

## **NOTIFICATION OF DECISION REGARDING THE APPLICATION FOR DESIGNATION OF OAKSEY NEIGHBOURHOOD AREA UNDER SECTION 61G OF THE TOWN AND COUNTRY PLANNING ACT 1990 AS AMENDED**

### **APPLICANT:**

Oaksey Parish Council

### **APPLICATION:**

Application for the Designation of Oaksey Neighbourhood Area

**Pursuant to the Wiltshire Council constitution and in particular Part 3B the Associate Director for Economic Development and Planning within whose remit Spatial Planning falls is authorised to consider the area designation applications for Neighbourhood Plans and if appropriate approve applications.**

### **DECISION:**

**The Designation of Oaksey Neighbourhood Area is approved** in accordance with section 61G of the Town and Country Planning Act 1990 as amended for the purposes of Neighbourhood Planning. The reasons for this decision are set out in the accompanying 'Neighbourhood Area Designation Application Report'.

Signed:



Alistair Cunningham  
Associate Director  
Economic Development and Planning

Dated: 29.04.16

**WILTSHIRE COUNCIL  
NEIGHBOURHOOD AREA DESIGNATION APPLICATION REPORT – OFFICERS DECISION  
ACTING UNDER DELEGATED POWERS**

<b>Date of application</b>	<b>29.02.2016</b>
<b>Date of decision</b>	<b>29.04.2016</b>
<b>Name of proposed designation</b>	<b>Oaksey Neighbourhood Area</b>
<b>Community Area</b>	<b>Malmesbury Community Area</b>

## **1. INTRODUCTION**

1.1 Pursuant to the Wiltshire Council constitution and in particular Part 3B the Associate Director for Economic Development and Planning within whose remit Spatial Planning falls is authorised to consider the area designation applications for Neighbourhood Plans and if appropriate approve applications.

## **2. BACKGROUND**

2.1 The power to designate a Neighbourhood Area is exercisable under section 61G of the Town and Country Planning Act 1990. Under Regulation 5(1) of The Neighbourhood Planning (General) Regulations 2012 (which came into force on 6 April 2012) an area application has to include a map which identifies the area to which the application relates, a statement explaining why this area is considered appropriate to be designated as a neighbourhood area and a statement that the body making the application is a relevant body for the purposes of section 61G(2) of the 1990 Act.

2.2 Oaksey Parish Council forms the 'relevant body' (for the purposes of section 61G (2) of the Town and Country Planning Act 1990) and submitted an application for the designation of Oaksey Neighbourhood Area. The application is for the whole parish area of Oaksey, to be designated as a Neighbourhood Area for the purposes of Neighbourhood Planning and so satisfies section 61G(3) of the Act. The submission of the application complied with the regulations.

## **3. PROCEDURE**

3.1 Under section 61H of the 1990 Act whenever a local planning authority exercises powers under section 61G to designate an area as a neighbourhood area, consideration must be given to whether the authority should designate the area concerned as a business area. The designation of the specified area can only occur if the authority considers that the area is wholly or predominately business in nature [Section 61H (3)].

3.2 If the application for the Designation of this Neighbourhood Area is approved, then Regulation 7(1) of the Neighbourhood Planning (General) Regulation 2012 requires the designation to be publicised. If the application is refused, reasons must be given under 61G(9) of the 1990 Act and Regulation 7(2) of the Regulations requires the decision to be publicised.

#### **4. CONSIDERATION AS TO WHETHER OR NOT TO DESIGNATE**

- 4.1 In determining the application for the designation as a Neighbourhood Area regard must be had to the desirability of designating the whole area.
- 4.2 The issue is whether or not the specified area is an 'appropriate area to be designated as a Neighbourhood Area'.
- 4.3 The fact that the designation of the Oaksey Neighbourhood Area would allow a Neighbourhood Plan to be prepared does not form part of the determination of this application.

#### **5. REASONING FOR DESIGNATION**

- 5.1 The proposed area for designation includes the whole parish area of Oaksey. Oaksey is a large village with a conservation area due to its range of picturesque ancient buildings and amenities. It is a well-equipped village at the centre of a rural community. Designation of the Neighbourhood Area would allow for a neighbourhood plan to develop and nurture the unique built environment so as to ensure that it is both protected and sustainable. The Plan will aim to allocate appropriate sites for housing development specifically focused on affordable and downsizing opportunities for older residents, as well as considering provisions for local economy, traffic and heritage.
- 5.2 The specified area falls completely within the Council's area.
- 5.3 The application for designation as a Neighbourhood Area was publicised for a period of 6 weeks and 2 days from 9am Monday 29<sup>th</sup> February until 5pm Wednesday 13<sup>th</sup> April 2016.
- 5.4 One response was received within the consultation period.
- 5.5 All representations received were taken into account in the decision making process for the designation of this Neighbourhood Area. The representation received is set out in Appendix 1.

#### **6. CONCLUSION**

- 6.1 The reasoning above shows support for the designation of Oaksey Neighbourhood Area.
- 6.2 The specified area is not wholly or predominantly business in nature and so it is inappropriate to designate it as a business area.
- 6.3 A copy of this report will be sent to the qualifying body, Oaksey Parish Council.

#### **7. DECISION**

7.1 **The Designation of the Oaksey Neighbourhood Area is approved** in accordance with section 61G of the Town and Country Planning Act 1990 as amended for the purposes of Neighbourhood Planning.

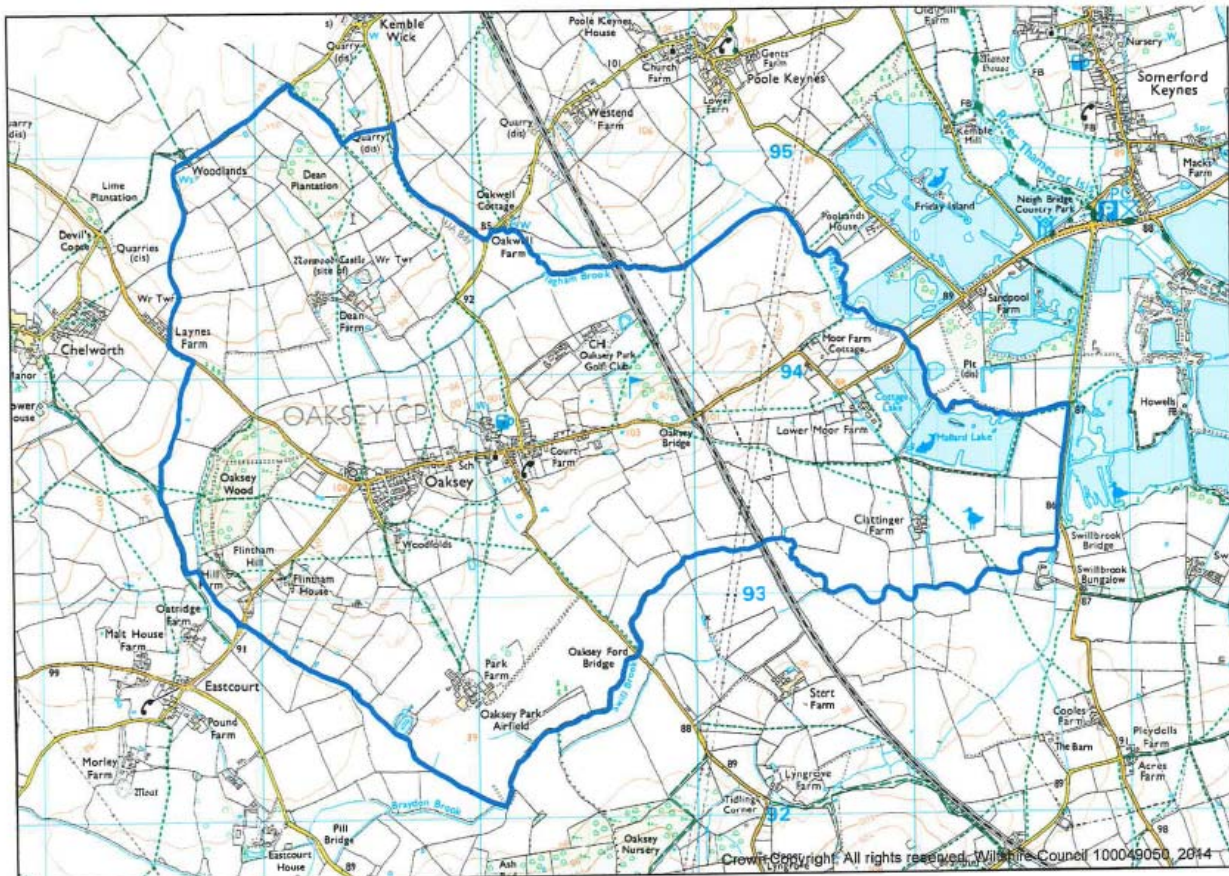
A handwritten signature in black ink, appearing to read 'Alistair Cunningham', written in a cursive style.

Alistair Cunningham  
Associate Director  
Economic Development and Planning Services

Dated: 29.04.16

## DECISION REGARDING THE APPLICATION FOR DESIGNATION OF OAKSEY NEIGHBOURHOOD AREA UNDER SECTION 61(G) OF THE TOWN AND COUNTRY PLANNING ACT (AS AMENDED)


1. I have no private interests to declare in respect of this matter which would prevent me from determining this application.
2. I hereby exercise power under section 61G of the Town and Country Planning Act 1990 (as amended) ("the Act") and all other powers delegated to me to designate the area identified on the map below as the Oaksey Neighbourhood Area for the purposes of section 61G (1) of the Act) as I am satisfied that the area is an appropriate area to be designated as a neighbourhood area. I do not designate it as a business area for the purposes of section 61H (1) of the Act as it is not wholly or predominately business in nature.
  - a) Name of neighbourhood area: Oaksey Neighbourhood Area
  - b) Map of neighbourhood area:



- c) Relevant body: Oaksey Parish Council form the 'relevant body' (for the purposes of 61G(2) of the Town and Country Planning Act 1990)

d) I have made this decision in line with the information set out in the 'Neighbourhood Area Designation Application Report'.

Signed:

A handwritten signature in black ink, appearing to read 'Alistair Cunningham', written in a cursive style.

Alistair Cunningham  
Associate Director  
Economic Development and Planning

Decision published: 29.04.16

**Appendix 1:** Responses submitted to Wiltshire Council during the consultation on the application for designation of Oaksey Neighbourhood Area

Respondent	Comments
<p>Gladman Developments Ltd</p>	<p style="text-align: center;"><b>Comments</b></p> <p>Gladman Developments Ltd (Gladman) specialise in the promotion of strategic land for residential development with associated community infrastructure. This letter provides Gladmans ' representations on the application made by Oaksey Parish Council for the designation of a Neighbourhood Area, for the purposes of preparing a Neighbourhood Development Plan.</p> <p><b>At this stage Gladman have no specific comments to make on the application for the Neighbourhood Area designation.</b> However, as the first formal stage of preparing a Neighbourhood Plan, Gladman would like to take the opportunity to comment on the Oaksey Neighbourhood Area application to highlight a number of key requirements to which the development of the emerging Neighbourhood Plan should have regard. Gladman wish to participate in the Neighbourhood Plan's preparation and to be notified of further developments and consultations in this regard.</p> <p>Neighbourhood Plans - Guidance and Legislation</p> <p>The National Planning Policy Framework (The Framework) sets out the Government's planning policies for England and how these are expected to be applied. In doing so it sets out requirements for the preparation of neighbourhood plans and the role these should take in setting out policies for the local area. The requirements set out in the Framework have now been supplemented by the guidance contained in the Neighbourhood Planning chapter of the PPG.</p> <p>Paragraph 16 of the Framework sets out the positive role that Neighbourhood Plans should play in meeting the development needs of the local area. Its states that:</p> <p>"The application of the Presumption (In Favour of Sustainable Development, set out in paragraph 14 of Framework) will have implications for how communities engage in neighbourhood planning. Critically it will mean that neighbourhoods should:</p> <ul style="list-style-type: none"> <li>• Develop plans that support the strategic development needs set out in Local Plans, including policies for housing and economic development;</li> <li>• Plan positively to support local development, shaping and directing development in their area that is outside of the strategic elements of the Local Plan "</li> </ul> <p>Further guidance on the relationship between Neighbourhood Plans and strategic policies for the wider area set out in a Council's Local Plan is included in paragraph 184 of the Framework:</p> <p>"The ambition of the neighbourhood should be aligned with the strategic needs and priorities of the wider local area. Neighbourhood Plans must be in general conformity with the strategic policies of the Local Plan. To</p>

facilitate this, local planning authorities should set out clearly their strategic policies for the area and ensure that an up-to date plan is in place as quickly as possible. Neighbourhood Plans should reflect these policies and neighbourhoods should plan positively to support them. Neighbourhood Plans...should not promote less development than set out in the Local Plan or undermine its strategic policies" .

Before a Neighbourhood Plan can proceed to referendum it must be tested against the Neighbourhood Plan Basic Conditions, set out in paragraph 8(2) of Schedule 4B of the Town and Country Planning Act 1990 and further detailed in paragraph 065 of the Neighbourhood Plan PPG. These Basic Conditions are:

a) Having regard to national policies and advice contained in guidance issues by the Secretary of State it is appropriate to make the neighbourhood plan

b) Having special regard to the desirability of preserving any listed building or its setting or any features of special architectural or historic interest that it possesses, it is appropriate to make the order

c) Having special regard to the desirability of preserving or enhancing the character or appearance of any conservation area, it is appropriate to make the order

d) The making of the neighbourhood plan contributes to the achievement of sustainable development

e) The making of the neighbourhood plan is in general conformity with the strategic policies contained within the development plan for the area of the authority

f) The making of the neighbourhood plan does not breach, and is otherwise compatible with, EU obligations

g) Prescribed conditions are met in relation to the plan and prescribed matters have been complied with in connection with the proposal for the neighbourhood plan

If a Neighbourhood Plan is not developed in accordance with the Neighbourhood Plan Basic Conditions there is a real risk that it will fail when it reaches Independent Examination.

#### Relationship with Local Plans

To meet the legal requirements established under Schedule 4b (as amended) the neighbourhood plan will need to ensure that it supports the strategic priorities for the wider area established in the adopted Core Strategy.

It is important to note that the Council are required to prepare a new Strategic Housing Market Assessment by early 2016, which could alter the full Objectively Assessed Needs for housing for the Housing Market



Area. Therefore, the Plan will need to ensure that it allows for a significant degree of flexibility in order to react to any subsequent changes to the future housing requirement.

Further, it is important to note that the adopted Core Strategy housing target is considered to be a minimum. Therefore, any housing policies contained in the neighbourhood plan should be seen as a minimum and not a cap on development.

#### Woodcock judgment

The recent Woodcock High Court judgment demonstrates the implications for progressing a neighbourhood plan where there is no local plan in place nor a five year housing land supply. In summary, this High Court judgment demonstrates the following key points:

- That §14 and §49 of the Framework in regard to five year housing land supply and the weight to be given to extant housing land supply policies applies equally to both emerging and 'made' neighbourhood plans as other development plan documents otherwise adopted and/or emerging by the local planning authority.

- There is nothing in policy or statute that elevates neighbourhood planning to a level above the wider development plan that enables special consideration.

- Neighbourhood plans must respect national policy and the core planning principles outlined within the Framework.

- Prematurity must be assessed against the whole of the requirements of the PPG. In neighbourhood planning, there is no requirement for planning bodies to produce an objective assessment of housing needs, as there is no requirement to consider the effectiveness or justification of a plan.

Given the recent Woodcock Judgment, in the event the Council are unable to identify a 5 year housing land supply, the housing policies contained in the Neighbourhood Plan will, together with the policies contained in the adopted Core Strategy, be found out of date. Therefore, the Oaksey Neighbourhood Plan will need to ensure that it allows for sufficient flexibility so that it is able to respond positively to future sustainable growth opportunities.

#### Neighbourhood Plan Policies and Proposals

In accordance with the Neighbourhood Plan Basic Conditions, Neighbourhood Plan policies should align with the requirements of the Framework and the wider strategic policies for the area set out in the Council's Local Plan. Neighbourhood Plans should provide a policy framework that complements and supports the requirements set out in these higher-order documents, setting out further, locally-specific requirements that will be applied to development proposals coming forward.

The Framework is clear that Neighbourhood Plans cannot introduce policies and proposals that would prevent development from going ahead. They are required to plan positively for new development, enabling sufficient growth to take place to meet the strategic development needs for the area. Policies that are clearly worded or intended to place an unjustified constraint on further sustainable development taking place would not be consistent with the requirements of the Framework or meet the Neighbourhood Plan Basic Conditions.

Communities should not seek to include policies in Neighbourhood Plans that have no planning basis or are inconsistent with national and local policy obligations. Proposals should be appropriately justified by the findings of a supporting evidence base and must be sufficiently clear to be capable of being interpreted by applicants and decision makers. Policies and proposals should be designed to add value to policies set out in Local Plan and national guidance, as opposed to replicating their requirements.

The community should liaise with the Council's planning team to seek advice on the appropriateness of the Neighbourhood Plan's proposals.

#### Sustainability Appraisal/Strategic Environmental Assessment

The preparation of a Neighbourhood Plan may fall under the scope of the Environmental Assessment of Plans and Programmes Regulations 2004 (SEA Regulations) that require a Strategic Environmental Assessment (SEA) to be undertaken where a Plan's proposals would be likely to have significant environmental effects. The requirement to undertake an SEA will be dependent on a Neighbourhood Plan's proposals, but is likely to be necessary where a Plan is proposing specific allocations or site designations.

In accordance with Schedule 1 of the SEA Regulations, a Screening Assessment of a Neighbourhood Plan's proposals should be completed to assess whether an SEA must be prepared. Where an SEA is required this should be commenced at the earliest opportunity, alongside the preparation of the emerging Neighbourhood Plan, to ensure the Neighbourhood Plan's proposals have been properly considered through the SEA process, and appropriately justified against other reasonable alternatives.

Where an adequate SEA has not been undertaken a Neighbourhood Plan is unlikely to meet the Neighbourhood Plan Basic Conditions. Although Neighbourhood Plans do not require a Sustainability Appraisal (SA) of their proposals, preparing an SA can help to show how a Neighbourhood Plan will contribute to the achievement of sustainable development, a Neighbourhood Plan Basic Condition. Where an SEA is required, extending this assessment to the preparation of an SA is unlikely to require significant additional input.

The Council's planning team will be able to advise on the likely need for an SEA of the Neighbourhood Plan's proposals. To be compatible with EU obligations, further appraisals, such as a Habitats Regulations Assessment, may also be required depending on local circumstances.

	I hope you have found this letter to be constructive. Should you have any queries in relation to our response please do not hesitate to contact us.
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