality, particularly in Winchester City, where an AQMA has been designated – see HRA IIA p18. No account has been taken of the likely increase in traffic on the already overburdened roads in the City, or of the likelihood of an increase in pollutants such as Nox emissions. This is contrary to Policies C1 and T1-4 and also to the NPPF Ch 9.

j) Remedy: To overcome the failure and to ensure that the Plan is sound the allocation W10 should be removed from the Plan.

6. In view of the unsoundness of Policy W10 it is requested that, instead of being allocated for development, River Park should be designated as a Local Green Space

NPPF paragraph 104 & 105 state:

- The Local Green Space designation should only be used where the green space is:
 - in reasonably close proximity to the community it serves;
 - demonstrably special to a local community and holds a particular local significance, for example because of its beauty, historic significance, recreational value (including as a playing field), tranquillity or richness of its wildlife; and
 - local in character and is not an extensive tract of land.
- The designation of land as Local Green Space through local and neighbourhood plans allows communities to identify and protect green areas of particular importance to them. Designating land as Local Green Space should be consistent with the local planning of sustainable development and complement investment in sufficient homes, jobs and other essential services. Local Green Spaces should only be designated when a plan is prepared or updated and be capable of enduring beyond the end of the plan period.

APPENDIX A

HISTORY/CONTEXT

River Park Recreation Ground (previously known as North Walls) was a legacy from the Alfred the Great millennial celebrations. In 1902 Winchester District Council and Winchester residents purchased the Hyde Abbey Gateway and the River Park area, including what is now Hyde Abbey Garden.

River Park is a very historic site and it was an integral part of Hyde Abbey, commissioned to house the remains of Alfred the Great, Alswitha his wife and

Edward his son in 1110. The Abbey was a large Benedictine monastery which owned meadowland to the east, now the Recreation Ground. It was dissolved by King Henry VIII in 1538. The chancel of the Great Church is marked by Hyde Abbey Garden, created in 2003 as the Queen's Jubilee project for Winchester and the garden echoes the archaeological remains of the Abbey Church which lie beneath.

The covenant in the 1902 conveyance to the City and its residents only allows for a public park and recreational use and the only buildings permitted in that covenant are the park keeper's lodge cottage (where the Colour Factory is now), and buildings for public recreation or public scientific-type purposes. No residential buildings ("industrial dwellings") are permitted.

The site of the now redundant Leisure Centre building (which closed in January 2021), the Indoor Bowls Club and the Skate Park, falls within the description, and so this area continues to be protected by the covenant. Friends of River Park submit that any future use of the site should respect the covenant so that River Park remains in public ownership, for public recreational use.

On 1st November 2021, Winchester City Council announced at a public meeting its intention, without any notice, to dispose of the River Park Leisure Centre site to the University of Southampton. Despite 438 objections, the decision was taken on 3rd March 2022 to grant a 5-year option period, and a 150-year lease (expressed as a sale) subject to planning consent, to the University.

APPENDIX B

LEGAL AND PROCUREMENT IMPLICATIONS

WCC's CAB3190 report of 23/09/10 provides (para 3):

3.1 Consideration of future land uses for both the building and surrounding site at the RPLC site are subject to historic restrictions on the Land Registry title, which relate back to the original site purchase. Subsequently the land is currently held on a statutory trust as a public park and recreation ground for the City, and subject to a restrictive covenant.

3.2 The implications of the restrictive legal covenant and holding the land as a statutory trust on the site means that:

- a) The building and the land may only be currently used for recreational

- and open space, and associated uses;
- b) Residential use is not permitted without discharge of the restrictive covenant by the Lands Tribunal, even following appropriation;
- c) Additional options for the use of the land and buildings become available following a valid appropriation of the land by the Council, being uses which are under the Council responsibilities;
- d) The Council could sell or grant a lease of the site provided it is first appropriated and the procedures in relation to disposal of open space under s123 Local Government Act 1972 are followed and best consideration is obtained or can be dispensed with. Any proposed development or disposal would need to respect or manage subsisting leases and easements.

3.3 Appropriation of the whole or part of the site from open space to planning purposes is a statutory process which, in this case, requires public consultation, evidence that the land is no longer required for the purpose to which it is held, consideration of any comments received and not able to be pursued if it would lead to a breach of the restrictive covenant.

Figure 1
Main rivers and aquifers through Winchester City

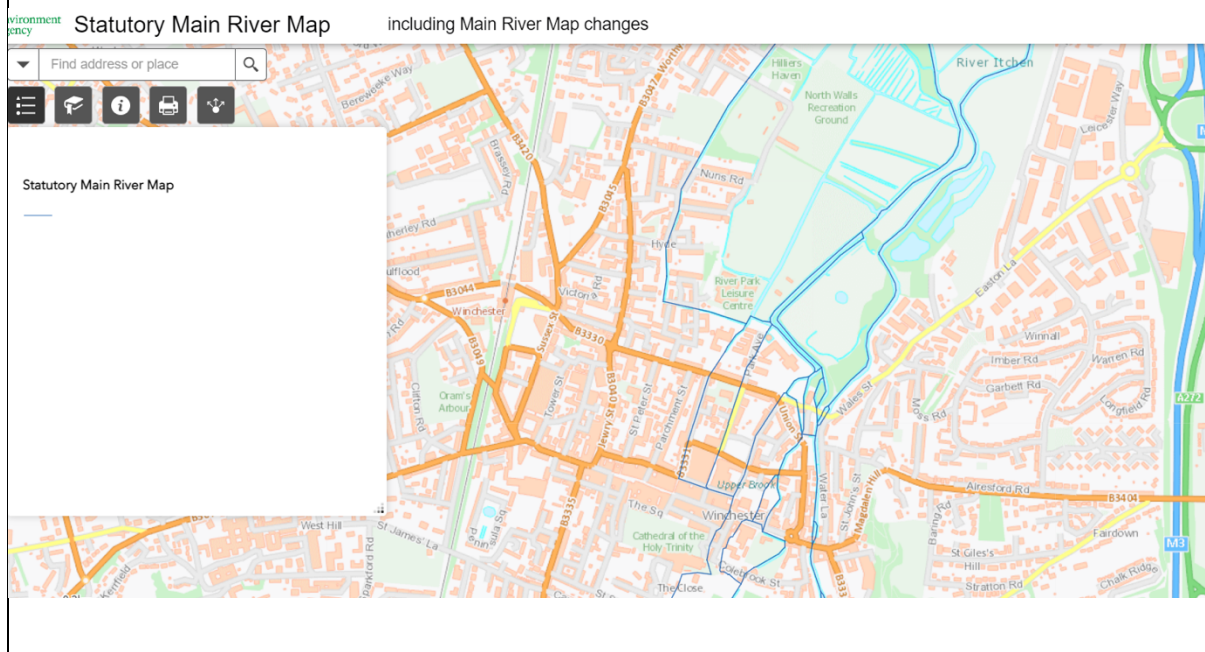


Figure 2

Flood Risk Zone map for River Park Site - Reproduced from EA 'What's in your backyard?' Website © Environment Agency 2013

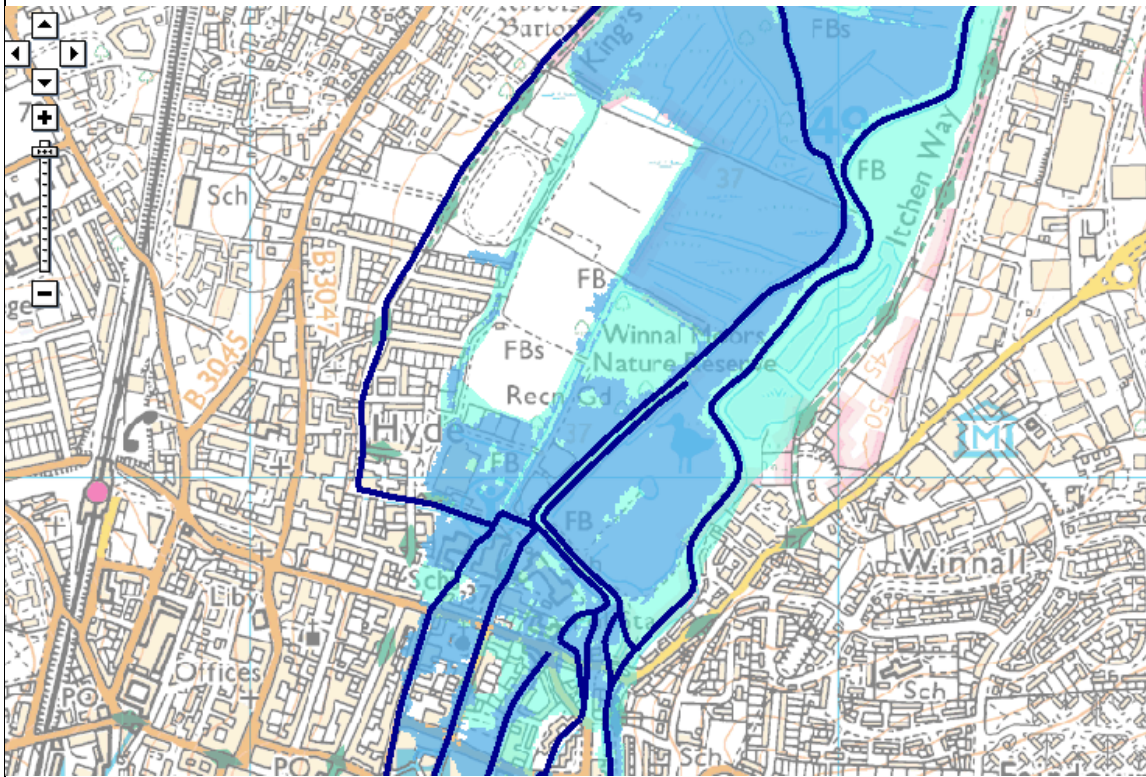


Figure 3

Winchester Open Space Assessment 2022

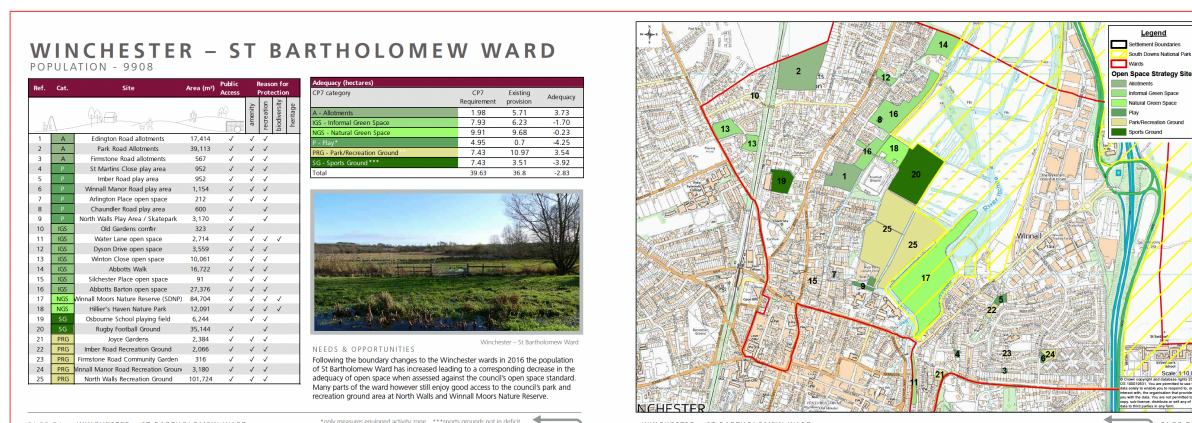


Figure 4

Historic England map of Winchester conservation area, with listed buildings and sites

