

Fiona Ajram

From: Brie Logan [REDACTED]
Sent: 19 March 2020 16:18
To: Philip Reese
Cc: Jo Witherden
Subject: FW: Rolt Millennium Green - LGS designation and Reg 16 response
Attachments: Representation to Neighbourhood Plan.pdf; RegisterPlanDT361001 190420.pdf; RMG RegisterPlanDT273188 The Green.pdf; page 43 SFGI1 revised (004).jpg

Importance: High

Dear Philip

We have been made aware of an objection that has been sent to Dorset Council as part of Regulation 16 consultation (as per attachment 1). The objection relates to a section of land adjacent to the Rolt Millennium Green (RMG) that is being proposed as LGS designation. Based on our evidence, we consulted the Trust in 2019 but do not appear to have realised that part of the land was in separate ownership and have not therefore consulted the owner. Therefore, at the stage of submitting the plan we hadn't had the opportunity to take into account the owner's thoughts on this.

The Green Infrastructure (GI) policy SFGI1 relates to important Local Green Space (LGS) and Important Treed Areas (ITA) within Shaftesbury. The attached map represents those areas and the Green Infrastructure audit proposes that Rolt Millennium Green (as shown against number 27) is designated as a LGS. When developing the GI map the North Dorset IOWA boundary was followed hence the map shows the entrance in to RMG and the block of two garages that are in private ownership. At the point where the SFGI map was created we were unaware that the entrance and garage block was in private ownership.



I have acquired the HMLR entries for Title number DT273188 (RMG) which clearly details the right of way granted by the deed dated 02.2000 and the Title number DT361001 (land with garages) refers back to the rights granted by the deed dated 15.12.1999. Both Title Deeds are attached for your reference.

This matter has been researched further as a result of the new information coming to light. A copy of the deed from 12.99 has been requested via one of the RMG Trustees however to date this has not been received.

Therefore it is proposed that part of the area of land in private ownership as detailed on DT361001, relating to those parts over which there are no rights of way granted, is removed from the LGS designation however the part of the site that forms the entrance to RMG still features within the LGS designation. I attach a map to show the proposed amendment.

Many thanks

Kind regards

██████████

Brie Logan
Business Manager
For and on behalf of Shaftesbury Town Council
Main ██████████
Direct ██████████
Website www.shaftesbury-tc.gov.uk



Shaftesbury Town Council
The Town Hall
The High Street
Shaftesbury
SP7 8LY

21st February 2020

To Whom it May Concern,

Draft Shaftesbury Neighbourhood Development Plan

Consultation Response by Atlas Planning Group on behalf of Ms Yvonne Hellier

Context

These comments are made on behalf of Ms Hellier as part of the pre-submission public consultation for the Shaftesbury Neighbourhood Plan, with particular regard to the boundary of the Rolt Millennium Green.

Rolt Millennium Green has been put forward as a designated Local Green Space under Policy SFGI1. The proposed map highlights the area to be designated (Figure 1). However, although the boundary follows that of North Dorset District Wide Plan 2003, it includes a parcel of land, which does not contribute to the Green or meets the objectives of Policy SFGI1. Further to this, the land in question is in private ownership – it is not owned by the Rolt Millennium Green Trust.

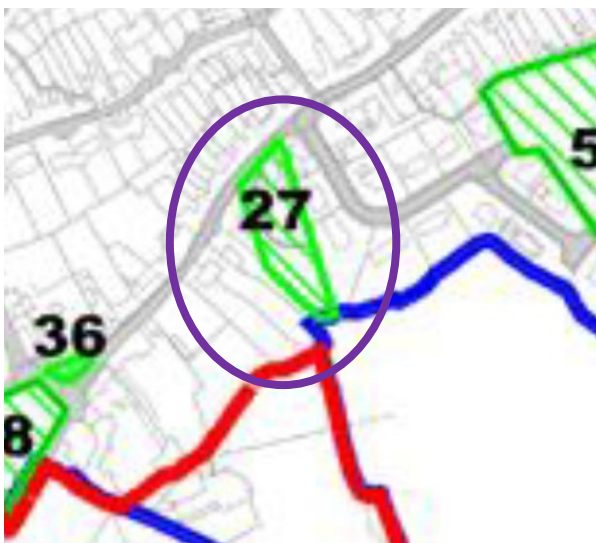


Figure 1: Proposed designation

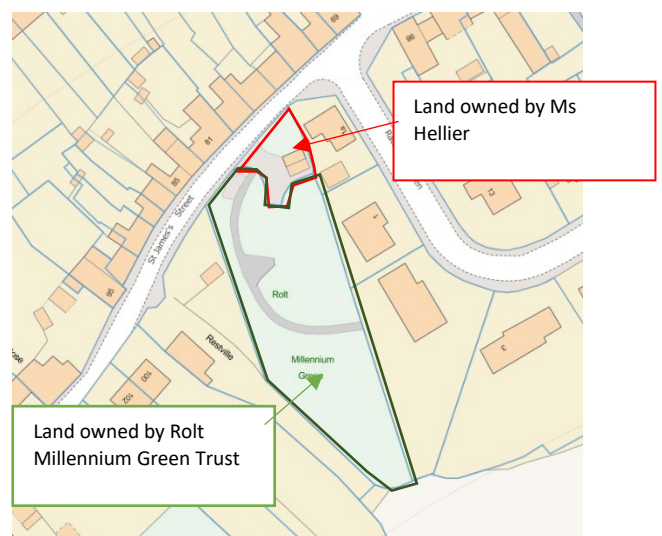


Figure 2: Ownership map

Planning Practice Guidance at paragraph 019 Reference ID: 37-019-20140306 states that a Local Green Space does not need to be in public ownership. However, the qualifying body (in the case of neighbourhood plan making) should contact landowners at an early stage about proposals to designate any part of their land as Local Green Space. Landowners will have opportunities to make representations in respect of proposals in a draft plan. As the landowner, Ms Hellier has not been contacted regarding the designation of her land (a point confirmed by Shaftesbury Town Council in an email to Ms Hellier enclosed at Appendix A). The purpose of this document is therefore to object to the proposed designation and request that the boundary is amended to exclude her parcel of land.

In order for a Neighbourhood Plan (NP) to be lawful, it must comply with the basic conditions set out within paragraph 8(2) of Schedule 4B of the Town and Country Planning Act 1990. These basic conditions are that the NP must:

- have regard to national policies and advice contained in guidance issued by the Secretary of State; and
- contribute to the achievement of sustainable development; and
- be in general conformity with the strategic policies of the development plan in the area; and
- be compatible with European Union (EU) and European Convention on Human Rights (ECHR) obligations.

Basic Condition 1 – Have regard to National Policies and Guidance

Paragraph 100 of the NPPF provides national guidance on the designation of Local Green Space (LGS). The policy states:

“The Local Green Space designation should only be used where the green space is:

- a) in reasonably close proximity to the community it serves;*
- b) 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*
- c) local in character and is not an extensive tract of land”*

As explained below, we contend that the currently proposed Green Space does not accord with criteria (b) and (c). The Draft Neighbourhood Plan therefore fails to meet the basic conditions required, as it does not adequately account for national planning policy.

The purpose of Policy SFG1 is to protect important and locally valued green spaces. *“Spaces are valuable to nearby residents because they offer play or other recreational opportunities. Such spaces have been designated for protection from development, where they qualify. Some important spaces could not be designated at this time.”*

Given that the area in question is characterised by hard surfacing, is occupied by a garage and is separated from the green space by a stone wall with gates, the area currently designated does not offer any play or recreational opportunities.



Figure 3: Site to be excluded from designation

The area currently proposed is not demonstrably special to the local community because of its beauty, recreational value, tranquillity or richness of its wildlife nor is it local in character. The PPG describes a Local Green Space designation as *“a way to provide special protection against development for **green areas** of particular importance to local communities.”* [our emphasis included]

As emphasised, the purpose of a Local Green Space designation is to protect **green** areas. The site is currently a parcel of hard standing and is occupied by a garage. It is not “green” and due to being in private ownership is not used by the local community.

The PPG also states that other land could be considered for designation even if there is no public access, but outlines that this would be in cases when a green area is valued because of their wildlife, historic significance and/or beauty. Clearly, this is not the case for this site.

Demonstrably special and holding a particular local significance

In order to properly assess the NP’s conformity with this criterion of NPPF 100, the terms ‘special’ and ‘significance’ should first be clearly defined.

special – *“better, greater, or otherwise different from what is usual”*

significance – *“the quality of being worthy of attention; importance”*

We contend that the justification put forward within the draft NP and its evidence base does not demonstrate that the site owned by Ms Hellier is better, greater or otherwise different from the other areas of Shaftesbury or that it warrants special attention.

The Green Infrastructure Audit outlines the important characteristics and current use of the Rolt Millennium Green, stating that *“it is an attractive community garden with open country views to south. Mixed planting & fruit trees with a grassed area and all-weather path. Managed by local charity.”* It highlights that the area is demonstrably special because of its recreational value and the value to wildlife and biodiversity, and notes that the landowners are the Rolt Millennium Green Trust.

Whilst the Green is valued and used by local community, there is no demonstrable reason to suggest that the site owned by Ms Hellier, which is currently covered by the designation is of any significance. The site clearly does not form part of the community garden and thus, does not comprise mixed planting and fruit trees. With regards to its recreational value and the value to wildlife and biodiversity, by reason of the developed nature of the site, no significant wildlife exists, and the recreational value is nil.

On the basis of the above, the land which is proposed for inclusion within the NP is not sufficiently 'special' nor 'significant' to the local community to warrant its designation. Therefore, the proposed designation does not accord with criterion (b) of NPPF 100.

Basic Condition 2 – Contribution to the Achievement of Sustainable Development

The PPG states that designating any Local Green Space will need to be consistent with local planning for sustainable development in the area.

Paragraph 8 of the NPPF explains that achieving sustainable development means that the planning system has three overarching objectives, which are interdependent and need to be pursued in mutually supportive ways (so that opportunities can be taken to secure net gains across each of the different objectives):

- a) an economic objective – to help build a strong, responsive and competitive economy, by ensuring that sufficient land of the right types is available in the right places and at the right time to support growth, innovation and improved productivity; and by identifying and coordinating the provision of infrastructure;
- b) a social objective – to support strong, vibrant and healthy communities, by ensuring that a sufficient number and range of homes can be provided to meet the needs of present and future generations; and by fostering a well-designed and safe built environment, with accessible services and open spaces that reflect current and future needs and support communities' health, social and cultural well-being; and
- c) an environmental objective – to contribute to protecting and enhancing our natural, built and historic environment; including making effective use of land, helping to improve biodiversity, using natural resources prudently, minimising waste and pollution, and mitigating and adapting to climate change, including moving to a low carbon economy.

It is clear from the above that the designation of Ms Hellier's land would not be consistent with the aims of sustainable development. Designating Ms Hellier's land would not contribute to environmental objectives as it is a parcel of land, which is currently developed. Policy SFG11 would not help protect or enhance the environment and would prevent any future development on the site. As highlighted by the NPPF, the three overarching objectives are interdependent and given that Policy

SFGI1 would limit development, the NP would undermine the policies within the NPPF as a whole, preventing the ability to meet any economic or social objectives.

Basic Condition 3 - be in general conformity with the strategic policies of the development plan in the area; and

Given that the current designation does not contribute to achieving sustainable development, the proposal would not be in general conformity with the strategic policies of the development plan. Policy 1 of the North Dorset Local Plan Part 1 in particular states that when considering development proposals, the Council will take a positive approach that reflects the presumption in favour of sustainable development contained in the National Planning Policy Framework.

Furthermore, Policy 2 outlines that all development proposals should be located in accordance with the spatial strategy for North Dorset. Shaftesbury is included as a main town in North Dorset, which will function as the main services centres and will be the main focus for growth, both for the vast majority of housing and other development. In this respect, including the land in the designation would undermine this policy and the ability of Shaftesbury to grow and thrive.

The Planning Practice Guidance states in no uncertain terms that the LGS designation should be used as a 'back door' way of achieving protection of land akin to a Green Belt. The aim of LGS is to protect spaces which are genuinely special and valued as such by the community they serve, not to provide an additional tool to restrict development wholesale. In this case, the site should not be included simply to prevent any development on this site as this would undermine the purposes of the LGS and sustainable development.

For the above reasons, the NP does not comply with the basic conditions set out within paragraph 8(2) of Schedule 4B of the Town and Country Planning Act 1990.

Conclusion

No coherent reason is given for the inclusion of the whole of the land within the proposed LGS, indeed the only justification which is provided is for the community garden. There is no obvious factor such

as landownership, public access, or visual character which seems to have been used as a basis for establishing the boundary.

Indeed, the business manager for and on behalf of Shaftesbury Town Council has stated in an email to Ms Hellier dated 3rd February 2020 that *“We followed the North Dorset District Council IOWA (important Open Wood Area) boundary hence the boundary was drawn as it is shown on the above map and on page 43 of the draft Neighbourhood plan.”* (Appendix A).

We therefore object to the designation’s boundary for Rolt Millennium Green, as for the reasons above, this would be contrary to the requirements of NPPF 100. The proposed area for designation (whilst valued to some degree) is not demonstrably special and does not hold a particular local significance. The land is in private ownership and is not a green space. Rather, it is a parcel of hard standing and is occupied by a garage. Accordingly, the NP does not meet the first of the basic requirements. We therefore respectfully request that the boundary is amended and Ms Hellier’s site is removed from future versions of the Neighbourhood Plan.



Figure 4: Proposed Boundary for Rolt Millennium Green

In addition, we contend that the proposed NP would also fail to accord with the second and third basic requirement, as the overly restrictive approach to development proposals within the proposed LGS would be contrary to the overarching objective of achieving sustainable development.

We trust that these comments will be taken into account in the preparation of the final NP.

Yours sincerely

[REDACTED]

Rebecca Smith BSc (Hons) MSc MRTPI
Principal Planner and Planning Manager

[REDACTED]

Enc: Appendix A – Email from Shaftesbury Town Council to Ms Hellier dated 03/02/20



Dan Roycroft

From: Yvonne Hellier
Sent: 03 February 2020 16:07
To: Dan Roycroft
Subject: Fwd: Land next to Rolt Millennium Green

Hi Dan
Please see, forwarded info from the project facilitator.

Best wishes
Yvonne
Yvonne Hellier

Sent from my iPhone

Begin forwarded message:

From: Brie Logan [REDACTED]
Date: 3 February 2020 at 15:52:12 GMT
To: Yvonne Hellier
Cc: Claire Commons [REDACTED]
Subject: Land next to Rolt Millennium Green

Dear Yvonne

Following our call earlier today I have summarised our conversation below. As discussed I have sought further advice which I have detailed below.

Looking at the map it would appear that your site is part of the proposed LGS (Local Green Space) designation on the emerging Neighbourhood Plan.



Based on our evidence, we consulted the Rolt Millennium Green Trust but do not appear to have realised that part of the land was in separate ownership and therefore did not consult

with you. Therefore we haven't had the opportunity to take into account your thoughts on this.

We followed the North Dorset District Council IOWA (important Open Wood Area) boundary hence the boundary was drawn as it is shown on the above map and on page 43 of the draft Neighbourhood plan. The question then is whether the land in your ownership is valued and important as part of a locally important green space. If yes, then we would look to sustain the need that it should be included in the Rolt Millennium Green LGS. If no (it is not important as part of that space), then we would be agreeable to its removal (accepting that its development would still need to consider the impact on the adjoining LGS).

The consultation starts on 7 Feb therefore it has been suggested that you make a comment through the Reg 16 (formal) consultation. It is important that you copy us in so we can also respond once we have had an opportunity to consider this in further detail.

In terms of the Neighbourhood Plan (emerging) policy SFGI1 states:

4.2 Policy SFGI1

What does Policy SFGI1 set out to do?

To protect the important and locally valued green spaces.

Shaftesbury has green spaces that are linked to highly valued historic sites, wooded spaces that contribute to the character of the town and mitigate climate change, and spaces that give access to long views. Other spaces are valuable to nearby residents because they offer play or other recreational opportunities. Such spaces have been designated for protection from development, where they qualify.

Some important spaces could not be designated at this time.

New development at Littledown, to the north of the town, will provide a significant area of parkland giving long views over Gillingham Royal Forest. This will become an important landscape feature and leisure area but cannot be said to be 'valued' until public access is made available. It may,



however, be eligible for LGS designation at the first review of this Neighbourhood Plan.

A further important space is the semi-natural area with ponds that has been created by the sustainable urban drainage system on the south-eastern edge of the town. This is used for play and dog-walking and is becoming an important asset for the many people living nearby, for whom there is currently no readily accessible alternative. However, part of the area sits within the bypass corridor (see Policy SFHE4) and this potential future development means that protection is not appropriate.

Details:

POLICY SFGI1 - The areas shown on Map SFGI1 and listed in the Green Infrastructure audit (as referenced in the separate GI audit document) are designated as Local Green Spaces (LGS).

Development will not be permitted within these designated spaces or on land immediately next to them, if it would harm their green character and the reason for their designation.

Development within a Local Green Space will only be permitted if it is compatible with, and does not cause substantial harm to, the space's character and continued use. Any

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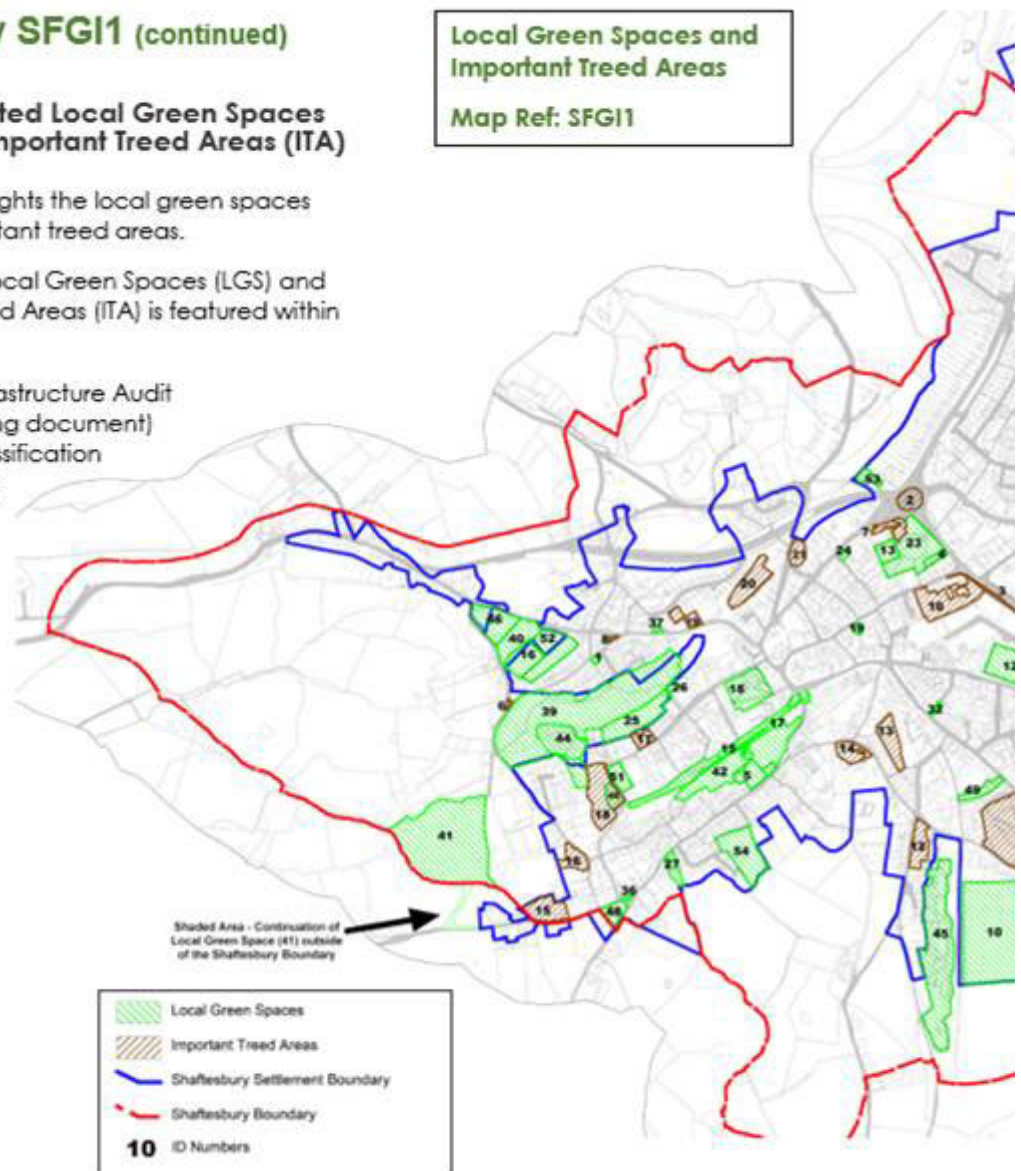
4.2 Policy SFGI1 (continued)

Map of audited Local Green Spaces (LGS) and Important Treed Areas (ITA)

This map highlights the local green spaces and the important treed areas.

The index of Local Green Spaces (LGS) and Important Treed Areas (ITA) is featured within Appendix L.

The Green Infrastructure Audit (accompanying document) details the classification of each green space shown on the map.



I trust you will find this information helpful.

Please let me know if I can be of further assistance.

Many thanks

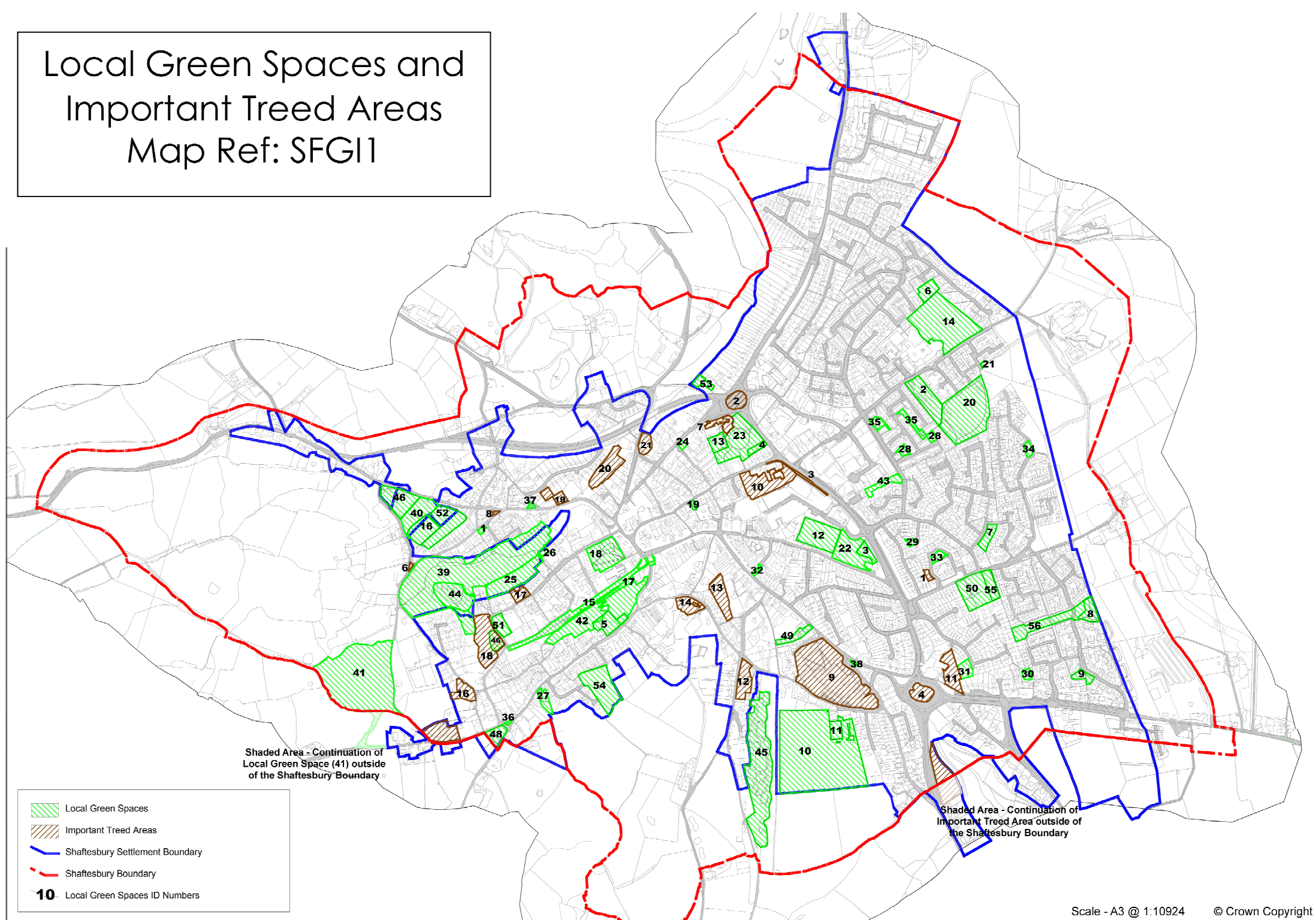
Kind regards

██████

Brie Logan
Business Manager
For and on behalf of Shaftesbury Town Council
Main ██████████
Direct ██████████
Website

Local Green Spaces and Important Treed Areas

Map Ref: SFGI1



Title Number : DT273188

This title is dealt with by HM Land Registry, Weymouth Office.

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This extract shows information current on 29 MAY 2017 at 17:35:59 and so does not take account of any application made after that time even if pending in HM Land Registry when this extract was issued.

REGISTER EXTRACT

Title Number	: DT273188
Address of Property	: Land at St James, Shaftesbury
Price Stated	: Not Available
Registered Owner(s)	: THE OFFICIAL CUSTODIAN FOR CHARITIES on behalf of the trustees of Rolt Millenium Green of Grosvenor House, Bleke Street, Shaftesbury, Dorset, SP7 8AW.
Lender(s)	: None

Title number DT273188

This is a copy of the register of the title number set out immediately below, showing the entries in the register on 29 MAY 2017 at 17:35:59. This copy does not take account of any application made after that time even if still pending in HM Land Registry when this copy was issued.

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A: Property Register

This register describes the land and estate comprised in the title.

DORSET : NORTH DORSET

1 (02.02.2000) The Freehold land shown edged with red on the plan of the above Title filed at the Registry and being Land at St James, Shaftesbury.

2 (02.02.2000) The land has the benefit of the following rights granted by a Conveyance of the land in this title dated 26 June 1984 made between (1) Helen Constantia Rolt (Vendor) and (2) Adare Benjamin Sladen (Purchaser):-

"TOGETHER with a right of way in common with the Vendor and all others having the like right over and along the piece of land hereby conveyed the Purchaser paying a proportionate amount according to user of the cost of maintenance of the said right of way such proportion as aforesaid to be subject to the decision of the Vendors Surveyor whose decision shall be final and binding on both parties."

NOTE: Copy plan filed.

3 (02.02.2000) By a Deed dated 15 December 1999 made between (1) Albert Victor Carter and (2) Paul Robert Schilling and others the rights granted by the Conveyance dated 26 June 1984 referred to above were released. The land has the benefit of the substituted rights granted by the said Deed.

NOTE: Copy filed.

B: Proprietorship Register

This register specifies the class of title and identifies the owner. It contains any entries that affect the right of disposal.

Title absolute

1 (06.04.2000) PROPRIETOR: THE OFFICIAL CUSTODIAN FOR CHARITIES on behalf of the trustees of Rolt Millenium Green of Grosvenor House, Bleke Street, Shaftesbury, Dorset, SP7 8AW.

2 (06.04.2000) RESTRICTION: Except under an order of the registrar no disposition or dealing by the proprietor of the land is to be registered unless the instrument giving effect to it contains a certificate complying with section 37(2) or, in the case of a charge, with section 39(2) of the Charities Act 1993.

3 (04.09.2001) RESTRICTION: Except under an order of the Registrar no disposition by the proprietor of the land is to be registered without the consent of The Millennium Commission of Portland House, Stag Place, London SW1E 5BZ and by a duly authorised officer of Natural England of Legal Services, Area 1C Nobel House, 17 Smith Square, London SW1P 2AL.

C: Charges Register

This register contains any charges and other matters that affect the land.

- 1 (02.02.2000) A Conveyance of the land in this title and other land dated 30 October 1959 made between (1) Walter Charles Stainer (Vendor) and (2) Donald Pugh Martindale (Purchaser) contains the following covenants:-

For the benefit and protection of the land and premises to the West of the property hereby conveyed or any part or parts thereof and so as to bind the property hereby conveyed into whosoever hands the same may come the Purchaser for himself and his successors in title hereby covenants with the Vendor that he will at all times hereafter observe and perform the restrictive and other covenants and conditions contained in the Schedule hereto

THE SCHEDULE above referred to

2. Not to use the said land for the purpose of the erection of any building except one private dwellinghouse or two bungalows with garages and the usual outbuildings adjoining thereto

4. No pigs shall be kept on any part of the said property

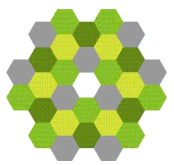
5. No trees hedge or shrub shall be permitted to exceed the height of six feet on the north western boundary of the property edged pink on the said plan or within twelve feet therefrom and elsewhere on the land edged pink no tree or shrub shall exceed the height of ten feet.

NOTE: Copy plan filed.

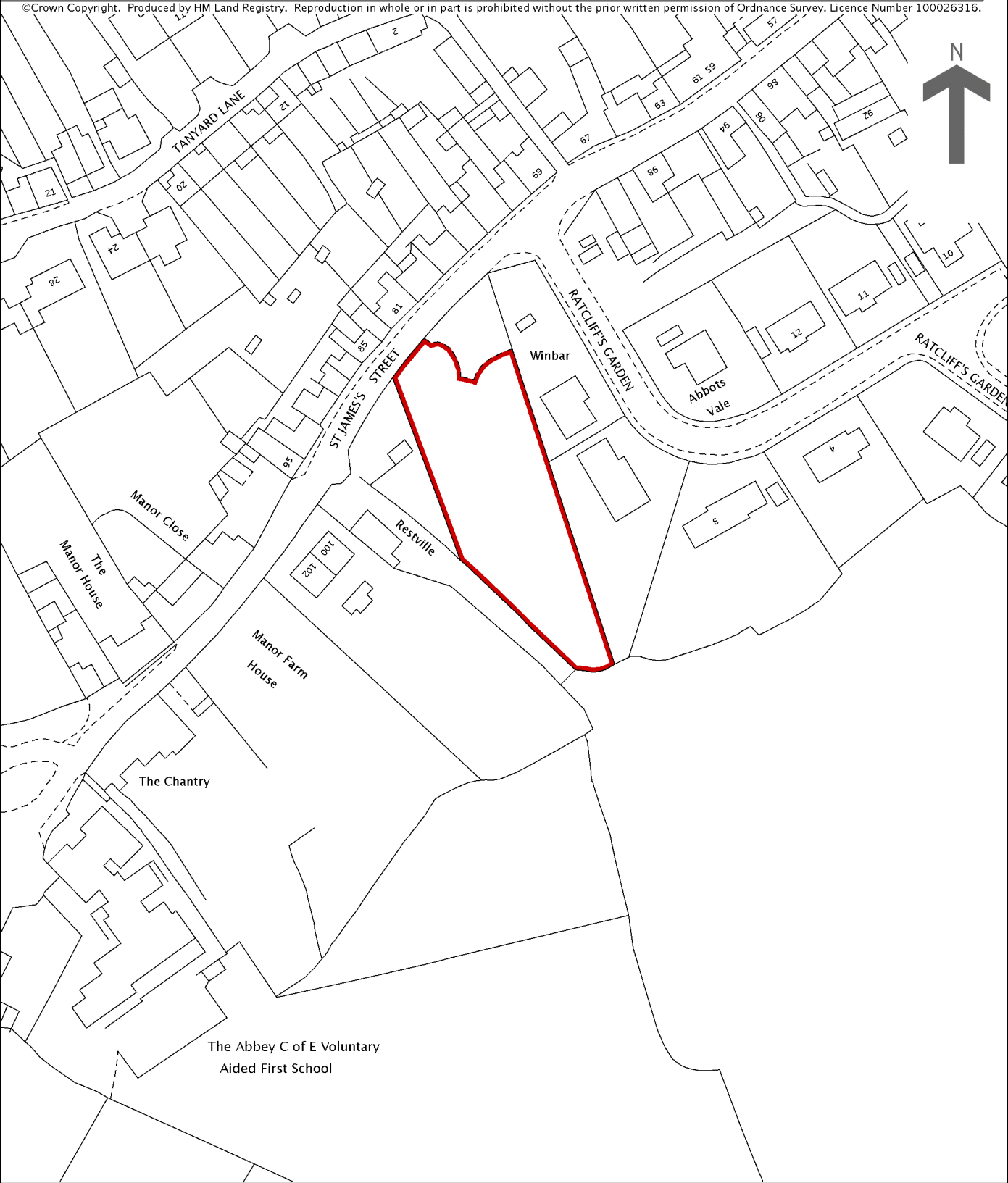
End of register

HM Land Registry Current title plan

Title number **DT273188**
Ordnance Survey map reference **ST8522NE**
Scale **1:1250 enlarged from 1:2500**
Administrative area **Dorset : North Dorset**



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This title is dealt with by HM Land Registry, Weymouth Office.

Title Number : DT361001

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This extract shows information current on 20 APR 2019 at 21:17:37 and so does not take account of any application made after that time even if pending in HM Land Registry when this extract was issued.

REGISTER EXTRACT

Title Number	: DT361001
Address of Property	: Land adjoining Rolt Millenium Green, St James Street, Shaftesbury (SP7 8HQ)
Price Stated	: £40,000
Registered Owner(s)	: RONALD CHANDLER and SUSAN ANNE CHANDLER of Tanley, 5 St. Marys Close, Wilton, Salisbury SP2 0LP.
Lender(s)	: None

Title number DT361001

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A: Property Register

This register describes the land and estate comprised in the title.

DORSET : NORTH DORSET

- 1 (16.04.2004) The Freehold land shown edged with red on the plan of the above title filed at the Registry and being Land adjoining Rolt Millenium Green, St James Street, Shaftesbury (SP7 8HQ).
- 2 (30.03.2019) From 1 April 2019, this title is administered by Dorset Unitary Authority

B: Proprietorship Register

This register specifies the class of title and identifies the owner. It contains any entries that affect the right of disposal.

Title absolute

- 1 (09.10.2017) PROPRIETOR: RONALD CHANDLER and SUSAN ANNE CHANDLER of Tanley, 5 St. Marys Close, Wilton, Salisbury SP2 0LP.
- 2 (09.10.2017) The price stated to have been paid on 23 June 2017 was £40,000.

C: Charges Register

This register contains any charges and other matters that affect the land.

- 1 (16.04.2004) A Conveyance of the land in this title and other land dated 30 October 1959 made between (1) Walter Charles Stainer (Vendor) and (2) Donald Pugh Martindale (Purchaser) contains the following covenants:-

"For the benefit and protection of the land and premises to the West of the property hereby conveyed or any part or parts thereof and so as to bind the property hereby conveyed into whosoever hands the same may come the Purchaser for himself and his successors in title hereby covenants with the Vendor that he will at all times hereafter observe and perform the restrictive and other covenants and conditions contained in the Schedule hereto

THE SCHEDULE above referred to

.....

2. Not to use the said land for the purpose of the erection of any building except one private dwellinghouse or two bungalows with garages and the usual outbuildings adjoining thereto

3. Before any buildings are erected on the said land to submit detailed drawings and specifications to the Vendor or his one immediate successor in title and prior written consent to such buildings must be

Title number DT361001

C: Charges Register continued

obtained

4. No pigs shall be kept on any part of the said property

5. No trees hedge or shrub shall be permitted to exceed the height of six feet on the north western boundary of the property edged pink on the said plan or within twelve feet therefrom and elsewhere on the land edged pink no tree or shrub shall exceed the height of ten feet.

-NOTE: Copy plan filed under DT273188.

2 (16.04.2004) The part of the land affected thereby is subject to the rights granted by a Deed dated 15 December 1999 made between (1) Albert Victor Carter and (2) Paul Robert Schilling and others.

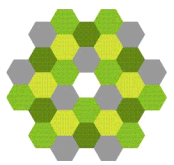
-NOTE: Copy filed under DT273188.

End of register

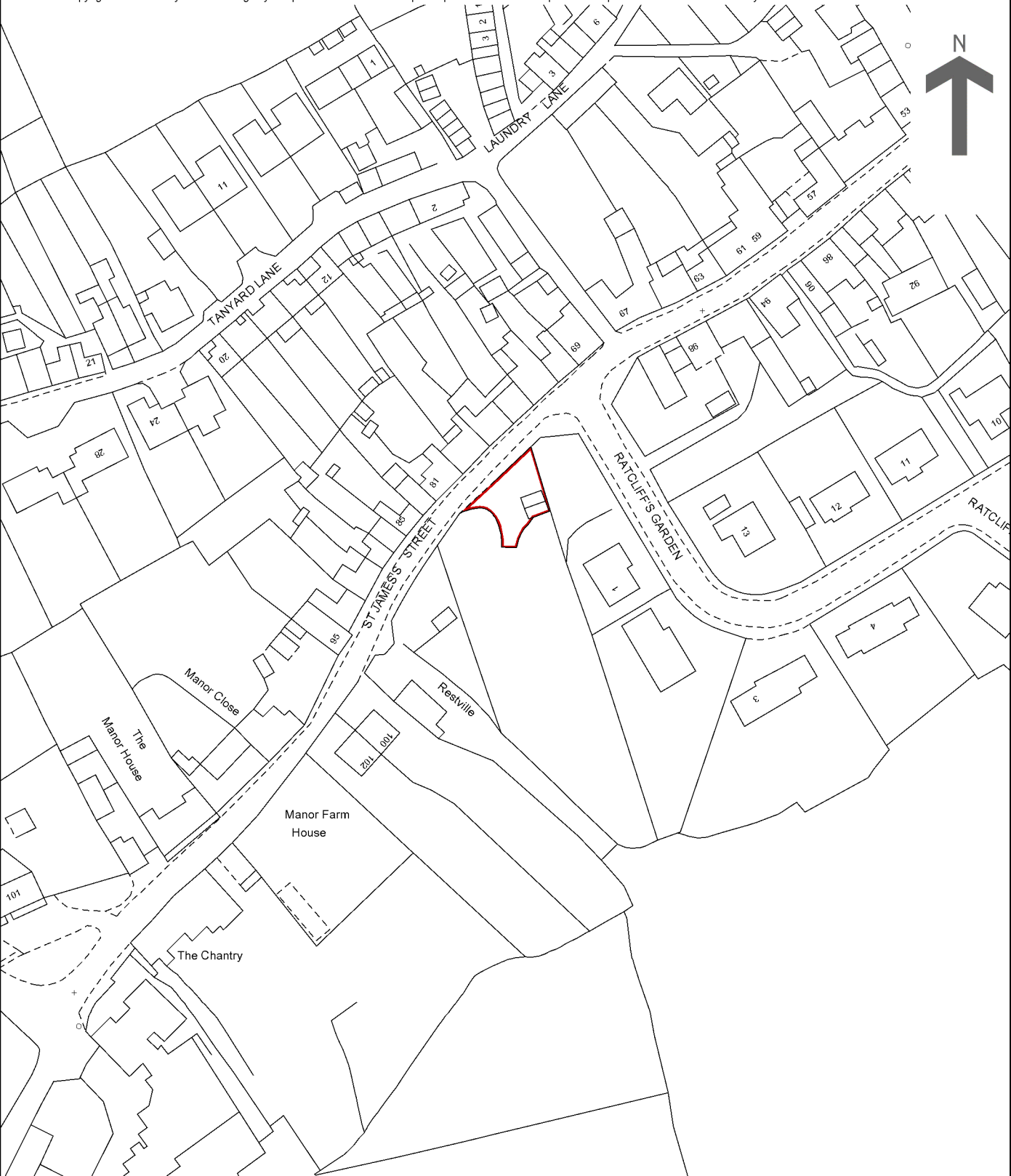
HM Land Registry

Current title plan

Title number **DT361001**
Ordnance Survey map reference **ST8522NE**
Scale **1:1250 enlarged from 1:2500**
Administrative area **Dorset : North Dorset**



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