

AGENDA

Meeting: Western Area Planning Committee

Place: Council Chamber - County Hall, Bythesea Road, Trowbridge, BA14 8JN

Date: Wednesday 17 January 2024

Time: 3.00 pm

Please direct any enquiries on this Agenda to Ellen Ghey - Democratic Services Officer of Democratic Services, County Hall, Bythesea Road, Trowbridge, direct line 01225 718259 or email ellen.ghey@wiltshire.gov.uk

Press enquiries to Communications on direct lines 01225 713114/713115.

This Agenda and all the documents referred to within it are available on the Council's website at www.wiltshire.gov.uk

Membership:

Cllr Christopher Newbury (Chairman)

Cllr Bill Parks (Vice-Chairman)

Cllr Trevor Carbin

Cllr Ernie Clark

Cllr Andrew Davis

Cllr Edward Kirk

Cllr Stewart Palmen

Cllr Pip Ridout

Cllr Jonathon Seed

Cllr David Vigar

Cllr Suzanne Wickham

Substitutes:

Cllr Matthew Dean

Cllr Jon Hubbard

Cllr Tony Jackson

Cllr Mel Jacob

Cllr George Jeans

Cllr Gordon King

Cllr Mike Sankey

Cllr Graham Wright

Cllr Tamara Reay

Cllr Bridget Wayman

Recording and Broadcasting Information

Wiltshire Council may record this meeting for live and/or subsequent broadcast. At the start of the meeting, the Chairman will confirm if all or part of the meeting is being recorded. The images and sound recordings may also be used for training purposes within the Council.

By submitting a statement or question for a meeting you are consenting that you may be recorded presenting this and that in any case your name will be made available on the public record. The meeting may also be recorded by the press or members of the public.

Any person or organisation choosing to film, record or broadcast any meeting of the Council, its Cabinet or committees is responsible for any claims or other liability resulting from them so doing and by choosing to film, record or broadcast proceedings they accept that they are required to indemnify the Council, its members and officers in relation to any such claims or liabilities.

Details of the Council's Guidance on the Recording and Webcasting of Meetings is available on request. Our privacy policy can be found [here](#).

Parking

To find car parks by area follow [this link](#). The three Wiltshire Council Hubs where most meetings will be held are as follows:

County Hall, Trowbridge
Bourne Hill, Salisbury
Monkton Park, Chippenham

County Hall and Monkton Park have some limited visitor parking. Please note for meetings at County Hall you will need to log your car's registration details upon your arrival in reception using the tablet provided. If you may be attending a meeting for more than 2 hours, please provide your registration details to the Democratic Services Officer, who will arrange for your stay to be extended.

Public Participation

Please see the agenda list on following pages for details of deadlines for submission of questions and statements for this meeting.

For extended details on meeting procedure, submission and scope of questions and other matters, please consult [Part 4 of the council's constitution](#).

The full constitution can be found at [this link](#).

Our privacy policy is found [here](#).

For assistance on these and other matters please contact the officer named above for details

AGENDA

Part I

Items to be considered when the meeting is open to the public

1 **Apologies**

To receive any apologies or substitutions for the meeting.

2 **Minutes of the Previous Meeting** (*Pages 5 - 12*)

To approve and sign as a correct record the minutes of the meeting held on 20 December 2023.

3 **Declarations of Interest**

To receive any declarations of disclosable interests or dispensations granted by the Standards Committee.

4 **Chairman's Announcements**

To receive any announcements through the Chair.

5 **Public Participation**

The Council welcomes contributions from members of the public.

Statements

Members of the public who wish to speak either in favour or against an application or any other item on this agenda are asked to register **no later than 10 minutes before the start of the meeting**. If it is on the day of the meeting registration should be done in person.

The rules on public participation in respect of planning applications are linked to in the Council's Planning Code of Good Practice. The Chairman will allow up to 3 speakers in favour and up to 3 speakers against an application, and up to 3 speakers on any other item on this agenda. Each speaker will be given up to 3 minutes and invited to speak immediately prior to the item being considered.

Members of the public will have had the opportunity to make representations on the planning applications and to contact and lobby their local member and any other members of the planning committee prior to the meeting. Lobbying once the debate has started at the meeting is not permitted, including the circulation of new information, written or photographic which have not been verified by planning officers.

Questions

To receive any questions from members of the public or members of the Council received in accordance with the constitution which excludes, in particular,

questions on non-determined planning applications.

Those wishing to ask questions are required to give notice of any such questions in writing to the officer named on the front of this agenda no later than 5pm on **Wednesday 10 January 2024**, in order to be guaranteed of a written response. In order to receive a verbal response, questions must be submitted no later than 5pm on **Friday 12 January 2024**. Please contact the officer named on the front of this agenda for further advice. Questions may be asked without notice if the Chairman decides that the matter is urgent.

Details of any questions received will be circulated to Committee members prior to the meeting and made available at the meeting and on the Council's website.

6 **Planning Appeals and Updates** (*Pages 13 - 22*)

To receive details of completed and pending appeals and other updates as appropriate.

Planning Applications

To consider and determine the following planning applications:

7 **PL/2023/07380: The Coach House, 5c Ash Walk, Warminster, BA12 8PY**
(*Pages 23 - 36*)

Retrospective application for the erection of new fencing.

8 **Urgent Items**

Any other items of business which, in the opinion of the Chairman, should be taken as a matter of urgency.

Part II

Item during whose consideration it is recommended that the public should be excluded because of the likelihood that exempt information would be disclosed

Western Area Planning Committee

MINUTES OF THE WESTERN AREA PLANNING COMMITTEE MEETING HELD ON 20 DECEMBER 2023 AT COUNCIL CHAMBER - COUNTY HALL, BYTHESEA ROAD, TROWBRIDGE, BA14 8JN.

Present:

Cllr Christopher Newbury (Chairman), Cllr Bill Parks (Vice-Chairman), Cllr Trevor Carbin, Cllr Ernie Clark, Cllr Andrew Davis, Cllr Edward Kirk, Cllr Stewart Palmen, Cllr Pip Ridout, Cllr Jonathon Seed, Cllr David Vigar, and Cllr Suzanne Wickham

59 **Apologies**

There were no apologies for absence received.

60 **Minutes of the Previous Meeting**

The minutes of the previous meeting held on 22 November 2023 were considered. Following which, it was:

Resolved:

The Committee approved and signed the minutes of the previous meeting held on 22 November 2023 as a true and correct record.

61 **Declarations of Interest**

There were no declarations of interest.

62 **Chairman's Announcements**

There were no specific Chairman's announcements.

63 **Public Participation**

The Chairman explained the rules of public participation and the procedure to be followed at the meeting.

There were no questions or statements submitted by Councillors or members of the public.

64 Planning Appeals and Updates

The Chairman invited Kenny Green, Development Management Team Leader, to update the Committee on the pending and determined appeals as per the appeals report included within the Agenda Pack.

Before doing so, Members were informed that on 19 December 2023 (the day prior to the Committee meeting), the Government had published an updated National Planning Policy Framework (NPPF) which included a number of revisions which materially impacted Wiltshire Council's decision-making processes. The main implications of the changes were detailed as below:

- The Government had recognised the benefits of a plan-based system and the new NPPF set out the importance for preparing and maintaining up to date plans which should be seen as a priority in meeting the objective of providing sufficient housing.
- The Government had made a significant revision insofar as the housing land supply requirement. For Wiltshire Council, in reaching a critical advanced stage in the preparation of the new Wiltshire Local Plan (Regulation 19), instead of the previous 5-year housing land supply, the Council were now required to demonstrate a 4-year supply.
- Separate to the above, the new NPPF removed the requirement on Councils to demonstrate a rolling 5-year housing land supply if:
 - a) their Local Plan was less than 5 years old; and
 - b) the Plan, when adopted, demonstrated a 5-year supply.
- The Government had also confirmed that the standard methodology for housing need was only an “advisory starting point”, and Councils did not necessarily have to follow it when making their Local Plans.
- The Government also chose not to implement the consulted upon potential changes to the Green Belt.

It was also confirmed to Members that discussions were ongoing with Legal Officers to fully analyse and understand the implications and subsequent course of action for any pending planning applications affected by the new iteration of the NPPF before issuing a decision. Furthermore, it was explained that for pending appeals, officers would anticipate that the Planning Inspectorate would contact the Council, and all other relevant parties, to produce an up to date understanding of the NPPF position and its effect for each appeal.

In response to queries from Members, clarification was given on where the Green Belt lay within Wiltshire, and it was confirmed that a Member briefing note would be drafted by the Spatial Planning Team, and would be circulated as soon as possible in the New Year.

Mr Francis Moreland then presented a statement to the Committee under public participation, which focussed on the revisions to the NPPF, and he expressed the importance and legal basis for reviewing, and where appropriate, re-assessing and bringing back fresh reports to Committee for all relevant planning applications and appeals in light of those changes.

Mr Green then updated the Committee on the appeals report as per the Agenda Pack, with particular attention being drawn to the successful defence of the appeal for application PL/2021/10237, pertaining to the demolition of an existing care home at Staverton. The Committee was congratulated in refusing the application and by identifying the material harm the proposal would have upon immediate neighbours, which the appeal inspector agreed with and identified as being the most significant matter, which outweighed all the benefits of the proposal.

The appeal decision for application PL/2023/01435 was then highlighted which related to the reinstatement of permitted development rights for application 15/10329/FUL, which went against the Council, and which may result in structures within the significant domestic curtilage being 'permitted development' in the future, ie: development not requiring the express permission from the Local Planning Authority.

Finally, Councillor Trevor Carbin highlighted an error in the appeals report in which it stated that the officer recommendation for application PL/2021/10237 was refusal instead of approval.

After which, it was:

Resolved:

The Committee noted the appeals report for the period 10 November 2023 to 8 December 2023.

Post Meeting Note:

As a postscript Committee minute, it should be noted that the Government subsequently corrected the 19 December 2023 iteration of the revised NPPF on 20 December 2023, when the Committee meeting was taking place. The 20 December 2023 NPPF removed a section from Paragraph 14. The following quote was taken from the Government update which can be accessed here: [National Planning Policy Framework - GOV.UK \(www.gov.uk\)](https://www.gov.uk/government/uploads/system/uploads/attachment_data/file/124444/nppf-2023-12-20.pdf)

“Paragraph 14b has been amended to remove text that was not intended to be included in the published version on 19 December. The text removed read: where that requirement has been identified within five years or less of the date on which the decision is made.”

What was presented to the Committee was the 19 December 2023 iteration. To avoid any misunderstanding, the corrected NPPF on 20 December 2023 revised Paragraph 14, pursuant to made neighbourhood plans, which is set out below as a further postscript Committee minute:

“14. In situations where the presumption (at Paragraph 11d) applies to applications involving the provision of housing, the adverse impact of allowing development that conflicts with the neighbourhood plan is likely to significantly and demonstrably outweigh the benefits, provided the following apply:

- a) *The neighbourhood plan became part of the development five years or less before the date on which the decision is made; and*
- b) *The neighbourhood plan contains policies and allocations to meet its identified housing requirement (see Paragraphs 67-68)”*

65 **PL/2023/05634: Land to the South of The Old Rectory, Warminster Lane North, Upton Scudamore**

Public Participation

- Ms Barbara Hardy, local resident, spoke in objection to the application.
- Mr John Spencer, local resident, spoke in objection to the application.
- Mr Chris Beaver, agent for the applicant, spoke in support of the application.
- Cllr Carolyn Pollard, on behalf of Upton Scudamore Parish Council, spoke in objection to the application.

The Senior Planning Officer, Julie Mitchell, introduced the report which recommended that the Committee grant planning permission for the erection of a building for the purposes of agricultural storage, subject to conditions.

Key material considerations were identified including principle of development; landscape impacts; heritage matters; highway/Rights of Way matters; and impacts on residential amenity.

Members were advised that prior to the meeting, officers had reviewed the published report mindful of the changes made to the National Planning Policy Framework (NPPF) as discussed under Agenda Item 6, Planning Appeals and Updates, and had concluded that there were no material policy differences to report.

Attention was then drawn to concerns raised by third-party representations with regard to the proposed purpose of the building, the amount of land the applicant had identified in blue, the proposed hard standing and ground conditions, and the preservation of the countryside. Members were reassured that the cited proposed floor area of the storage building as set out in the applicant's Design and Access Statement had been revised to align with the proposed floor plans and elevations as presented to the Committee, and that the original Design and Access Statement had not been a critical determining factor when finalising the officers' recommendation.

Members of the Committee then had the opportunity to ask technical questions to the officer. Details were sought on the proposed materials to be used for the development, and clarification was required on the difference between the wider agricultural land within the applicant's ownership and the land to which the storage building related to, all of which being separate from the applicant's domestic garden. Further questions were raised with regard to any potential

future development, the principle of development, and the extent of future permitted development rights.

The four named public speakers as detailed above, then had the opportunity to present their views to the Committee.

The Unitary Division Member, Councillor Bill Parks, then spoke on the application.

A debate followed where Members acknowledged the concerns of the local community and welcomed the robustness of the recommended planning conditions. The revisions made to the application prior to the Committee meeting were also appreciated. The potential uses of the land within the applicant's ownership (but outside of the application site) were also discussed, and Members explored with officers the merits of removing permitted development rights to protect the countryside character and neighbouring residents' amenities.

During the debate, a motion to grant planning permission in line with officer recommendations subject to the inclusion of a further condition pertaining to potential future developments, was moved by Councillor Jonathon Seed, and was seconded by Councillor Suzanne Wickham.

Following a vote on the motion, it was:

Resolved:

The Committee GRANTED planning permission subject to the following conditions:

- 1. The development hereby permitted shall be begun before the expiration of three years from the date of this permission.**

REASON: To comply with the provisions of Section 91 of the Town and Country Planning Act 1990 as amended by the Planning and Compulsory Purchase Act 2004.

- 2. The development hereby permitted shall be carried out in accordance with the following approved plans and documents:**

Location Plan dated 17 November 2023

Site/Block Plan dated 17 November 2023

Floor Plan and Site Elevation/Section dated 17 November 2023

Elevations dated 17 November 2023

Revised Landscape Plan V5 dated 4 December 2023

REASON: For the avoidance of doubt and in the interests of proper planning.

3. The building hereby approved shall be used for the purposes of storage of agricultural machinery and associated materials and for no other purpose (including any purpose in Class B8 of the Schedule to the Town and Country Planning (Use Classes) Order 1987 (as amended) (or in any provisions equivalent to that class in any statutory instrument revoking or re-enacting that Order with or without modification).

REASON: The proposed use is acceptable having regard to the needs of the agricultural holding.

4. No external lighting shall be installed on-site other than in accordance with the appropriate Environmental Zone standards set out by the Institute of Lighting Professionals in their publication GN01:2021, 'Guidance for the Reduction of Obtrusive Light' (ILP, 2021), and Guidance note 08/18 "Bats and artificial lighting in the UK", issued by the Bat Conservation Trust and Institution of Lighting Professionals to demonstrate that bat habitat (trees, scrub and hedgerows) on the perimeter of the site will remain below 1 lux.

REASON: In the interests of the amenities of the area and to minimize impacts on biodiversity caused by light spillage to areas above and outside the development site.

5. All planting and soft landscaping comprised in the approved details of landscaping (Revised Landscape Plan V5 dated 4/12/23) shall be carried out in the first planting and seeding season following the first use of the building or the completion of the development whichever is the sooner; All shrubs, trees and hedge planting shall be maintained free from weeds and shall be protected from damage by vermin and stock. Any trees or plants which, within a period of five years, die, are removed, or become seriously damaged or diseased shall be replaced in the next planting season with others of a similar size and species, unless otherwise agreed in writing by the local planning authority. All hard landscaping shall also be carried out in accordance with the approved details prior to the use/occupation of any part of the development or in accordance with a programme to be agreed in writing with the Local Planning Authority.

REASON: To ensure a satisfactory landscaped setting for the development and the protection of existing important landscape features.

6. Notwithstanding the provisions of the Town and Country Planning (General Permitted Development) (England) Order 2015 (as amended by the Town and Country Planning (General Permitted Development) (Amendment) (No.3) (England) Order 2020 (or any Order revoking or re-enacting or amending those Orders with or without modification), no development falling within Part 6, Class B shall take place to the agricultural storage building hereby approved.

REASON: In the interests of the amenity of the area and to enable the Local Planning Authority to consider individually whether planning permission should be granted for any further development.

66 **Urgent Items**

There were no urgent items.

(Duration of meeting: 3.00 - 4.45 pm)

The Officer who has produced these minutes is Ellen Ghey - Democratic Services
Officer of Democratic Services, direct line 01225 718259, e-mail
ellen.ghey@wiltshire.gov.uk

Press enquiries to Communications, direct line 01225 713114 or email
communications@wiltshire.gov.uk

This page is intentionally left blank

**Wiltshire Council
Western Area Planning Committee
17th January 2024**

Planning Appeals Received between 08/12/2023 and 05/01/2024

Application No	Site Location	Parish	Proposal	DEL or COMM	Appeal Type	Officer Recommend	Appeal Start Date	Overturn at Cttee
PL/2022/07311	19 Clivey Gate Toll House, Studio Apartment, Clivey, Dilton Marsh, BA13 4BB	Dilton Marsh	Change of use and extension of existing garage and goat shed to form a single dwelling together with change of use of existing studio flat to home office.	DEL	Written Representations	Refuse	11/12/2023	No
PL/2022/08726	Land off Ashton Road, Hilperton, BA14 7QY	Hilperton	Erection of 1 No dwelling and detached garage	WAPC	Written Representations	Approve with Conditons	19/12/2023	Yes
PL/2023/05160	1A, Wicker Hill, Trowbridge, Wilts, BA14 8JS	Trowbridge	Retention of shop canopy and shutters, including proposed artwork on shutters (updated submission following PL/2022/07086)	DEL	Written Representations	Refuse	19/12/2023	No

Planning Appeals Decided between 08/12/2023 and 05/01/2024.

Application No	Site Location	Parish	Proposal	DEL or COMM	Appeal Type	Officer Recommend	Appeal Decision	Decision Date	Costs Awarded?
19/00529/ENF	23 Mascroft Road, Trowbridge, Wiltshire, BA14 6GD	Trowbridge	Installation of balcony to rear	DEL	Written Reps	-	Enf Notice Quashed	04/01/2024	None
PL/2022/02376	The Olde Cheese House, 28 Upton Lovell, Warminster, BA12 0JW	Upton Lovell	Replacement windows to front of property	DEL	Written Reps	Refuse	Allowed with Conditions	22/12/2023	None

This page is intentionally left blank



Appeal Decisions

Site visit made on 11 December 2023

by **H Davies MSc MRTPI**

an Inspector appointed by the Secretary of State

Decision date: 04 January 2024

Appeal A Ref: APP/Y3940/C/23/3322371

Appeal B Ref: APP/Y3940/C/23/3322377

23 Mascroft Road, Trowbridge, Wiltshire BA14 6GD

- The appeals are made under section 174 of the Town and Country Planning Act 1990 as amended (the Act).
- Appeal A is made by Mrs Kay Bodimeade and Appeal B is made by Mr Bodimeade against an enforcement notice issued by Wiltshire Council.
- The notice was issued on 19 April 2023.
- The breach of planning control as alleged in the notice is, without planning permission, the removal of a first-floor window and installation of French doors and a Juliet balcony as shown in the photograph attached to the notice for identification purposes.
- The requirements of the notice are:
 - a) At first floor level remove the unauthorised balustrade and remove the French doors. Restore the opening to its former depth and size by stopping up the wall and finishing to match the surrounding area of wall and reinstating a window similar to that which existed prior to the unauthorised development taking place.
 - b) Remove from the Land all materials and debris resulting from compliance with 5a) above.
- The period for compliance with the requirements is 6 months.
- Appeal A and B are proceeding on the ground set out in section 174(2)(a) of the Act. Since the appeals have been brought on ground (a), an application for planning permission is deemed to have been made under section 177(5) of the Act.

Summary decision: The appeals are allowed, the enforcement notice is corrected and then quashed and planning permission is granted, in the terms set out in the formal decision below.

The notice

1. I have a duty to get the notice in order and s176(1) of the Act grants powers to (a) correct any defect, error or misdescription in the enforcement notice, and/or (b) vary the terms of the notice, provided it would not result in injustice to the appellant or the Council. The description of the breach, when combined with the photograph attached to the notice for identification purposes, is sufficiently clear to specify the allegation. However, the notice would be more precise if it specified that the removed window was in the rear elevation, and that the doors and balcony installed were in place of the window. I am satisfied that I can correct the notice in this way without causing injustice, as set out in the formal decision.

The appeals on ground (a) and the deemed planning application

2. The appeals on ground (a) are that in respect of any breach of planning control which may be constituted by the matters stated in the notice, planning permission ought to be granted. The terms of the deemed planning application are derived from the allegation, as corrected. Hence, the development for

which planning permission is sought is the removal of a first-floor window in the rear elevation and installation of French doors and a Juliet balcony in place of the window.

Main Issues

3. Having regard to the reasons for issuing the notice, the main issue in Appeal A and Appeal B, is the effect of the development on the living conditions of the occupants of neighbouring dwellings, with regard to privacy.

Reasons

4. 23 Mascroft Road is located within a modern residential development. It is located at first floor level, above garages, so the Council consider it to be a flat, which does not benefit from the permitted development rights of a dwellinghouse.
5. The doors which have been installed are no wider than the original window, and do not extend any further upwards, but do extend further down. As would be expected from its description as a 'Juliet' balcony, the balcony does not have a platform. A balustrade of open metal bars spans the doors and is attached to and projects a small amount from the rear elevation. The doors open inwards at the centre. I have not been provided with opening details of the window that has been removed. Notwithstanding this, during my site visit I observed that surrounding dwellings, which form part of the same development, have windows at first floor in rear elevations, which are hung at both sides and are fully openable, outwards at the centre. I have no reason to conclude that the window which has been removed at the appeal site was any different. As such, the location and orientation of the doors, in relation to adjoining properties, and their ability to be opened at the centre, is not significantly different to the original window which they replaced.
6. 6 Bisham Lane (No 6) is located directly to the rear of the appeal site, with its small garden partially offset. No 6 has no windows at first floor in the rear elevation but the appeal development provides relatively direct views into its garden. 4 Rodsley Walk (No 4) is to one side of the appeal site. Due to the layout, the appeal development does not provide for views of the rear elevation of No 4, or the area of garden next to the house which is where greatest privacy is generally to be expected. An area at the side of the garden of No 4 is visible from the development, but only at an obtuse angle. The appeal development also allows for views towards the garden at 8 Bisham Lane, but again at an obtuse angle and not the area nearest the house.
7. Due to the layout and close relationship of the surrounding dwellings and gardens there is inevitably overlooking into neighbouring gardens, and this will always have been the case. In addition to the original window at the appeal site overlooking the gardens of No 4 and No 6, the first floor rear windows of No 4 overlook the garden of No 6, as do the first floor front windows of a dwelling on the other side of Rodsley Walk. The matter for consideration under these appeals, is not whether the doors and Juliet balcony allow overlooking to take place, but rather, whether they have increased the level of overlooking and, if so, whether any increase has an unacceptable impact on neighbouring privacy.

8. I acknowledge that the door extends down to the internal floor, so views are possible from a lower level than would have been the case for the window. The result is that someone sitting low down or kneeling at the door, could look into neighbouring gardens, which from the window would only have been possible from a standing position or sitting on a higher chair. I also acknowledge that the doors open inwards meaning that when open, overlooking in any direction is not through glass. The window, even when open, would have meant that overlooking to each side would have been through glass. In theory, it would be possible to hang out of the doors, over the balcony, and overlook a small additional area of No 4. I consider this to be unlikely, particularly for any period of time, and would have been possible, though harder, from the window.
9. While the above elements do amount to a change in the on-site situation, the replacement of the window with doors and a Juliet balcony has not resulted in an increase in the extent of the neighbouring gardens which can be overlooked. Nor has it resulted in any significant increase in the type or likely frequency of overlooking. Therefore, adequate levels of privacy at neighbouring properties has been maintained.
10. I conclude that the development does not have an unacceptable impact on the living conditions of the occupants of neighbouring dwellings, with regard to privacy. Consequently, it is in accordance with element vii of Core Policy 57 of the Wiltshire Core Strategy (January 2015), which seeks to ensure that development achieves appropriate levels of amenity and privacy.

Other matters

11. I have been presented with no substantive information which would lead me to conclude that the change from a window to doors has resulted in any significant increase in noise, as experienced by neighbours. Property values are not a matter for consideration under these appeals.
12. I have found the development as built to be acceptable. Consequently, it is not necessary for me to consider whether the addition of screening would make the development acceptable.

Conclusion on ground (a) and the deemed planning application

13. The appeals on ground (a) succeed. I shall quash the notice, with correction, as set out in the formal decision, and planning permission is granted, on the application deemed to have been made under section 177(5) of the 1990 Act as amended.

Formal Decision

14. It is directed that the enforcement notice is corrected as follows:
 - In section 3, which concerns the matters which appear to constitute the breach of planning control, in part (i), after the words "first-floor window", insert the words "in the rear elevation", and, after the word "balcony", insert the words "in place of the window"; and
 - In section 5, which concerns what you are required to do, in part a), after the words "At first-floor level", add the words "of the rear elevation".
15. Subject to these corrections, the appeals are allowed, the enforcement notice is quashed and planning permission is granted on the application deemed to have

been made under section 177(5) of the 1990 Act as amended, for the development already carried out, namely the removal of a first-floor window in the rear elevation and installation of French doors and a Juliet balcony in place of the window, at 23 Mascroft Road, Trowbridge, Wiltshire BA14 6GD.

H Davies

INSPECTOR



Appeal Decision

Site visit made on 28 November 2023

by A Tucker BA (Hons) IHBC

an Inspector appointed by the Secretary of State

Decision date: 22nd December 2023

Appeal Ref: APP/Y3940/Y/22/3312068

The Olde Cheese House, 28 Manor Road, Upton Lovell, Warminster, Wiltshire BA12 0JW

- The appeal is made under section 20 of the Planning (Listed Buildings and Conservation Areas) Act 1990 against a refusal to grant listed building consent.
 - The appeal is made by Mrs Amanda Cheesley against the decision of Wiltshire Council.
 - The application Ref PL/2022/02376, dated 11 April 2022, was refused by notice dated 13 June 2022.
 - The works proposed are described as 'replacing existing windows as per the drawings and photographs'.
-

Decision

1. The appeal is allowed and listed building consent is granted for the works described as 'replacing existing windows as per the drawings and photographs' at The Olde Cheese House, 28 Manor Road, Upton Lovell, Warminster BA12 0JW in accordance with the terms of the application Ref PL/2022/02376 dated 11 April 2022 and the plans submitted with it subject to the following conditions:
 - 1) The works hereby approved shall begin not later than 3 years from the date of this decision.
 - 2) Prior to the fitting of the windows hereby approved, joinery details at a scale of 1:5 shall be submitted to and approved in writing by the Local Planning Authority. Such details shall include a comparison with the existing windows as well as full vertical and horizontal sections to include glazing bar details and details of the finish. The replacement windows shall be constructed in accordance with the agreed details.

Preliminary Matters

2. An updated version of the National Planning Policy Framework (Framework) was published on 19 December 2023. Its content is largely unchanged in relation to the main issue of this appeal, so I have not sought the views of the main parties on this matter.

Main Issue

3. The effect of the proposal upon the significance of the grade II listed building¹.

¹ The list entry (No. 1181861) covers three cottages known as Corton Glebe Cottage, Olde Cheese House and No. 29. Together these three cottages form the listed building.

Reasons

4. Section 16(2) of the Planning (Listed Buildings and Conservation Areas) Act 1990 (LBCA) requires the decision maker to have special regard to the desirability of preserving a listed building or its setting or any features of special architectural or historic interest which it possesses. The appeal building is a cottage within a terrace of three dwellings that are covered by a single list entry. The appeal building and the attached cottage to the north were built in the early to mid 19th century. A further cottage was added to the southern end. The list description suggests that this was probably in the later 19th century, and it is distinguished from the other two by a straight joint in the masonry alongside the original quoins, and different coursing to the stone. In all other respects this later cottage appears to have been built to match the other two and is sheltered by a continuous fishscale clay tile hipped roof.
5. The use of coursed rubble stone, the red brick dressing to the regularly placed openings, and its simple roof form gives the terrace a harmonious and aesthetically pleasing historic appearance. These are characteristics of the building that contribute to its special interest.
6. Superficially the existing windows appear to further contribute to the building's special interest. However, the list description refers to pairs of small 12-pane sashes in two positions on the terrace. Both locations appear to relate to the appeal building, yet these windows are all now side opening casements. A pair of sashes are fitted to the end of the northernmost cottage, in a position which does not appear to correlate with the list description. At my visit there was nothing to suggest that the existing windows at the appeal building are historic, and this is not suggested in any of the submissions before me.
7. Additionally, I note that some of the windows on the ground floor across the terrace are fitted into openings that once served as doorways. Taking these matters together, whilst accepting that the existing casement windows are aesthetically pleasing and look the part architecturally, the evidence suggests that the front façade of the building has been subject to considerable change. For these reasons the existing windows should not be considered elements of historic fabric that need to be conserved.
8. I agree that carefully considered repair is usually a more favourable approach to full replacement for environmental reasons, and there are many well established techniques to significantly improve the thermal performance of a traditional window without introducing double glazing. However, this is not a matter that I can take into account when considering an application for listed building consent where the only test is whether the proposal would preserve the special interest of the building. Therefore, subject to the design of their replacement, the removal of the existing windows is not something that can be resisted as a matter of principle.
9. The replacement windows would be constructed to match the existing windows in all respects apart from the introduction of slim double-glazed units. Joinery details have been submitted in an attempt to illustrate this aim; however, they do not constitute full sections to clarify that the frames would be flush fitting, and there is nothing to demonstrate that the profiles proposed would match the existing joinery. Additionally, the rebates into which the individual sealed units would sit appear overly deep. This is a difference that would be noticeable and would make the replacement windows stand out. Having said this, the existing

glazing bars appear to be broad enough to be replicated with a deeper rebate to take a double-glazed unit. I can therefore be confident that it should be possible to address these matters by imposing a condition to require the submission of additional joinery details if the appeal is allowed.

10. The introduction of double glazing is a change that warrants careful consideration. The existing windows are traditionally designed. However, with reference to the guidance from Historic England², they are not replacements whose design follows an historic pattern as most of the windows that they replaced were sashes. The existing windows are fitted with flat modern glass, which would be unchanged by the proposal. The broken reflection achieved by using proper glazing bars to frame individual sections of glazing forms part of the proposal.
11. There would be the potential for a double reflection to be perceived from outside the building. The Historic England guidance also advises that where a new window is agreed the reflective properties of double glazing do not usually harm the significance of the building. Furthermore, the impact of this would be limited by the northwest orientation of the building's front façade which would be away from sunlight for most of the day, and the fact that the terrace is most readily appreciated at a distance from the road, beyond the front gardens.
12. The appeal decisions referred to by the Council cover similar matters to the proposal before me. Many refer to the harmful visual impact of introducing slim double-glazed units. Some were allowed and some dismissed. I have reviewed these carefully and am satisfied that my decision does not conflict with the approaches taken in these decisions on the basis of the reasons I have given; noting in particular that the glazing pattern at the appeal building lacks authenticity, and the special interest of the terrace is best appreciated at a distance, beyond the front gardens.
13. In summary, the proposal would not be harmful. It would thus preserve the special interest of the listed building in accordance with the requirements of the LBCA and Paragraph 205 of the Framework, which states that great weight should be given to the conservation of heritage assets. Although development plan policies do not strictly apply to applications for listed building consent, the proposal would also accord with the Policy referred to in the Council's decision.

Conditions

14. I have had regard to the condition suggested by the Council. I have considered this against the tests in the Framework and the advice in the Planning Practice Guidance. I have imposed a condition to secure further details of the joinery to ensure that the replacement windows would safeguard the special interest of the listed building.

Conclusion

15. For the reasons given above I conclude that the appeal should succeed.

A Tucker

INSPECTOR

² Historic England: Traditional Windows: Their care, repair and upgrading 2017

This page is intentionally left blank

REPORT FOR WESTERN AREA PLANNING COMMITTEE

Date of Meeting	17 January 2024
Application Number	PL/2023/07380
Site Address	The Coach House, 5c Ash Walk, Warminster, BA12 8PY
Proposal	Retrospective application for the erection of new fencing
Applicant	Ms K. Massey
Town/Parish Council	Warminster
Electoral Division	Warminster West – Cllr Pip Ridout
Grid Ref	387-145
Type of application	Householder Planning Permission
Case Officer	Jonathan Maidman

Reason for the application being considered by Committee

In accordance with the Council’s Scheme of Delegation Specific to Planning’, this application is brought to the committee at the request of Cllr Ridout, based on the following: *“Please refuse porch canopy and permit fencing on front garden only to stay. Overlooked by 3 new houses opposite and vice versa. Applicant no objection to removing porch but wishes to keep overlap fencing just in front garden”*.

In further correspondence with Cllr Ridout, it was confirmed that the committee call-in request related solely *“for the existing fencing in the front garden to be retained...To afford applicant at least a degree of privacy in such a small part but important part of her property”*.

1. Purpose of Report

The purpose of the report is to assess the merits of the proposal against the policies of the development plan and other material planning considerations and to recommend that the application should be refused.

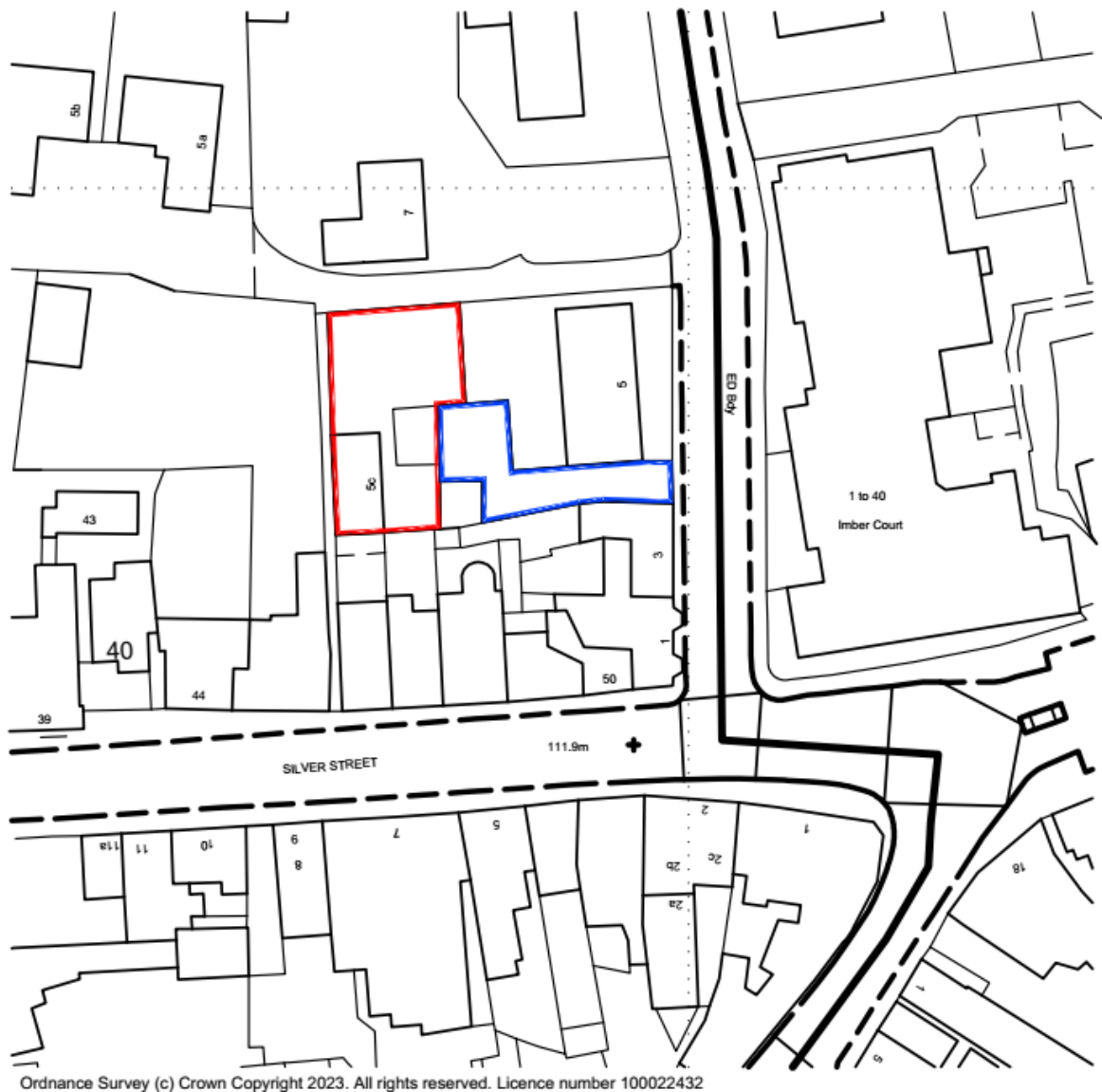
2. Report Summary

The main issues discussed in the report are as follows:

- Design, and impact on the setting of listed buildings and character appearance of the conservation area
- Neighbour amenity

3. Site Description

The Coach House is a detached dwelling to the rear of 5 Ash Walk in Warminster which is a grade II listed building. The site is also within the Warminster conservation area. The following shows the location of the site:



The listing description for 5 Ash Walk (which was listed in March 1978) reads as follows:

*“The Old Police Station. Formerly a pair of houses. Early C19. 2 storeys. Ashlar Bath stone. Projecting plinth and let floor string. Flat eaves. flipped slate roof with central ashlar chimney. Each half of front has a slight break to central bay. Glazing bar sash windows, 6 single hung 1st floor, 5 on ground floor (originally 4) and modern door in centre bay of right hand part. The windows in projecting bay are narrower (2 panes wide). Dwarf stone wall with rounded capping and 2 pairs of small gate piers to the road. **Stable block detached at rear**”.*

Buildings within the curtilage (historic curtilage) of a listed building that pre-date July 1948 are deemed to be covered by the listing for the principal building (in this case, 5 Ash Walk).

As such, the former Coach House is a listed building (curtilage listed). The list description in this case specifically mentions the stable block at the rear (as highlighted in **bold** above).

Historic mapping also shows the stable block prior to July 1948 as confirmed on the next insert:



1844-1888 OS map

4. Planning History

- 16/07604/FUL: Conversion of redundant Coach House to a two-bedroom dwelling and associated external works (planning application) - **Approved**.
- 16/07965/LBC: Conversion of redundant Coach House to a two-bedroom dwelling and associated external works (listed building application) - **Approved**.

The above-mentioned permissions have been implemented and the dwelling is completed and occupied.

- PL/2023/08259: Retrospective Application for the erection of lightweight canopy porch (listed building application) - **Refused**.

It should be noted that originally, this application for planning permission also included reference to a porch which was recently refused by the Council under delegated authority and with the agreement of the local ward member.

Following the consultation exercise, this application and the recently refused application for a porch canopy had the respective descriptions amended with the agreement with the applicant's agent.

An earlier call-in request from the local member related to both the porch and fencing. However following changes made to the respective planning and listed building applications, Councillor Ridout withdrew her call-in request for the porch, stating in an e-mail dated 23/11/2023; "*I agree entirely that the porch should be refused and the existing one removed therefore my call in is not required*".

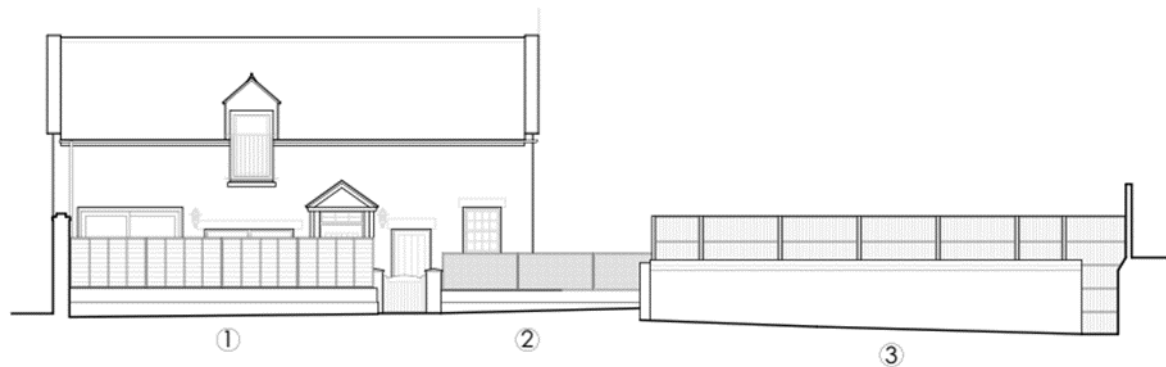
The local member has however maintained her call-in request relating to the fencing stating; "*I wish my call in to remain for the existing fencing...*" which is triggered given that officers are opposed to it, hence the reason this report is brought before the area planning committee.

5. The Proposal

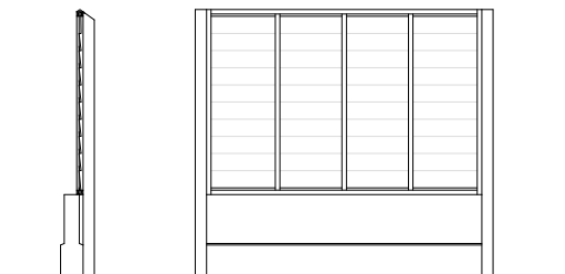
By way of some background, planning permission and listed building consent for the conversion of the Coach House to a dwelling were granted in 2016. An enforcement case was however recently opened after it was confirmed that some works did not accord with the approved plans.

The above cited listed building application for the porch canopy has been refused and will be subject to follow up enforcement proceedings.

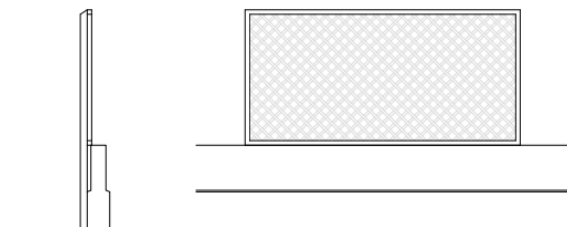
This application seeks to obtain retrospective permission for the remaining unauthorised feature at the property relating to the timber fencing which has been erected to enclose the frontage, to which the following plans and photographs refer:



North East Elevation (Fences) 1:100



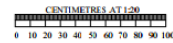
① Post and Panel Fence Section and Elevation 1:100



② Trellis Fence Section and Elevation 1:100

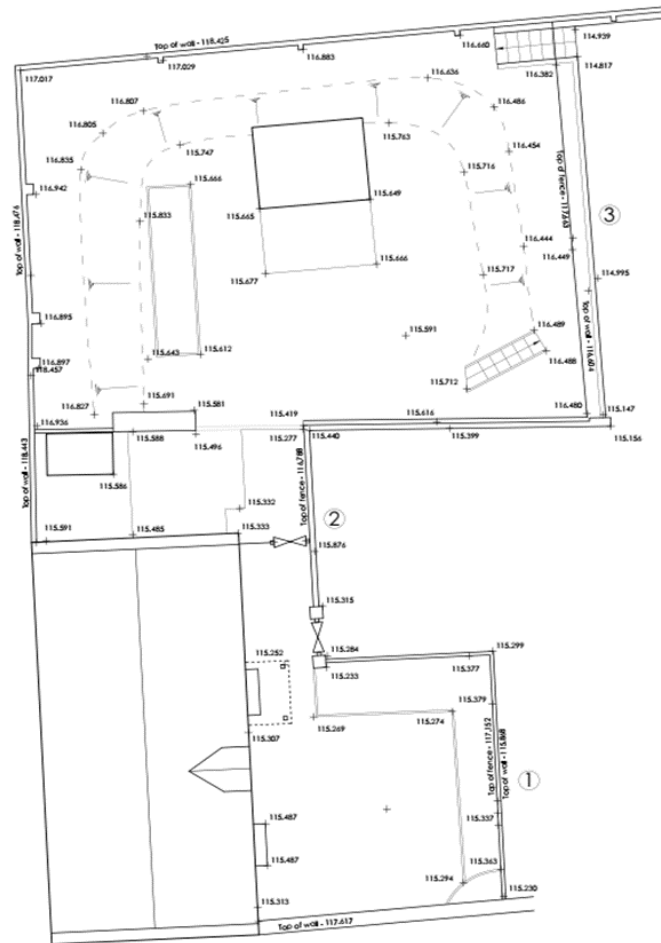


③ Close Boarded Fence Section and Elevation 1:100









6. Planning Policy

National Planning Policy Framework (NPPF)

- 2. Achieving sustainable development
- 4. Decision-making

- 12. Achieving well-designed places
- 16. Conserving and enhancing the historic environment

Wiltshire Core Strategy (WCS)

Core Policy 31: Spatial Strategy for the Warminster Community Area
Core Policy 57: Ensuring High Quality Design and Place Shaping
Core Policy 58: Ensuring the Conservation of the Historic Environment

Other

Warminster Neighbourhood Plan (made November 2016)

Planning (Listed Building and Conservation Areas) Act 1990

7. Summary of consultation responses

Warminster Town Council: *“Members objected to the application as it contravened planning consent and listed building consent previously granted”.*

WC Conservation Officer: *“Objects - In respect of the close boarded fence, its solid non-permeable character inhibits views towards the stable block and disrupts the views between it and the principal building, thereby eroding the historic interdependent relationship and introducing a too domestic feature, out of character with the site”.* Further comments made by the Conservation Officer have been incorporated into the main body of the report in section 9 below.

8. Publicity

The application was advertised by neighbour notification and the erection of a site notice. No responses were received.

9. Planning Considerations

Section 70(2) of the Town and Country Planning Act 1990 and section 38(6) of the Planning and Compulsory Purchase Act 2004 require that the determination of planning applications must be made in accordance with the Development Plan unless material considerations indicate otherwise.

9.1 Design, and impact on the setting of listed buildings and character appearance of the conservation area

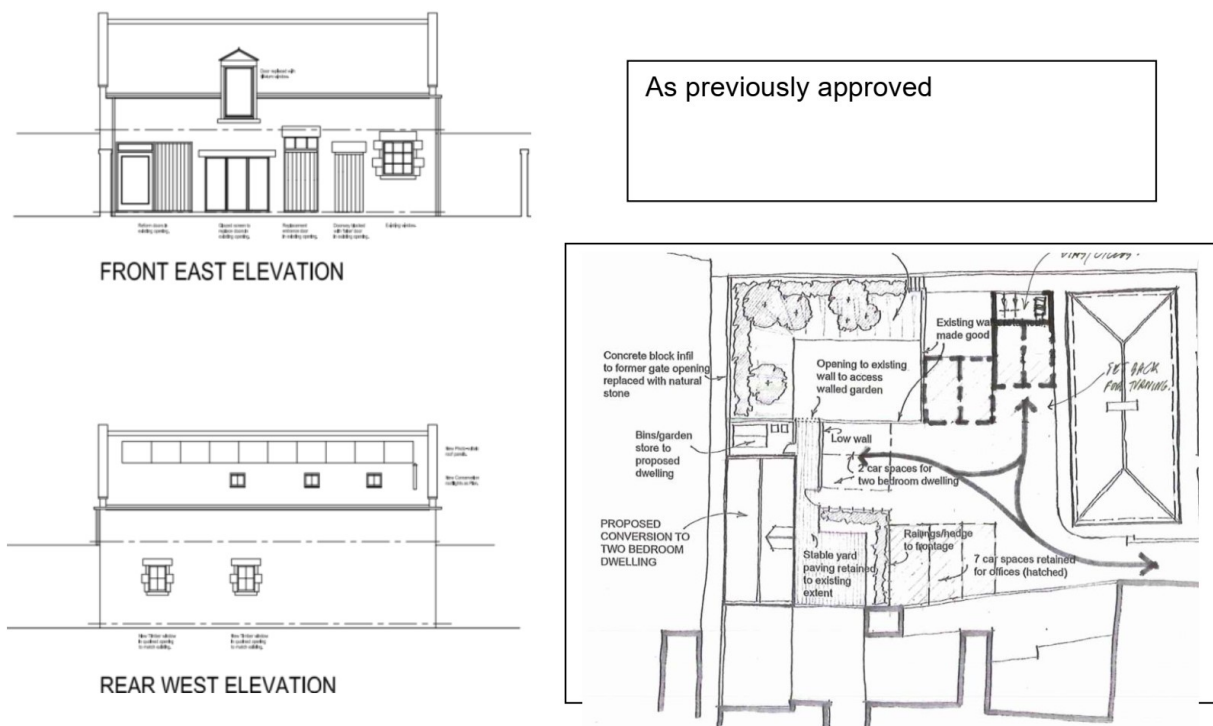
9.1.1 The stable block has historic and social interest, as a characteristic stable block evidencing the original form of transport for occupants of the main house (5 Ash Walk) and for the Police in the 19th Century. It is constructed of quality local materials, has a simple linear form, and sited to the rear and side of the principal building, again pointing to its ancillary use. The disposition of original openings provides evidential value of its former use, with the lack of domestic features underlining its ancillary role.

9.1.2 Within the justification for the unauthorised works, the applicant’s agent states that:

“The Council has therefore accepted that the use of the building as a residential dwelling is acceptable from a heritage perspective, and as such it must be accepted that certain alterations are necessary in order for the building to function as a dwellinghouse”.

9.1.3 The LPA accepted the conversion of the building to residential, but it was only acceptable on the basis that the special interest of the building was preserved and that the setting of the main house was not harmed. As such, the conversion scheme was negotiated and approved on that basis. Indeed, the applicant's agent goes on to quote from the original case officer report (the key word being 'negotiated'): *"The [original] proposals have been negotiated with a view to ensuring that the heritage asset is not harmed whilst providing for bringing the structures back into functional use as a functional dwelling for the applicant."*

9.1.4 With respect to the original proposals approved under applications: 16/07604/FUL and 16/07965/LBC, officers concerned themselves with the detailing of the scheme and the retention of features of significance such as the treatment of the openings, the retention of the setts to the front of the building and retaining the intervisibility between the principal listed building (No.5) and this ancillary building:



9.1.5 The key objective of the original planning and listed building approvals was to retain the visual linked relationship between the main house and the ancillary building and to preserve a sense of the courtyard and access drive being one space, as originally conceived. It was considered that the negotiated low stone wall would preserve a view of the building from the road, that the railings would allow a greater degree of security to the space and that hedging planted behind would enable the occupant to achieve a degree of privacy. It should also be remembered that this is effectively a 'front garden' and front gardens within urban locations often have limited privacy.

9.1.6 The LPA has approved some trellis (for the wall to the side and also to the rear of the dwellings for converted No.5). The trellis, as approved was not however to be sited in front of a principal elevation. To reiterate, the approved trellis in respect of the main building was only at the rear. That said, the existing developer (not the original applicant) has not erected trellis but instead, has recently installed metal railings, as were originally approved for the Coach House:



9.1.7 The application site is located within the Warminster conservation area. The map below shows the conservation area extending over the surrounding area (notated in dark green), with nearby listed buildings outlined in black hatching. The subject premises for this application is identified with a black dot in the middle:



9.1.8 The fencing which encloses the eastern boundary inhibits wider views of the Coach House including from public vantage points. Most notably, the front elevation of the Coach House is significantly obscured when viewed from Ash Walk (i.e., when looking down the vehicular entrance between No's. 3 and 5 as indicated by the black arrow in the above image). This is clearly shown in the following photograph:



9.1.9 Paragraph 140 of the NPPF states: *“Local planning authorities should also seek to ensure that the quality of approved development is not materially diminished between permission and completion, as a result of changes being made to the permitted scheme (for example through changes to approved details such as the materials used)”*. Officers have concluded that the erection of the fencing with its solid non-permeable character inhibits views of the Coach House from the conservation area and also disrupts the views between it and the principal building. It has eroded the historic interdependent relationship and introduced a domestic feature which is out of character with the site, which in turn, harms the setting of the curtilage listed building.

9.1.10 Paragraph 205 of the NPPF advises that when considering the impact of development on the significance of designated heritage assets, **great weight** should be given to their conservation. Paragraph 206 goes on to advise that significance can be harmed or lost through the alteration or destruction of those assets or from development within their setting and that this should have a clear and convincing justification. In this instance the harm is considered to be less than substantial (paragraph 208), but nevertheless is of considerable importance and weight.

9.1.11 Under such circumstances, paragraph 208 of the NPPF advises that this harm should be weighed against the public benefits of the proposal, which can include securing the optimal viable use of listed buildings. The host building in question has only recently been converted into a dwelling and there is no evidence whatsoever that without the unauthorised fencing, the future of the listed building would be at risk. Whilst the applicant’s desire for privacy is noted, it is considered that the originally approved scheme (i.e., with boundary railings with hedge planting behind) would have provided the same level of privacy and would have been far more sympathetic boundary treatment. Furthermore, the distance of the front elevation of the Coach House to the rear elevation of the principal listed building is 21 metres which is considered

sufficient to ensure there is no harmful overlooking/loss of privacy between the respective buildings.

9.1.12 It has also been concluded that no public benefits have been identified by the applicant which would outweigh the harm identified, and as a consequence, the proposal is contrary to the NPPF.

9.2 Neighbour amenity

9.2.1 No objections have been received from any neighbours. Given the design and positioning of the fencing which has been erected combined with the separation distances from neighbouring properties, it has been concluded that the unauthorised fencing has caused no demonstrable harm to neighbouring amenity interests.

10. Conclusion (The Planning Balance)

The proposal is not considered to comply with relevant policies of the adopted Wiltshire Core Strategy (notably CP57 and 58) and the NPPF, and accordingly it is recommended for refusal.

11. RECOMMENDATION: Refuse for the following reason:

The unauthorised fencing which has been erected with its solid non-permeable character inhibits views of the Coach House from the conservation area and also disrupts the views between it and the principal building. It has eroded the historic interdependent relationship and introduced a domestic feature which officers judge is out of character with the site and harms the setting of the curtilage listed building. With respect to the NPPF, the harm is not judged to be outweighed by any public benefits.

The application is not in accordance with sections 2 - Achieving sustainable development (paragraph 8), 12 - Achieving well-designed places (paragraphs 131, 135, 139 and 140), and 16 - Conserving and enhancing the historic environment (paragraphs 195, 203, 205, 206, 208, 212 and 214) of the National Planning Policy Framework, the Planning (Listed Building and Conservation Areas) Act 1990 and Core Policies 57 and 58 of the Wiltshire Core Strategy.

Informative

The decision on this application was made against the following plans:

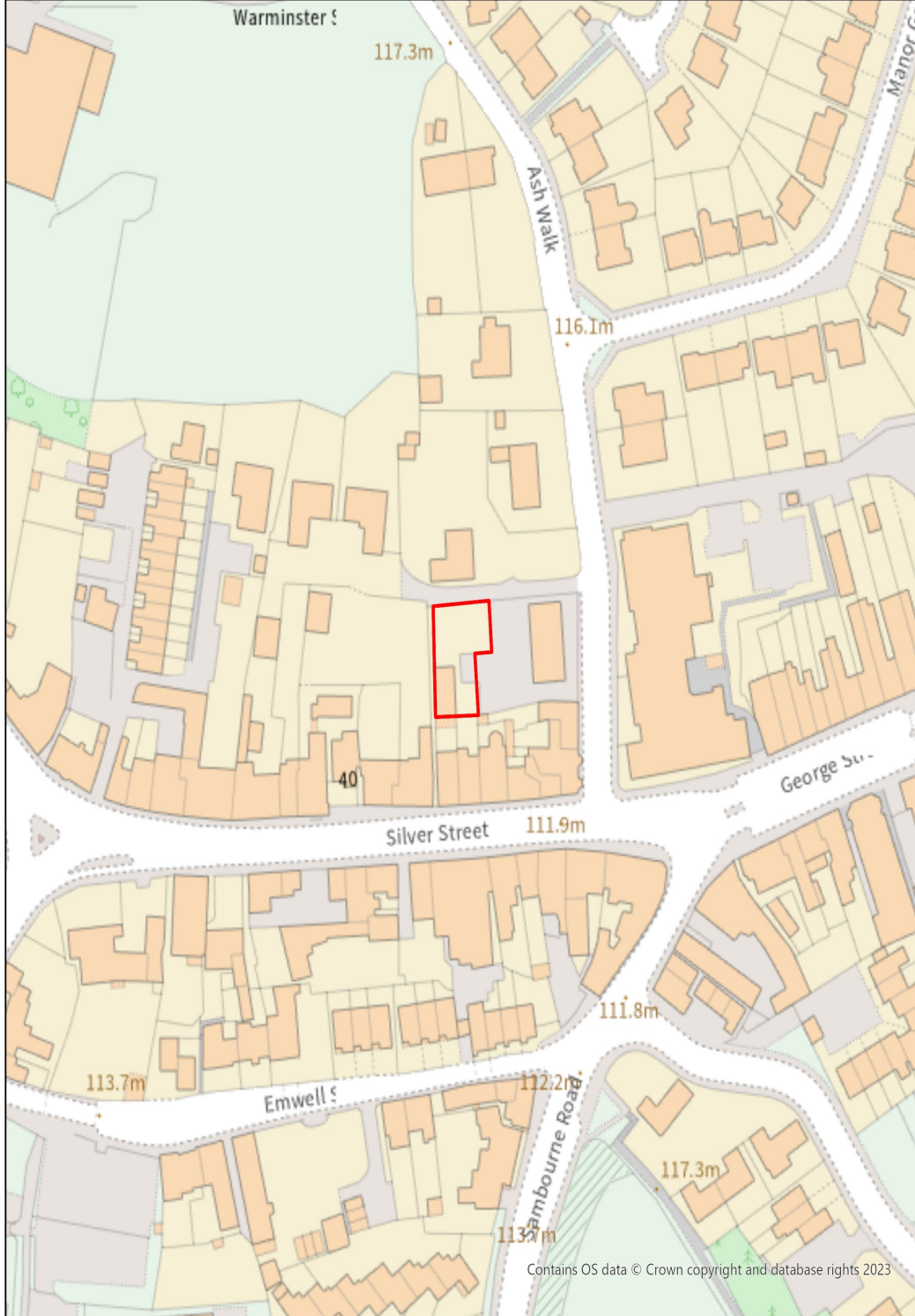
23068-1 (Existing Site Survey, Plans and Section - Fencing only) dated 20/07/2023

23068-2 (Location Plan) dated 04/08/2023

Wiltshire Council

PL/2023/07380

The Coach House, 5c Ash Walk,
Warminster, BA12 8PY



1:1,250



387067E 145174N m

© Crown Copyright and Database Rights 2024 Ordnance Survey Licence No 100049050

This page is intentionally left blank