

SCRUTINY CALL IN REQUEST FORM

Appendix A

Note: At least five members are required to sign the form for the Call-in request to be valid. Page I.

DECISION DETAILS DISPOSAL of LAND at NUNTHORPE GRANGE, APPROVED BY EXECUTIVE SUB-COMMITTEE AS RECOMMENDED BY EXECUTIVE MEMBERS for FINANCE and REGENERATION. (ITEM 3 ON AGENDA)		DECISION MAKING BODY EXECUTIVE SUB-COMMITTEE for PROPERTY
DATE OF MEETING 4 SEPTEMBER 2024	SUBJECT HEADING DISPOSAL of LAND at NUNTHORPE GRANGE.	DATE CALL-IN FORM RECEIVED 12 SEPTEMBER 2024
Has the decision on this matter been subject to prior consideration by the Overview and Scrutiny Board		YES
		NO

PLEASE COMPLETE THE BOX BELOW WITH THE INFORMATION REQUIRED IN PARAGRAPH 6.1 (ii) TO (vi) OF THE CALL-IN PROTOCOL

- \* (ii) DECISION CONTRARY TO PRINCIPLES of GOOD DECISION MAKING
  1. OUTDATED EVIDENCE-BASE PRESENTED TO COMMITTEE
  2. CONFLICT of INTEREST BETWEEN COUNCIL'S ROLES as (a) STRATEGIC PLANNER and ENFORCER of LOCAL PLAN (b) LAND-OWNER SEEKING MAXIMUM SPECIFIC LEVERAGE (c) BUDGET-SETTER, MAXIMISING COUNCIL INCOME
  - 3 LACK of CONSULTATION.
- \* (iii) DEFECTS in DECISION-MAKING PROCESS.
  1. LIMITED INFORMATION PROVIDED TO COMMITTEE MEMBERS
  2. NO REALISTIC ALTERNATIVES PRESENTED TO COMMITTEE MEMBERS
  - 3 MISLEADING INFORMATION PROVIDED TO COMMITTEE MEMBERS.
- \* (iv) ADVERSE EFFECTS LIKELY TO ARISE FROM THE DECISION BEING IMPLEMENTED
  1. ENVIRONMENTAL EFFECT ON THE NUNTHORPE COMMUNITY. 2. FINANCIAL EFFECT ON NUNTHORPE COMMUNITY. 3. FINANCIAL EFFECT ON MIDDLESBROUGH COUNCIL. 4. IMPACT ON COMMUNITY COHESION. 5. IMPACT RELATING TO THE TWO OTHER SITES WITHIN NUNTHORPE GRANGE
- \* (v) EVIDENCE TO SUPPORT THE CALL-IN REQUEST - ANNEXES 1-5 (MAPS)
- \* (vi) PROPOSED ALTERNATIVE COURSE of ACTION - RECONSIDERATION by EXECUTIVE, SO THAT REFRESHED MASTERPLAN PRECEDES SIGNATURE of DEVELOPER AGREEMENT.

SIGNATURES OF MEMBERS WISHING TO CALL IN THE DECISION (AT LEAST 5 SIGNATURES ARE REQUIRED)

SIGNATURE	PLEASE PRINT NAME	DO YOU WISH TO SPEAK AT COMMITTEE	
		YES	NO
<i>M. McClintock</i>	M. McCLINTOCK - PROPOSER	YES	NO
<i>Tom Livingstone</i>	COUNCILLOR TOM LIVINGSTONE	<input checked="" type="checkbox"/>	<input type="checkbox"/>
<i>M. Smiles</i>	COUNCILLOR MIEKA SMILES	<input type="checkbox"/>	<input type="checkbox"/>
<i>Jackie Young</i>	COUNCILLOR JACKIE YOUNG	<input type="checkbox"/>	<input type="checkbox"/>
<i>Tony Grange</i>	COUNCILLOR TONY GRANGE	<input type="checkbox"/>	<input type="checkbox"/>
	COUNCILLOR	<input type="checkbox"/>	<input type="checkbox"/>

## SCRUTINY CALL IN REQUEST FORM

Appendix A

Note: At least five members are required to sign the form for the Call-in request to be valid. *Page 2*

NAMES OF ANY WITNESSES YOU WISH TO CALL		AGREED BY CHAIR OF OVERVIEW AND SCRUTINY BOARD			
NAME	PURPOSE OF ATTENDING COMMITTEE	YES		NO	
<i>WADE TONEY, PARISH COUNSELLOR, and LEAD on WINTHORPE NEIGHBOURHOOD PLAN</i>	<i>CORROBORATION</i>	YES		NO	
		YES		NO	
		YES		NO	
		YES		NO	
		YES		NO	
		YES		NO	

**\*\*ONCE COMPLETED THIS FORM MUST BE RECEIVED BY DEMOCRATIC SERVICES BY 4PM BEFORE THE END OF THE FIFTH WORKING DAY AFTER THE PUBLICATION OF THE DECISION**

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**THIS PART OF THE FORM IS TO BE COMPLETED BY THE MONITORING/DEPUTY MONITORING OFFICER**

<b>CALL IN REQUEST APPROVED</b>	YES		NO	
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<b>CALL IN REQUEST REFUSED</b>	<b>A</b>	The procedures set out in the Overview and Scrutiny Protocol have not been followed properly.	
	<b>B</b>	A similar decision has been called in to the committee previously.	
	<b>C</b>	The Executive decision was recorded as an urgent decision and is therefore not subject to the call-in procedures.	
	<b>D</b>	The Monitoring Officer, in consultation with the Chair of the Overview and Scrutiny Board considers the call-in to be frivolous, vexatious or clearly outside the call-in provisions.	

<b>DATE ADVISED OF DECISION</b>	
<b>SIGNED:</b>	

(ii). **DECISION CONTRARY to PRINCIPLES of GOOD DECISION-MAKING**

1. **Outdated evidence-base presented to Committee**

It is manifestly poor practice for the Council to agree to conclude negotiations with a developer by October 2024, on the basis of a MasterPlan which even the Committee Report acknowledges "is in need of a refresh to reflect the current position and ambitions". (Appendix 2 of Committee Report)

2. **Conflict of interest between the Council's roles as (a) strategic planner and enforcer of the Local Plan, (b) land-owner seeking maximum leverage in a specific area, and (c) budget-setter, seeking to maximise Council income**

The Committee Report asked the Executive to claim for the Council 160 houses out of the total of a maximum of 250 dwellings authorised for the totality of Nunthorpe Grange in the current Housing Local Plan. This would leave only 90 dwellings available for the other two land-owners of much of the relevant area, without any rational basis for the Council's assertion. This apparently unfair advantage taken by the Council is exacerbated because it takes no account of the potential impact of changes in the balance between housing, parks, and other green spaces created since the Masterplan was established in 2019. Major changes since then include the transfer by the Council of a large area allocated in the Masterplan for housing to non-housing purposes - ie. Care-home, Medical Centre, and Place of Worship. (See Annex E.) Furthermore, the justification for assigning to itself 160 dwellings in the proposed deal is stressed in the Committee Report as being "the significant capital receipt during the current financial year 2024/25" - thus confirming the conflict of interest outlined in the heading above.

3. **Lack of Consultation**

Although Appendix 3 of the Report identifies "the local community" as one of the three "Key stakeholders and intended beneficiaries", there has been no community consultation on the implications of the current Masterplan having been side-lined by carving out areas for a Care-home and for a Place of Worship. This is particularly concerning because consultation on the same area for the Nunthorpe Neighbourhood Plan has continued on the basis of the current MasterPlan. Despite repeated calls to expedite consultation on revising the Masterplan, based on a constructive partnership approach, there has been only one preliminary meeting (in July) between two leaders of the Nunthorpe Neighbourhood Plan and the Council's consultants working on this project. After months without response to many pleas to treat consultation as a matter of urgency, the Nunthorpe community is now informed that there is unlikely to be time to conclude consultation on the MasterPlan before the deal signature date in October. The secrecy of the financial aspects of the deal should be a ground for particular sensitivity to the need for consultation on all other aspects, rather than a justification for minimising consultation, and for postponing and reducing any potential impact of consultation until after the deal is signed.

(iii). **DEFECTS in DECISION-MAKING PROCESS**

1. **Limited information provided to Committee Members.**

Committee Members were not shown sufficient maps to enable understanding of the points made under (ii) above. Examples of maps which would have facilitated a more comprehensive appreciation of the issues are now provided as Annexes A to E, on pages 8-12 of this Call-in Request.

2. **No realistic alternatives presented to Committee Members.**

The three options offered as an alternative to the recommendation were unrealistic -

5.1. **"Don't sell the land."** This is even presented as an unacceptable option. The Report states, "failure to dispose of the land would be contrary to the Local Plan (2014)". Also the Council's current financial position negates endorsement of such an option.

5.5. **"Enter a Joint Venture"**. This apparent option is explicitly discounted in one sentence as not representing Best Value for Money.

5.3. **"Sell the land after undertaking due diligence and achieving outline planning approval"**. This option is not totally discounted (being evaluated as "worthy of Executive consideration"), but the option is explicitly undermined on the basis that a guaranteed receipt of funds earlier than anticipated outweighs the potential of generating higher capital receipts in the future. It is difficult to challenge this conclusion when all the pertinent facts are undisclosed. If it is a fair conclusion, it is confirmation that no constructive alternative was offered to the recommended proposal.

The Committee was not presented with the obvious compromise - the realistic alternative of undertaking **some** basic "due diligence" to "de-risk" a deal reached without competitive tender. Section 4.2.3. confirms that the recommended disposal "negates the requirement to conduct site de-risking planning"; and "de-risking" is defined in section 4.6. of the Committee Report as including "updating the adopted Masterplan and Design Code". The credible alternative of a significant contribution to "de-risking" by **requiring the developer to operate within the confines of an established, refreshed Masterplan** was not even offered to Members as an option. This is particularly difficult to understand when, with goodwill, such a constructive delay could be measured in weeks rather than months or years (which the unrealistic option of awaiting planning approval might entail.)

3. **Misleading information provided to Committee Members.**

Appendix 2 of the Committee Report notes that the refresh of the Masterplan "will be completed **alongside** the work that will be done to bring the site forward for sale". In addition, clarification from the Regeneration Directorate since the Committee Meeting has stated that contact between Neighbourhood Plan representatives and Council Officers / consultants is "timetabled to conclude before the end of this calendar year", but will then need to be submitted for adoption

by the Executive. However, the date for completion of the negotiations on sale of land for housing is 31st October 2024 - ie. before the expected establishment of the revised Masterplan. Officers claimed during the meeting and subsequently that, in due course, the developer will need to obtain planning permission which must comply with the requirements of the new Masterplan. The clear message is that this timetable will create no issues.

This assertion downplays the following two likely outcomes :

(a). The developer, having agreed a price which the Council regards as being on terms favourable to the Council, will reasonably expect the Council to **minimise changes in refreshing the Masterplan** which could have any serious financial implication on the deal. (It must surely be assumed that the deal agreed by the developer will be based on the understanding that the framework for development will not differ significantly from the terms of the deal.)

(b). Officers will potentially face pressure to **minimise Section 106 calculations** which significantly increase the cost of the deal which the developer has already agreed with the Council.

In both scenarios, it is the Nunthorpe community which would be short-changed by failure to establish an updated Masterplan before concluding the deal. Disappointment in the lack of community investment would extend to the residents of the new houses built by the developer.

(iv). **ADVERSE EFFECTS likely to arise from the decision being implemented.**

1. **Environmental Effect on the Nunthorpe Community.**

As outlined above, the defects of the *current* outdated Masterplan could be exploited by a developer, and attempts to resolve outstanding issues during establishment of a *new*, subsequently-approved Masterplan are likely to be resolved with particular sensitivity to the developer. As the developer will be less constrained by a planning framework than might usually be expected, the Nunthorpe community will be deprived of standard planning tools to ensure that the developer does not excessively or unpredictably impact on their environment.

2. **Financial Effect on the Nunthorpe Community.**

Local residents could be deprived of compensation which they might reasonably expect from Section 106 contributions. Once a deal is signed in October, the developer will inevitably resist claims for such contributions on the grounds that Middlesbrough Council has already been compensated exceptionally well through the terms of the finance deal.

3. **Financial Effect on Middlesbrough Council.**

Where a deficiency in Section 106 contributions results in Middlesbrough Council having to undertake expenditure in default (on roadworks etc), this will constitute an adverse effect on the Council.

**4. Impact on Community Cohesion**

The circumstances under review provide a rare combination of the classic ways to foster suspicion and mistrust of the Council among residents - a secret deal, negotiated without competitive tender, to be implemented at speed, without community involvement, and without prior publication of an updated framework for development. Whereas Nunthorpe residents reasonably assumed that there would be an opportunity to have some input into the Masterplan review process, there is currently anxiety arising from the uncertainty about the location of housing and green spaces, and the balance between them. For example, residents ask whether the total number of 250 houses will be reduced to make way for such large innovations as a Care-home and Place of Worship, or whether parkland will be sacrificed to make way for the Care-home and Place of Worship. Cynicism about the Executive decision is exacerbated in the context of the on-going community work to establish a Nunthorpe Neighbourhood Plan, with residents engaged in consultation about options for the same land in Nunthorpe Grange, which they reasonably assumed would be taken into account within a refreshed Masterplan.

**5. Impact relating to the two other sites within Nunthorpe Grange.**

Completion of a deal with a single housing developer before establishment of a revised Masterplan defers challenging decisions about the interrelationships between the developers within the overall framework of Middlesbrough's Local Plan. The lack of timely transparency by the Council could result in dissatisfaction by the two independent land-owning developers, and potential legal action, if their housing numbers are constrained by the Council's unilateral claim to 160 of 250 houses. Alternatively, the precedent established by the Council could simply encourage both of the other developers to claim the right to any number of dwellings, so that the maximum total established by the Local Plan in 2014 could be significantly exceeded. Here again, the Nunthorpe community would be the loser from the lack of having a prior Masterplan.

**(v) EVIDENCE to support the Call-in Request**

Annex A. Middlesbrough Housing Local Plan, adopted November 2014. Figure 3.4.  
Page 76. "Land south of Guisborough Road - Indicative Site Layout"

Annex B. Nunthorpe Grange Design Code, adopted January 2019.  
Page 19. "Masterplan and Rationale."

Annex C. Report to Executive Sub-committee for Property, 4th September 2024.  
Appendix 2. Page 24. "Remnant Housing Allocation Site"

Annex D. Combination of Annexes B and C.

Annex E. Enlarged section of Annex D to indicate the extent of housing allocation in the current Masterplan, on land which has since been re-assigned.

(vi). PROPOSED ALTERNATIVE COURSE of ACTION.

Most of the adverse effects outlined above arise from the combination of an early date for completion of a deal with the housing developer, followed by a late date for completion of a refreshed Masterplan.

This Call-in request seeks support for reconsideration of the Executive decision, so that the refreshed Masterplan is consulted upon and established before signature of an agreement with the developer.

This could be achieved -

- (1) By the Executive formally agreeing to defer signature of the deal with the housing developer until there is a Masterplan framework to control development.
- (2) By the Executive prioritising consultation on a new Masterplan, so that, in practice, the Executive may still conclude negotiations with the developer without significant deferment of the proposed completion date of 30th October 2024.

*[The lack of an updated Masterplan also has implications for the deal about the Care-home, such as concerns about road access, but these are not considered in this application because of the much later date for signature of the agreement with the Care-home developer - 31st March 2026.]*

*J Morgan McClelland*

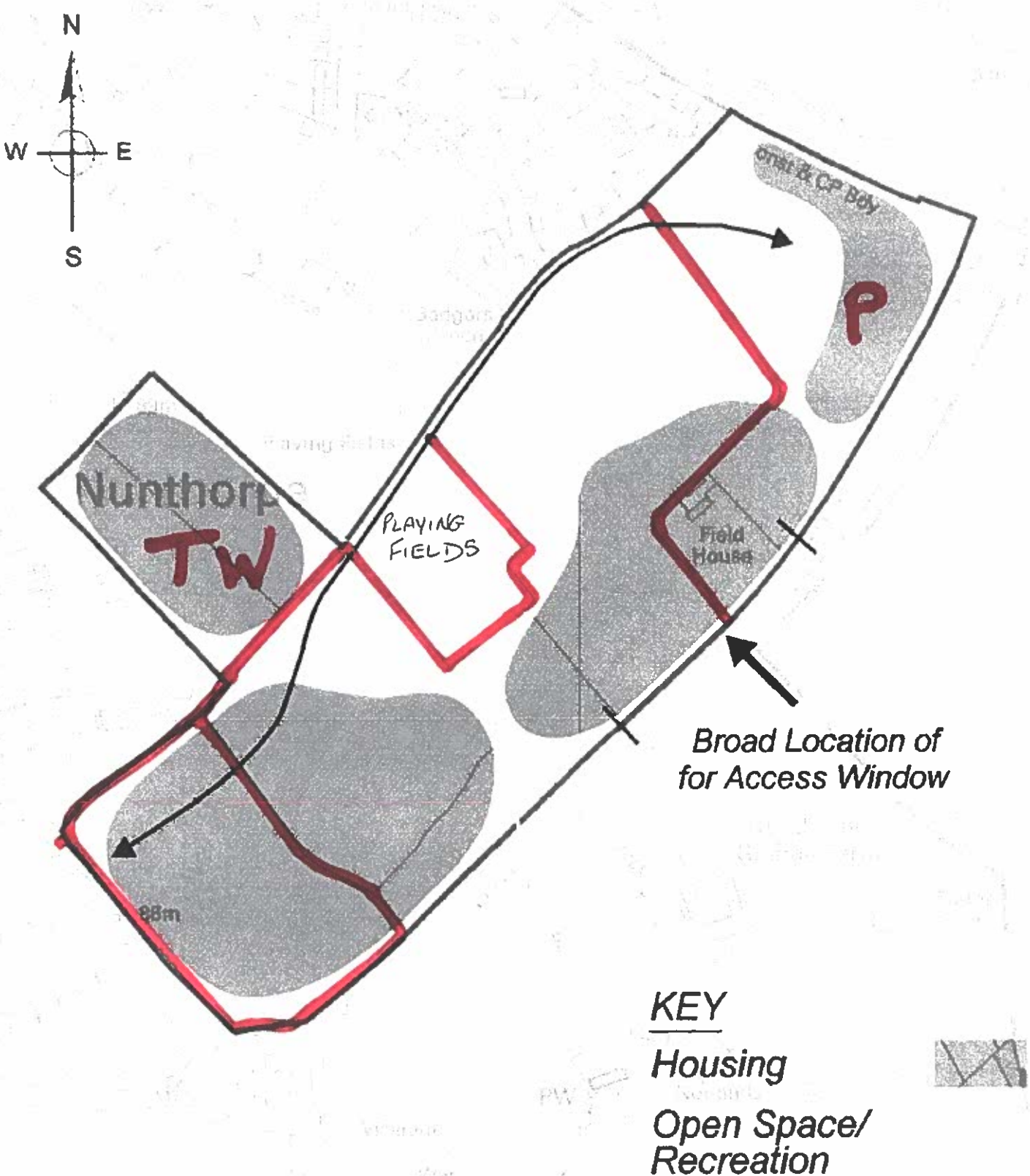
*M. Smiles*

*J. Jones*

*T. G. T. G.*

ANNEX A.

MIDDLESBROUGH HOUSING LOCAL PLAN, adopted NOVEMBER 2014.  
Figure 3.4. Page 76. "LAND SOUTH of GUISBOROUGH ROAD - INDICATIVE SITE LAYOUT."



TW = Taylor Wimpey site. P = Persimmon site.



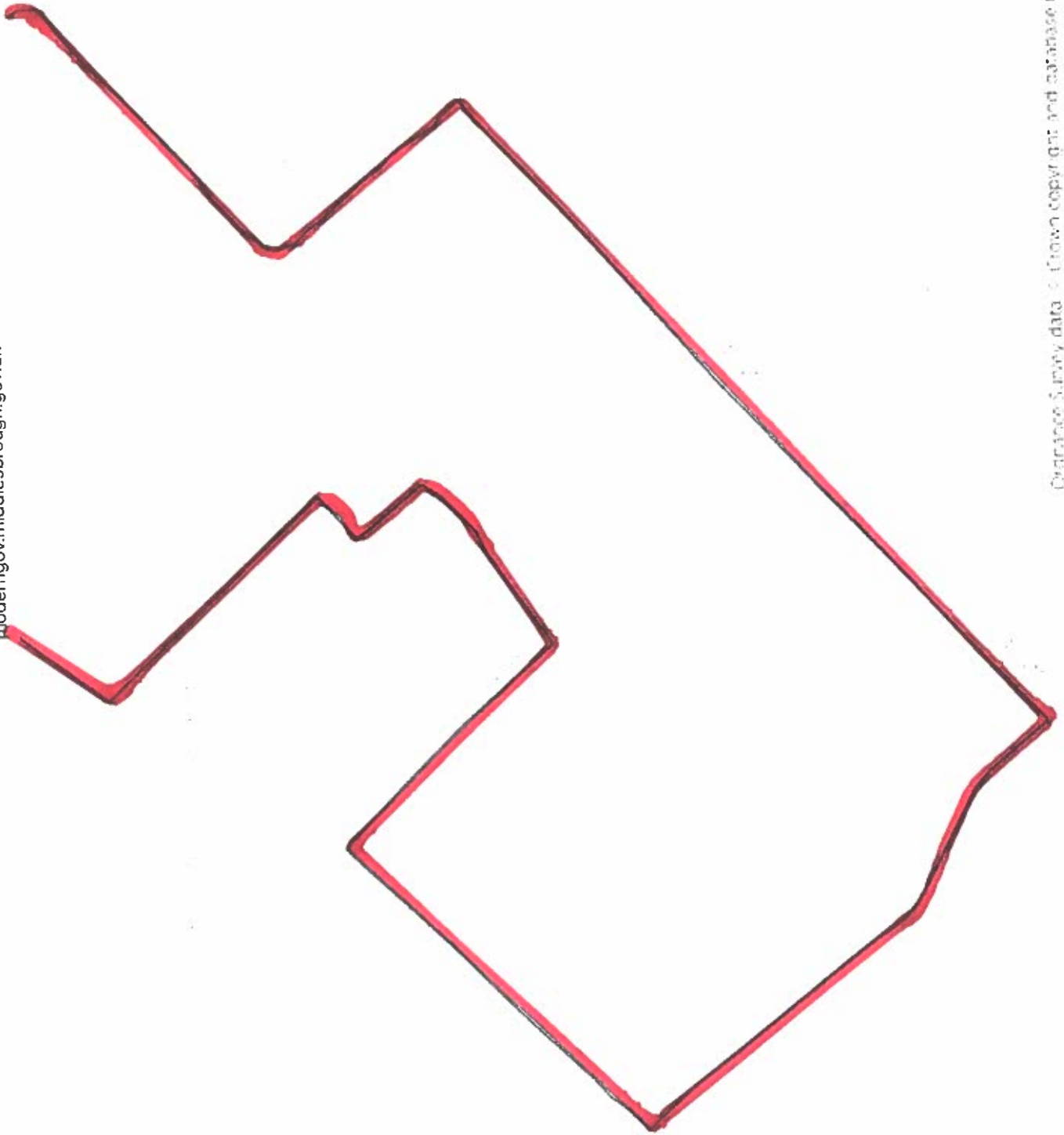


ANNEX C.

REPORT to EXECUTIVE sub-COMMITTEE for PROPERTY. 4th SEPTEMBER 2024.

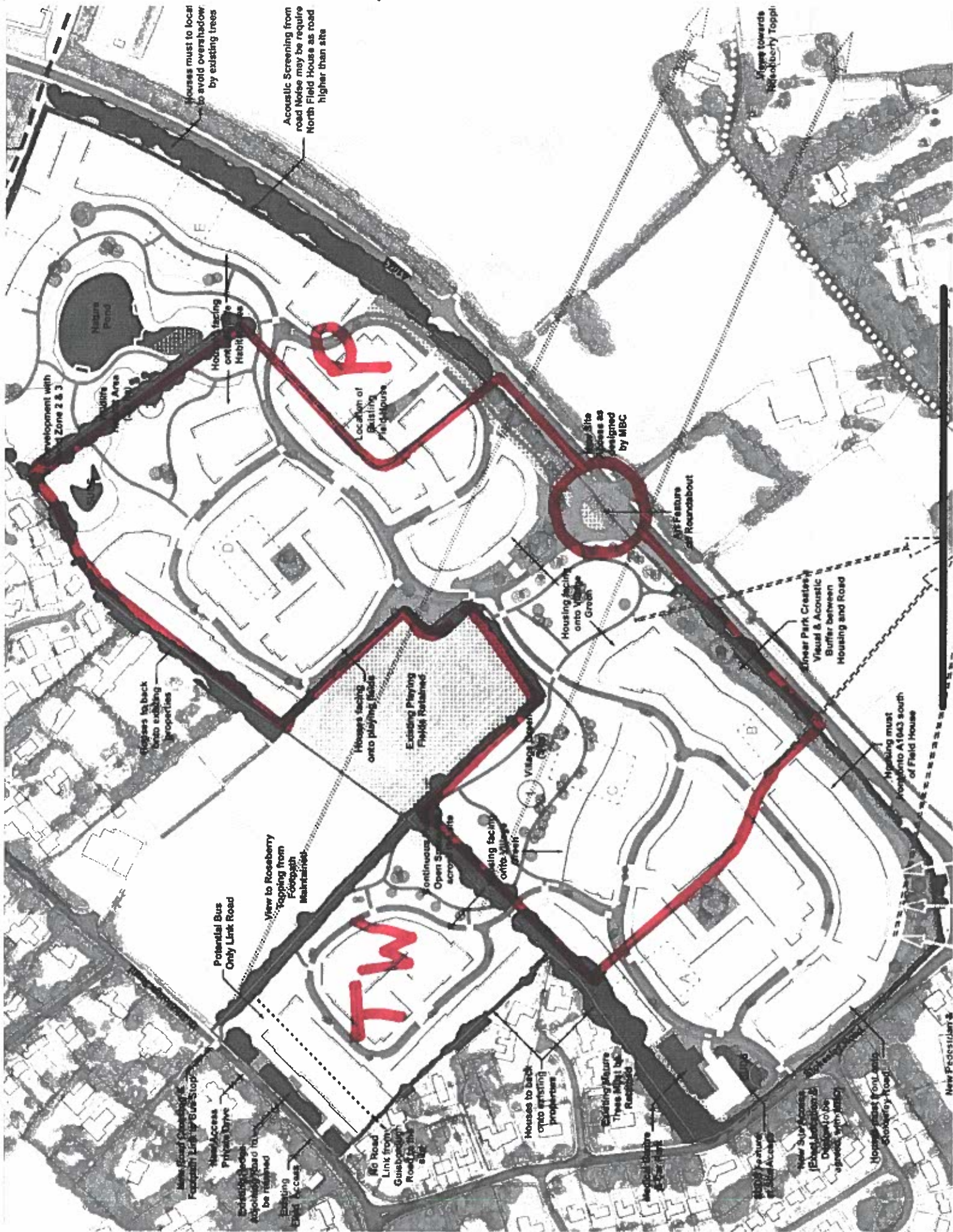
Appendix 2. Page 24. "REMNANT HOUSING ALLOCATION SITE"

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ANNEX D. COMBINATION of ANNEX B and ANNEX C.



TW = Taylor Wimpey site. P = Perimeter site. O = Roundabout Access Point.

Enlarged section of Annex D to indicate the extent of housing allocation in the current Masterplan, on land which has since been re-assigned.

