

AGENDA

Meeting: Western Area Planning Committee

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

Date: Wednesday 27 September 2023

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

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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](#).

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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 - 8*)

To approve and sign as a correct record the minutes of the meeting held on 5 July 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 20 September 2023** 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 22 September 2023**. 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 9 - 32*)

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/2022/08726: Land off Ashton Road, Hilperton, Trowbridge** (*Pages 33 - 74*)

Erection of 1 No dwelling and detached garage.

8 **PL/2021/09739: Land Rear of 54 Woodmarsh, North Bradley, BA14 0SB** (*Pages 75 - 102*)

Outline Application for the construction of up to 23 residential units including detailed access on land to the rear of No. 54 Woodmarsh, North Bradley with all other matters including appearance, landscaping, layout, and scale to be reserved.

9 **Urgent Items**

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

Western Area Planning Committee

MINUTES OF THE WESTERN AREA PLANNING COMMITTEE MEETING HELD ON 5 JULY 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 Andrew Davis, Cllr Edward Kirk, Cllr Pip Ridout, Cllr Jonathon Seed, Cllr David Vigar, Cllr Gordon King (Substitute) and Cllr Mike Sankey (Substitute)

Also Present:

Cllr Johnny Kidney

34 **Apologies**

Apologies for absence were received from:

- Councillor Suzanne Wickham, who was substituted by Councillor Mike Sankey.
- Councillor Stewart Palmen, who was substituted by Councillor Gordon King.
- Councillor Ernie Clark

35 **Minutes of the Previous Meeting**

The minutes of the previous meeting held on 7 June 2023 were considered. Following which, it was:

Resolved:

The Committee approved and signed the minutes of the previous meeting held on 7 June 2023 as a true and correct record.

36 **Declarations of Interest**

There were no declarations of interest.

37 **Chairman's Announcements**

There were no specific Chairman's announcements.

38 **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.

39 **Planning Appeals and Updates**

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

The appeal decision for application PL/2021/07458 was highlighted and Members were given a brief overview of the history associated with the application site in which the applicant had continued unauthorised works despite Wiltshire Council refusing planning permission, having the subsequent appeal dismissed and there being an enforcement notice in place.

Councillor Trevor Carbin sought further information on a pending appeal within Staverton to which officers advised there continues to be backlog of appeals with the Planning Inspectorate. However, the committee was reassured that once start date letters are received, the Council's planning appeals team seeks to inform all stakeholders expeditiously.

Following which, it was:

Resolved:

The Committee noted the appeals report for the period 27 April 2023 to 23 June 2023.

40 **PL/2022/09147: Meadow View Farm, Bradford Leigh**

Public Participation

Kelly Pritchard, local resident, spoke in objection to the application.

Ann Haber, local resident, spoke in objection to the application.

Sarah Goodwin, local resident, spoke in objection to the application.

Tom Sadler, agent for the applicant, spoke in support of the application.

Councillor Bella Walker, Chair of South Wraxall Parish Council, spoke in objection to the application.

Councillor Steve Siddall, Chair of Holt Parish Council, spoke in objection to the application.

The Chairman highlighted that an error had been made on the opening page of the original report that had been circulated within the initial publication of the agenda which had mistakenly stated that the application site lay within Holt Parish. Following the initial publication of the committee agenda, the Local Member, Councillor Johnny Kidney, quickly brought this matter to the attention of officers who rectified the error and subsequently republished the agenda confirming that the site is located within the Parish of South Wraxall. Reference was also made to Appendix 1 of the report which included the appeal decision with regard to application PL/2021/11357.

The Senior Planning Officer, Steven Sims, introduced the report which recommended that the application for the erection of an agricultural worker's dwelling and associated works be approved subject to conditions.

It was noted that prior to the committee meeting, a Member site visit had been undertaken, with the case officer being present.

Key material considerations were identified including the existing and proposed agricultural practices and the applicant's submitted agricultural need; the principle of development/Wiltshire Council's 5-year housing land supply; the impact on the openness of the Green Belt; landscape visual impacts; impact on the amenity of neighbouring residents; drainage issues; highway issues; and ecology issues.

Attention was drawn to a late representation that had been submitted via email which contained comments and photos in respect of the use of the agricultural barns and fields forming part of the applicant's landholding.

Members of the Committee then had the opportunity to ask technical questions of the Planning Officer.

Details were sought on where the public right of way was located within the application site due to discrepancies identified between the Ordnance Survey Maps and Wiltshire Council's Rights of Way Team's Definitive Maps. Questions were also asked about how long calves would spend inside the barn after being born, the calving herd was questioned as well as planning history of the site. The recent appeal decision and the agricultural need for a worker's dwelling was also subject to Member questions and Members also queried what constituted "very special circumstances" in the context of the Green Belt.

Members of the public then had the opportunity to present their views to the Committee as detailed above.

The Unitary Division Member, Councillor Johnny Kidney, then spoken in objection to the application.

A debate followed where the harm caused by the loss of Green Belt land, inconsistencies between the information provided by the applicant and local residents in respect of the farming practices and activities taking place on the application site, and relevant planning history were discussed.

Other issues raised included site visits and opinions made by relevant officers and external consultants, and the subjective nature of what could be considered a "very special circumstances".

During the debate, a motion to refuse planning permission was moved by Councillor Trevor Carbin and was seconded by Councillor Pip Ridout. Following a vote on the motion, it was:

Resolved:

The Committee REFUSED planning permission, against officer recommendations, for the following reasons:

- 1) The NPPF sets out that very special circumstances will not exist unless the harm to the Green Belt by reason of inappropriateness and any other harm is clearly outweighed by other considerations. In this case, the other considerations in favour of the proposal would not clearly outweigh the harm identified. Therefore, the very special circumstances necessary to justify the proposal do not exist and the development is contrary to the development plan and the Framework in particular paragraphs 147, 148 and 149 of the Framework.
- 2) The proposed development, by reason of its siting, scale, design and visual impact, would detract from the rural character of the area and would result in the urbanisation of the rural landscape and diminution of the Green Belt. The proposed development therefore fails to conserve and where possible enhance landscape character or relate positively to its landscape setting and is contrary to Core Policies 51 and 57 of the Wiltshire Core Strategy.

41 **Urgent Items**

There were no urgent items.

(Duration of meeting: 3.00 - 4.50 pm)

The Officer who has produced these minutes is Ellen Ghey 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

Wiltshire Council
Western Area Planning Committee
27th September 2023

Planning Appeals Received between 23/06/2023 and 15/09/2023

Application No	Site Location	Parish	Proposal	DEL or COMM	Appeal Type	Officer Recommend	Appeal Start Date	Overturn at Cttee
PL/2022/04516	Plot Adjacent 2 Pembroke Road, Melksham, Wilts, SN12 7NA	Melksham	Erection of pair of single bedroom houses with off-street parking	DEL	Written Representations	Refuse	18/07/2023	No
PL/2022/06283	5 Court Street, Trowbridge, BA14 8BR	Trowbridge	Change of use of a former store to a one bedroom dwelling. (Re-submission of PL/2022/04517)	DEL	Written Representations	Refuse	09/08/2023	No
PL/2022/06595	5 Court Street, Trowbridge, BA14 8BR	Trowbridge	Change of use of a former store to a one bedroom dwelling.	DEL	Written Representations	Refuse	09/08/2023	No
PL/2022/08288	3C Kingsfield Grange Road, Bradford on Avon, Wilts, BA15 1BE	Bradford on Avon	Extension to dwelling (Resubmission of 20/09793/FUL)	DEL	Householder Appeal	Refuse	28/07/2023	No
PL/2022/08504	Land South of Western Way, Melksham, Wilts	Melksham/ Melksham Without	Outline application (with all matters reserved except for access) for the erection of up to 210 residential dwellings (Class C3) and a 70 bed care home (Class C2) with associated access, landscaping and open space (Resubmission of 20/08400/OUT)	DEL	Inquiry	Refuse		No

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Planning Appeals Decided between 23/06/2023 and 15/09/2023

Application No	Site Location	Parish	Proposal	DEL or COMM	Appeal Type	Officer Recommend	Appeal Decision	Decision Date	Costs Awarded?
ENF/2022/00131	12 Budbury Place Bradford on Avon BA15 1QF	Bradford on Avon	Construction of a picket fence between numbers 12 & 14, shed, bin shelter and oversized cooker vent cover on ground floor.	DEL	Written Reps	-	Enf Notice Varied & Upheld	31/08/2023	None
ENF/2022/00132	14 Budbury Place Bradford on Avon BA15 1QF	Bradford on Avon	Construction of a picket fence between numbers 14 & 16 & a sheer brick wall over 2 meters high in front garden	DEL	Written Reps	-	Enf Notice Varied & Upheld	31/08/2023	None
ENF/2022/00375	21 Regents Place, Bradford On Avon, BA15 1ED	Bradford on Avon	Alleged breach of unauthorised garden shed	DEL	Written Reps	-	Appeal Withdrawn	17/07/2023	None
PL/2022/00563	Kings Head, Chitterne, BA12 0LJ	Chitterne	Proposed change of use from Public House to single detached residential dwelling including minor internal alterations and demolition of flat roof rear extension.	DEL	Hearing	Refuse	Dismissed	27/06/2023	None

Agenda Item 6

PL/2022/00784	Kings Head, Chitterne, BA12 0LJ	Chitterne	Proposed change of use from Public House to single detached residential dwelling including minor internal alterations and demolition of flat roof rear extension.	DEL	Hearing	Refuse	Dismissed	27/06/2023	None
PL/2022/02409	Bullen Hill Farm, Ashton Common, Steeple Ashton, Trowbridge, BA14 6DY	Steeple Ashton	Conversion and extension of an existing residential building to form two dwellings and erection of Garage Building	DEL	Written Reps	Refuse	Dismissed	03/07/2023	None
PL/2022/05282	21 Regents Place, Bradford On Avon, BA15 1ED	Bradford On Avon	Garden Shed and Woodstore (Retrospective)	DEL	Householder Appeal	Refuse	Appeal Withdrawn	17/07/2023	None
PL/2022/06749	14 Sherwood Avenue (to the West of Epping Walk), Melksham, SN12 7HJ	Melksham	Proposed detached 2 bedroom bungalow	DEL	Written Reps	Refuse	Dismissed	10/07/2023	None



The Planning Inspectorate

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Development Services
Wiltshire Council
Development Services
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Trowbridge
BA14 8JF

Your Ref: ENF/2022/00131 + ENF/2022/00132
Our Ref: APP/Y3940/F/22/3308216
Further appeal references at foot of letter

31 August 2023

Dear Sir/Madam,

Planning (Listed Buildings and Conservation Areas) Act 1990
Appeals by Mr Mark Cottle, Mrs Sarah Cottle
Site Address: 12 & 14 Budbury Place, BRADFORD-ON-AVON, Wiltshire, BA15 1QF

I enclose a copy of our Inspector's decision on the above appeal(s).

If you have queries or feedback about the decision or the way we handled the appeal(s), you should submit them using our "Feedback" webpage at <https://www.gov.uk/government/organisations/planning-inspectorate/about/complaints-procedure>.

If you do not have internet access please write to the Customer Quality Unit at the address above.

If you would prefer hard copies of our information on the right to challenge and our feedback procedure, please contact our Customer Service Team on 0303 444 5000.

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The Planning Inspectorate cannot change or revoke the outcome in the attached decision. If you want to alter the outcome you should consider obtaining legal advice as only the High Court can quash this decision.

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https://www.surveymonkey.co.uk/r/Planning_inspectorate_customer_survey

Thank you in advance for taking the time to provide us with valuable feedback.

Yours sincerely,

Tracy Warry
Tracy Warry

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Where applicable, you can use the internet to submit documents, to see information and to check the progress of cases through GOV.UK. The address of the search page is - <https://www.gov.uk/appeal-planning-inspectorate>

Linked cases: APP/Y3940/F/22/3308224



Appeal Decisions

Site visit made on 21 August 2023

by Simon Hand MA

an Inspector appointed by the Secretary of State

Decision date: 31 August 2023

Appeal A Ref: APP/Y3940/F/22/3308216

14 Budbury Place, BRADFORD-ON-AVON, Wiltshire, BA15 1QF

- The appeal is made under section 39 of the Planning (Listed Buildings and Conservation Areas) Act 1990 as amended.
 - The appeal is made by Mr Mark Cottle against a listed building enforcement notice issued by Wiltshire Council.
 - The enforcement notice, numbered ENF/2022/00131 & 00132, was issued on 7 September 2022.
 - The contravention of listed building control alleged in the notice is It appears to the Council that the works (the "Works") specified below have been executed to the Building and constitute unauthorised works in contravention of Section 9(1) of the Act: 1) Without listed building consent, the erection of a ventilation cowling on the Building (shown in the attached document entitled "Notice Photographs 1"). 2) Without listed building consent, the erection of two wooden screens attached to the Building (shown in the attached document entitled "Notice Photographs 2"). 3) Without listed building consent, the erection of closed-circuit television (CCTV) cameras, security type lights and a burglar alarm type box on the Building.
 - The requirements of the notice are 1) Remove the ventilation cowling from the Building and block-up the ventilation cowling opening with stonework matching exactly the existing surrounding stonework by tying-in and keying-in the stonework so that it blends seamlessly with the existing surrounding stonework and so that the colour, mix, finish and materials of the mortar used in the stonework match exactly the existing surrounding mortar. 2) Remove the two wooden screens from the Building. 3) Remove all closed-circuit television (CCTV) cameras, security type lights and the burglar alarm type box from the Building.
 - The period for compliance with the requirements is 4 months.
 - The appeal is made on the grounds set out in section 39(1)(a), (c), (e), (h) of the Planning (Listed Buildings and Conservation Areas) Act 1990 as amended.
-

Appeal B Ref: APP/Y3940/F/22/3308224

12 Budbury Place, BRADFORD-ON-AVON, Wiltshire, BA15 1QF

- A similar appeal is made by Mrs Sarah Cottle, but it also includes a ground (b) for the vent and cowling.
-

Decisions

Appeal A – 3308216 and Appeal B - 3308224

1. It is directed that the listed building enforcement notice be corrected by deleting "*and a burglar alarm type box*" from allegation 3 and varied by deleting "*and block-up the ventilation cowling opening with stonework matching exactly the existing surrounding stonework by tying-in and keying-in the stonework so that it blends seamlessly with the existing surrounding stonework and so that the colour, mix, finish and materials of the mortar used in the stonework match exactly the existing surrounding mortar*" from requirement 1; and deleting requirement 3, replacing it with "*Remove the*

single white closed circuit television (CCTV) camera on the front façade of No14 and all security type lights from the building"; and by deleting "4 months" from the period for compliance and replacing it with "6 months". Subject to these corrections and variations, the appeals are dismissed the listed building enforcement notice is upheld, and listed building consent is refused for the retention of the works carried out in contravention of section 9 of the Planning (Listed Buildings and Conservation Areas) Act 1990 as amended.

The site

2. Budbury House is a large former industrial building that occupies a prominent position on top of the hillside above Bradford-on-Avon. The steep hill has been terraced and below Budbury House lies an area called Tory, filled with cottages and larger town houses accessed by narrow and steep lanes that are mostly pedestrian only. It is possible to wend ones way down to reach the town below. Budbury House has now been converted into three dwellings and the notice covers two of these, Nos 12 and 14.

The Appeal on Ground (a)

3. This ground is that the building is no longer worthy of listing. I should point out firstly that this is a difficult ground to argue and success depends on demonstrating that the building has ceased to have any value as a heritage asset. The appellant has provided considerable evidence concerning rebuilding or modern renovations to the building and the lack of any historic features, especially internally. That as maybe, but a simple glance at the building shows that it retains the form and simplicity of a typical large stone late-Georgian industrial building, of which there are many examples in the town. Bradford was originally an industrial mill town and much of its former heritage has survived, generally converted into dwellings, of which the appeal building is a good example. It retains the former pair of industrial shallow-arched entrances on the front elevation, albeit now filled-in to support domestic front doors, but retains the appearance of a converted industrial use.
4. The listing refers only to its exterior appearance, but of most importance it describes it as "*In a vitally important position overlooking the town. Budbury House forms an important group with all the listed buildings in Tory*". So it is clear it was primarily listed because of its position in the town generally and more specifically in relation to the area called Tory. This position remains unchanged, the building is still prominent and there is no alteration in its relationship to Tory, which is filled with listed buildings. Taking all this together there is nothing to suggest to me the building has ceased to have any heritage value and should be de-listed.

The Appeal on Ground (c)

5. This ground is that there has been no contravention of the Act. In other words the various items attached to the building do not affect its value as a heritage asset. The various items that concern the Council and which have been attached to the building are an alarm box, security light and camera on the side elevation of No12, a ventilation cowling, security camera and light on the front elevation of No12, a security camera and light on the front elevation of No14, a single fence panel dividing the front garden of Nos 14 from the end house called 'Budbury House' and a double fence panel dividing the front gardens of Nos14 and 12.

6. The front of the building is not accessible to the public as it stands on a private drive. The hillside below is so steep that views back towards the site are not really possible until one is down in the town and at that distance the items in question cannot be seen with the naked eye. However, the fact they are not readily visible to the public does not mean they have caused no harm to the listed building. They are readily visible to occupiers of the building and to the neighbours and anyone visiting the property.
7. The security lights are basic, modern lights that stand out as scruffy and wholly incongruous. They clearly have harmed the special architectural or historic interest of the building.
8. The security cameras are of two different designs. Two are small, black rectangles that are fitted to the lower frame of the windows. They are hard to see, even from close up, and have not displaced any historic fabric or features. I agree that they have not caused any harm. The third is a larger white unit, fastened to a block on a windowsill, which is much more noticeable and appears random and incongruous. It does cause harm.
9. The alarm box is a typical rectangular box, high up on the side elevation. The Act does not envisage that any modern additions to a listed building are harmful, only those that affect its character as a building of special architectural or historic interest. Discretely positioned alarm boxes are a feature of many listed buildings around the country and do not necessarily look out of place. I was shown many photographs of such buildings in the area that had alarm boxes which reinforces the sense they can be acceptable. In this case I find the box, although it is clearly a modern addition, unlike the lights and the white camera does not stand out, but is modest, subtle and fairly discrete, it does not therefore cause any harm.
10. The metal cowling on the front of the building is unusually large. The Council suggest an alternative location would be preferable, but the appellant argues the large duct was already in place when he moved in and is happy to redesign the cowl. This sort of ventilation is not unusual on converted buildings and the appellant has reported considerable concerns with condensation in the kitchen area the duct is designed to serve. I agree that the cowling is the issue and even with the large hole, a more subtle finish is entirely possible. The cowling, as it stands, however, is large and introduces an unnecessary contemporary intrusion to the front facade and so clearly is harmful.
11. The notice identifies three wooden fence panels (which it calls 'screens'), one between No14 and Budbury House and two between Nos14 and 12. When I carried out my site visit the second panel between Nos14 and 12 had been removed, but I shall deal with the two panels as in the allegation.
12. These are standard 6' solid fence panels and abut the front wall of the building providing screening at the top of the front gardens. This would seem to be the main outdoor area for the three dwellings. The rest of the garden is bounded by a low picket fence to which the Council do not object. The frontage would originally have been open across the whole building. It has now been subdivided into 3 gardens so I can understand the desire for some privacy, but the solid wooden panels look basic and out of place. Whatever happens, some element of sub-division will be necessary and will detract from the former open nature of the industrial use, but the effect of the large, solid fence panels is crudely obvious and clearly harms the building.

13. I shall correct the notice to remove reference to the alarm box and the two small black security cameras. The other matters have all harmed Nos12 and 14 and affected their character as a building of special architectural or historic interest.

The Appeal on Ground (e)

14. This ground is that the matters alleged should be granted listed building consent. I think it is clear from the discussion under ground (c) that I find the security lights and the white security camera to be incongruous and harmful. I accept there may well be a need for security arrangements involving lighting, but those chosen are cheap and tacky and their impact on the simple clean lines of the front and side façade of the building do not seem to have been thought through. I consider there are numerous ways that security lighting can be provided that does not involve the use of these lights. In the phraseology of the NPPF they cause less than substantial harm but there are no countervailing public benefits that outweigh that harm.
15. I have already found the two small black security cameras do no harm, but the larger white one does. As I found for the lights, there is clearly a better way of providing security than this camera which causes less than substantial harm with no offsetting public benefits.
16. Similarly with the cowling, there is a better solution than the large silver disc currently installed. However, the notice requires the ducting hole to be filled in as well. The appellant argues this was part of the original planning permission for the conversion. I do not have those plans so I cannot be sure. But whatever the truth of the matter a more discrete and less crudely modern solution would suffice. As it stands the cowling causes less than substantial harm with no offsetting public benefits.
17. Finally the fence panels. It is clear from the ground (c) discussion that I find these to be harmful, but that some form of sub-division is necessary and again with some thought could be achieved without the large solid panels currently in use.
18. There is also the question of the cumulative effect of all these relatively small additions to the building. Taken altogether, the items I have discussed above do cumulatively harm the listed building, however, with careful design there is no reason why all these elements should not be sensitively integrated into the façade of the building but this will require co-operation between the appellant and the Council.

Other Matters

19. The appellant has made a ground (b) appeal for the cowling. That is the matters alleged have not occurred. I think the argument is that the cowling was granted planning permission originally and so cannot now be an issue for the listed building. However, the Act is quite clear that it is an offence to carry out any works for the for the alteration of a listed building in any manner which would affect its character as a building of special architectural or historic interest. This is regardless of whether those works have planning permission or not, who carried them out or when. So, given my conclusions above, the appeal on ground (b) is bound to fail.

Conclusion

20. I shall correct the notice as discussed above to remove reference to the alarm box and two of the cameras, and to remove the requirement to block up the vent hole. The final appeal is on ground (h) that the time period is too short. I shall extend this to 6 months to enable the appellant to agree a scheme to replace the offending items with ones that are more acceptable.

Simon Hand

INSPECTOR

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Appeal Decisions

Hearing Held on 13 June 2023

Site visit made on 13 June 2023

by Matthew Jones BA(Hons) MA MRTPI

an Inspector appointed by the Secretary of State

Decision date: 27 June 2023

Appeal Ref: APP/Y3940/W/22/3313477

King's Head, Chitterne BA12 0LJ

- The appeal is made under section 78 of the Town and Country Planning Act 1990 against a refusal to grant planning permission.
 - The appeal is made by Mr K. Stone against the decision of Wiltshire Council.
 - The application Ref PL/2022/00563, dated 22 January 2022, was refused by notice dated 24 May 2022.
 - The development proposed is change of use from public house to single detached residential dwelling including minor internal alterations and demolition of flat roof rear extension.
-

Appeal Ref: APP/Y3940/Y/22/3312123

King's Head, Chitterne BA12 0LJ

- 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 Mr K. Stone against the decision of Wiltshire Council.
 - The application Ref PL/2022/00784, dated 22 January 2022, was refused by notice dated 31 May 2022.
 - The works proposed are change of use from public house to single detached residential dwelling including minor internal alterations and demolition of flat roof rear extension.
-

Decisions

1. The appeals are dismissed.

Procedural Matter

2. During the appeal the Council submitted revised plans it had agreed with the appellant. They clarify a drafting error in relation to a window and reduce the extent of fabric loss relating to a proposed internal opening. Given that these changes would be modest and reduce the extent of the proposed works, I had regard to the revised plans in my decisions without prejudice to any party.

Main Issues

3. The King's Head is a Grade II listed building and public house within the village of Chitterne. It is currently closed but listed as an Asset of Community Value (ACV). Within this context the main issues are:
 - whether or not the proposal would result in the unacceptable loss of a community facility; and,
 - the effect of the proposed works on the special architectural and historic interest of the Grade II listed building The King's Head.

Reasons

Community facility

4. The starting point for decision making is the development plan. As the only public house in Chitterne, The King's Head is a community facility pursuant to Policies CP48 and CP49 of the Wiltshire Core Strategy (adopted 2015) (WCS). These policies seek to safeguard rural community facilities. They are consistent with Paragraph 84 of the National Planning Policy Framework (the Framework) insofar as it seeks policies to enable the retention of the same.
5. Policy CP48 vi) supports schemes for the change of use of a community facility where it is necessary to allow a viable continued use. The appellant purchased the pub in 2011 and I am led to believe that during the first two years of its operation it was popular and well frequented. The appellant has submitted accounts from 2015 to 2020 which show the King's Head making annual losses by that period. While these accounts, at first blush, may suggest an inherent viability issue for the pub, it is clear that certain circumstances prevailing during that time were not conducive to its successful operation.
6. The card payment system was removed around 2018. I do understand why that happened, but people tend to carry less cash today, particularly following the Covid pandemic and as smart phones have become a medium for fiscal transactions. A reliance on cash to use the pub is likely to have decreased its footfall, as spontaneous or unplanned visits would have been curtailed. The discussed pattern of irregular opening hours would have similarly affected footfall. Despite the obvious endeavours of the appellant, and due to a series of circumstances beyond his control, the food offer at the pub was reduced and then largely withdrawn during this period. The absence of a reliable food offer is likely to have significantly impacted both local and passing trade.
7. The appellant apports much of the deteriorating financial situation at the pub to an alleged reduction in passing trade caused by the 2013 redesignation and truncation of the A344 at Stonehenge. However, any reduction in traffic is not well substantiated. Chitterne is close to Warminster, the A36 and Longleat, and the highway network which includes the village still connects Stonehenge to Bath. The Parish Council told me at the hearing that significant vehicle movements have been recorded in Chitterne by a traffic /speed survey.
8. I acknowledge that there has been a high churn of landlords at the pub prior to the appellant's tenure. However, from what I heard at the hearing, this is likely more down to poor working conditions associated with the previous brewery's custodianship, rather than a lack of viability for The King's Head itself.
9. With regard to any perceived trade competition between The King's Head and Chitterne village hall, the latter does not have a permanent alcohol licence, village halls and pubs present a different ambiance, and their social functions are not entirely analogous. I would suggest that in Chitterne these facilities are more likely to work in harmony because it is in the community's interest for them to do so. When the village hall hosts wider events, such as Pilates classes, this seems to me more likely to draw passing trade to the pub.
10. The Chitterne Community Pub Group (CCPG) has a business plan for the operation of The King's Head if the CCPG were to purchase it. I understand that the plan was instrumental in the CCPG securing a substantial Public Works

Loan. Whilst the terms of the loan will require reappraisal by the end of July, it is fair to deduce that the loan would not have been agreed had the Public Works Loan Board not considered the CCPG's business plan robustly credible and adequately viable at the time. The terms of the loan appear supportive and the CCPG's plans are flexible and proactive, incorporating a possible pop-up retail element and a prescription pick up service. This further endorses my opinion that the pub is not moribund; a change of use is not demonstrably necessary to secure a viable continued use of this building at this time.

11. Policy CP49 focuses on the marketing of community facilities. Amongst other things, marketing should be comprehensive and establish appropriate prices, reflecting local market value, the current use and the condition and location of the premises. Only when it is demonstrated that all preferable options are exhausted will a change to a non-community use be considered. When marketing of The King's Head was taken on by Sydney Phillips in 2016, the pub was put on the market at £340,000 as a going concern. This asking price has fluctuated over time, including reductions, but broadly around that price and I understand the pub is still on the market for around that price.
12. At the hearing I learnt that an independent valuation of The Kings Head by the Plunkett Foundation valued it at £350K as a going concern, £295k if in default, and £245K if closed. Considering the market downturn due to the pandemic and given that the pub closed in 2020 and is no longer a going concern, it is logical to surmise that the marketed value of The Kings Head should have been lower than as latterly advertised. This leads me to the conclusion that, whilst the ACV listing may well have dampened interest in some cases, the pub has not been marketed at an appropriate price since its closure. Moreover, the appellant was not able to explain at the hearing why the pub has not been advertised in industry specific publications since 2019. This indicates that the more recent marketing has also not been comprehensive.
13. Policy CP48 requires that community facilities be protected from loss until such time as the community has had a realistic opportunity to take control of the asset. In August 2021 the CCPG made offers of £315K and £325K, both of which were rejected, following which the asking price was hiked to £350K. This is despite the appellant accepting an offer of £320K from a third party in April that year. At the hearing the appellant conceded that these actions were largely driven by emotion, given a perception that the conduct of the CCPG and ACV status had prevented the selling of the pub. Consequently, whilst the appellant is not obliged to accept any offer, it is evident that the community, represented through the CCPG, has been denied a realistic opportunity to take on The Kings Head, contrary to the requirements of the development plan.
14. I must therefore conclude that the proposal would result in the unacceptable loss of a community facility. It would conflict with the relevant objectives of Policies CP48 and CP49 of the Wiltshire Core Strategy, and the Framework.

Listed building

15. The significance of the King's Head in its current guise is largely drawn from its historic fabric of 19th Century origin, its plan form, and the composition of its façade, with a chequered flint and limestone core range and a surviving, dressed limestone bay to the right. The works, insofar as they would transform the form and layout of the historic public house to that of a private dwelling, with modest associated historic fabric loss, would harm its significance. There

would be enhancements through the reinstatement of a window and the removal of a flat roof rear extension, but overall, the scheme would result in less than substantial harm to the significance of the listed building, albeit at the lower end of a sliding scale of that harm.

16. Paragraph 199 of the Framework explains that great weight should be given to the conservation of designated heritage assets. Paragraph 202 requires decision makers to weigh any less than substantial harm to a designated heritage asset against the public benefits of the scheme, including securing its optimum viable use. Here, that exercise takes place in the context of s.16(2) and s.66(1) of the Planning (Listed Buildings and Conservation Areas) Act 1990 which set a strong presumption against a grant of planning permission or listed building consent if a scheme would cause harm to the special interest of a listed building.
17. There would be modest social and economic benefits through the provision of a dwelling in the village. However, given my findings above, it has not been properly established that the proposal would secure the optimum viable use of the designated heritage asset. Without that, the public benefits of the scheme fall short of justifying the harm that would be caused; harm that must be given considerable importance and weight in the balancing exercise¹.
18. Accordingly, the proposed works would have an unacceptable effect on the special architectural and historic interest of The King's Head in conflict with the heritage objectives of Policy CP58 of the WCS and the Framework.

Other Matters

19. The site is also in the Chitterne Conservation Area (the CA). Given that the external alterations proposed are predominately to the rear of the proposed dwelling and would be largely concealed from the public realm, I consider that the character and appearance of the CA would be preserved.

Conclusion

20. The proposed development conflicts with the development plan when read as a whole and the other considerations before me do not indicate that I should make my decisions other than in accordance with the development plan.

Matthew Jones
INSPECTOR

¹ This finding is consistent with the position as set out in the signed Statement of Common Ground, Para 2.1.2

APPEARANCES

FOR THE APPELLANT:

Peter Grist	Agent
Kenton Stone	Appellant
Susan MacLaurin	Appellant

FOR THE LOCAL PLANNING AUTHORITY:

Verity Giles-Franklin	Senior Planning Officer
Angela Ellis	Senior Planning Officer

INTERESED PERSONS

Richard Hendrickse	Chitterne Community Pub Group
Charles Horsfall	Chitterne Parish Council
John Dillon	Chitterne Parish Council
Jane Bell	Chitterne Parish Council

Local Residents

Murray Kent	Pam Kent	Charles Micklem
Anthony Knyvett	Tana Knyvett	Brian Lee
Susan Lee	Pete Sawyers	Jan Sawyers
Mike Lucas	Ann Moody	Angela Milne
Kathryn O'Driscoll	Richard Johns	Barry Ricketts

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Appeal Decision

Site visit made on 9 June 2023

by **Lewis Condé Msc, Bsc, MRTPI**

an Inspector appointed by the Secretary of State

Decision date: 03 July 2023

Appeal Ref: APP/Y3940/W/23/3315001

Bullen Hill Farm, Ashton Common, Steeple Ashton, Wiltshire BA14 6DY

- The appeal is made under section 78 of the Town and Country Planning Act 1990 against a refusal to grant planning permission.
 - The appeal is made by Mr James Greening against the decision of Wiltshire Council.
 - The application Ref PL/2022/02409, dated 22 March 2022, was refused by notice dated 15 August 2022.
 - The development proposed is described as 'Conversion and extension of an existing residential building to form two dwellings and erection of Garage Building'.
-

Decision

1. The appeal is dismissed.

Preliminary Matters

2. The appellant provided updated drawings during the appeal that set out details of proposed on-site mitigation measures for bats. The mitigation measures on the updated drawings had already been broadly outlined within the appellant's Ecological Appraisal Report. I am therefore satisfied that the updated drawing seeks to clarify information that had already been submitted, as opposed to evolving the scheme. Having regard to the principles established in the Wheatcroft Judgement¹, I do not consider any party would be prejudiced by my acceptance of the updated drawing.

Main Issue

3. The main issue is whether the site is in a suitable location for housing development, with specific regard to the Council's spatial strategy and access to facilities and services, and if harm arises, whether this is outweighed by other considerations.

Reasons

4. The appeal scheme relates to an existing residential property located at Bullen Hill Farm. The appeal property is accessed via a long private driveway that connects to the public highway. The existing dwelling that the appeal relates to is set within a small cluster of buildings in residential and agricultural uses, and therefore does not appear isolated within its immediate environment. Nor is it isolated in the context of paragraph 80 of the National Planning Policy Framework (the Framework). Nevertheless, it is in a rural setting, a significant distance from the nearest settlement.

¹ Bernard Wheatcroft Ltd v SSE [JPL, 1982, P37].

5. The appeal scheme would involve extending and reconfiguring the existing property, as well as providing new access arrangements and a separate garage building, in order to create an additional residential dwelling at the site.
6. The Council spatial strategy for development is set out under Core Policy CP1 of the Wiltshire Core Strategy (adopted 2015) (the Core Strategy). The policy identifies a hierarchy of settlements whereby sustainable development is expected to be delivered. This is supplemented by Core Strategy Policy CP2, which sets out the County-wide housing requirement. Policy CP2 also establishes that development will not be permitted outside the defined limits of development (or settlement boundary) as detailed on the policies map, except under certain circumstances. The approach of policies CP1 and CP2 to rural housing broadly aligns with that advocated in the Framework.
7. The appeal site is in a rural location, set a considerable distance from any identified settlement boundary within the development plan. The proposal has not been demonstrated to comply with any of the exceptions for the development of new dwellings in the countryside that are outlined under Policy CP2. The appeal scheme is therefore in conflict with the development plan's spatial strategy.
8. Furthermore, any future occupants of the proposed additional dwelling are likely to have travel requirements to access facilities and services. From the evidence before me and my observations on site, services and facilities that would sustain day-to-day living are located a significant distance from the appeal site. The site is also not well served by public transport options.
9. Nearby roads are generally unlit, with little footpath provision and limited surveillance. The distances involved, together with the context of the surrounding highway network and footpaths, are likely to deter many residents from walking or cycling to access facilities or services. Moreover, in periods of bad weather or darkness. Consequently, sustainable methods of travel are unlikely to be routinely used, with any future occupants highly likely to be reliant on the private car. This is the least sustainable means of transport and would further undermine the Council's spatial strategy.
10. I therefore find that the site would not provide a suitable location for housing having regard to the Council's spatial strategy and given its poor access to local facilities and services, including public transport. As such the proposal would conflict with Core Strategy Policies CP1 and CP2. It would also conflict with Core Strategy Policies CP60 and CP61, these policies together seek to reduce the need for travel by private car and encourage sustainable travel, including through promoting development in accessible locations.

Other Matters

11. The proximity of the site to the Bath and Bradford-on-Avon Special Area of Conservation (SAC) is such that development proposals have the potential to negatively impact upon the SAC. The internationally designated site is noted for supporting populations of bats (including Bechstein's, Greater Horseshoe and Lesser Horseshoe bats). Amongst other things, the appeal proposal would involve demolition of extensions/outbuildings, removal of vegetation and extensions to the existing property. Consequently, there is potential for significant effects on the SAC through harm to bat roosts, commuting and foraging opportunities.

12. The Conservation of Habitats and Species Regulations (2017) require the decision maker to undertake an Appropriate Assessment where there are likely to be significant effects from the proposal either alone or in combination with other schemes. The Council contends that insufficient survey work has been undertaken to fully assess the proposal's impacts on protected species, while the appellant has not provided suitably detailed mitigation measures that could be appropriately secured.
13. I note the findings of the appellant's initial preliminary ecological assessment, as well as the subsequent survey work and plans showing on-site mitigation measures that may be secured by condition. It was also apparent at my site visit that trees that may have provided commuting opportunities for bats had largely been removed. I have also been made aware that the appellant has been working with the Council to renew and renovate historic hedges on surrounding farmland. However, given that I am dismissing for other reasons I have not pursued these matters further and do not need to consider the implications of the proposal on the SAC.
14. Even if I were to find that suitable mitigation is proposed and securable, such that the appeal scheme would avoid any adverse effects on the SAC, this is to be expected of new development proposals. It would therefore be a neutral matter in the overall planning balance.
15. I note the appellant's references to paragraph 80 of the Framework, which identifies specific instances whereby the development of isolated homes in the countryside may be appropriate, including the sub-division of existing residential buildings. However, the appellant acknowledges that the appeal site is not isolated in the context of paragraph 80. The proposal also does not involve the sub-division of the property, nor does it adhere to any of the other circumstances outlined under paragraph 80. Furthermore, although permitted development rights (PDR) may exist to enable the property to be extended, there is no robust evidence before me to demonstrate that PDR would enable the creation of a separate residential property/planning unit. Therefore, I give little weight to the appellant's suggested fallback position.

Planning Balance and Conclusion

16. Section 38(6) of the Planning and Compulsory Purchase Act 2004 (the Act) requires that applications for planning permission be determined in accordance with the development plan unless material considerations indicate otherwise.
17. The Council does not dispute the appellant's contention that it is unable to demonstrate a five-year supply of deliverable housing sites in accordance with paragraph 73 of the Framework. Paragraph 11 of the Framework states that in these circumstances relevant policies for the supply of housing should not be considered up-to-date. Paragraph 11d) of the Framework also states that permission should be granted, unless any adverse impacts of doing so would significantly and demonstrably outweigh the benefits when assessed against the policies in the Framework taken as a whole.
18. Harm would arise from the conflict with the strategy for residential development that is outlined in the Core Strategy policies. The Council's shortfall of housing land means that the strategies contained within policies CP1 and CP2 are out of date. However, this does not mean that they are afforded no weight. The need to carefully manage and limit the number of new

homes in locations with limited sustainability credentials remains valid in the context of the environmental objectives of national and local planning policy. Likewise, Policies CP60 and CP61 align with the aims of the Framework in respect of promoting sustainable travel. As such, I still afford the harm arising from the conflict with the local plan policies significant weight.

19. The provision of an extra dwelling at the site would provide only modest social benefits through assisting to meet the Council's housing needs. Related economic benefits would also be modest given the scale of the proposal.
20. Compliance with other planning policy issues (e.g. design, landscape, heritage, biodiversity) would amount to neutral matters in the planning balance.
21. Bringing the above together, when assessed against the policies in the Framework taken as a whole the adverse impacts would significantly and demonstrably outweigh the benefits. It follows that the presumption in favour of sustainable development does not apply.
22. For the reasons outlined above and having regard to the development plan as a whole, and all other relevant material considerations including the provisions of the Framework, the appeal is dismissed.

Lewis Condé

INSPECTOR



Appeal Decision

Site visit made on 17 May 2023

by **S Rawle BA (Hons) Dip TP Solicitor**

an Inspector appointed by the Secretary of State

Decision date: 10 July 2023

Appeal Ref: APP/Y3940/W/23/3314214

14 Sherwood Avenue, Melksham, Wiltshire SN12 7HJ

- The appeal is made under section 78 of the Town and Country Planning Act 1990 against a refusal to grant planning permission.
 - The appeal is made by Mr W McDonagh against the decision of Wiltshire Council.
 - The application Ref PL/2022/06749, dated 30 August 2022, was refused by notice dated 28 October 2022.
 - The development proposed is described as "resubmission for proposed detached new dwelling at applicant address 2 bedroom bungalow."
-

Decision

1. The appeal is dismissed.

Preliminary Matters

2. During the planning process several plans showing different parking arrangements have been submitted by the appellant. The Council has confirmed that they determined the application on the basis of the parking arrangement shown on Drawing Number 21-242-02 Rev P5, which is consistent with the plans listed by the appellant on the application form, and I have determined the appeal on the same basis.

Main Issues

3. The main issues are the effect of the proposal on:
 - The character and appearance of the area;
 - The living conditions of the occupants of 14 Sherwood Avenue with particular reference to the quality of the garden, loss of light and outlook; and
 - Whether adequate and suitable parking provision would be provided.

Reasons

Character and appearance

4. The appeal site comprises part of the rear garden of 14 Sherwood Avenue (No 14) which is a semi-detached bungalow located within an established residential area comprising predominantly bungalows and dormer bungalows of a similar age and style. The rear garden, on which the proposed dwelling would be located is in a prominent position on the corner of Ashdown Drive and a pedestrian walkway, Epping Walk. This arrangement and the lack of buildings at the end of the garden creates a strong sense of spaciousness. Further, properties along Epping Walk are set back on their plots which reinforces the

sense of spaciousness which contributes positively to the character and appearance of the area.

5. The proposal would result in the introduction of a detached bungalow which would be located immediately adjacent to the newly created rear boundary with No 14 and would be set in only a short distance from its boundary with 9 Epping Walk. Notwithstanding that the height, architectural design, building line and materials of the proposed bungalow would be compatible with surrounding properties, due to its width and limited set in from the common boundaries on both sides, the proposal would appear unduly cramped on the site. Further, it would not integrate effectively into this setting, and would undermine the existing spacious character. As a result, it would appear as a discordant feature that would look out of place.
6. I therefore conclude that the proposal would have an adverse impact on the character and appearance of the area and would conflict with the relevant part Core Policy 57 of the Wiltshire Local Development Framework – Wiltshire Core Strategy adopted in January 2015 (WCS) which seeks to ensure that all development should respond positively to existing townscape features to effectively integrate into its setting. The proposal would also conflict with Policy 6 of the Joint Melksham Neighbourhood Plan 2020-2026 which seeks to ensure proposals have regard to the character of and integration with the surrounding area. The proposed development would also not accord with the National Planning Policy Framework (Framework) which seeks to ensure development is sympathetic to local character.

Living conditions

7. The proposed bungalow would be built up to the newly created boundary with No 14. However, adequate private outdoor garden space of an appropriate width would be retained to serve the occupants of No 14. Also, the proposed bungalow would be sited on its plot so that the majority of its side elevation would not face directly towards the rear elevation of No 14 or the garden area immediately to the rear of that property. Therefore, it would not appear unacceptably overbearing when viewed from the rear facing windows or the garden area of that property.
8. I have taken account of the solar assessment undertaken by the Council. However, taking account of the position of the proposal relative to No 14 and the trajectory of the sun I consider that although there would be a degree of overshadowing, it would not be unacceptably harmful. That is because the garden and habitable rooms at No 14 would still receive an acceptable level of sunlight.
9. I therefore conclude that the proposal would not unacceptably harm the living conditions of the occupants of 14 Sherwood Avenue, with particular reference to the quality of the garden, loss of light and outlook. As a result, the proposal would not conflict with the relevant part Core Policy 57 of the WCS which seeks to ensure that proposals do not have a harmful impact on the amenities of existing occupants. The proposed development would also accord with the Framework which seeks to ensure that developments result in a high standard of amenity for existing residents.

Parking

10. Vehicular access to the proposed development would be via Ashdown Drive. At the time of the site visit I observed that there is some parking pressure in the cul-de-sac. Core Policy 64 sets out that parking provision associated with new residential development will be based on minimum parking standards, set out in the Wiltshire Local Transport Plan 2011-2026 (WLTP). For a two-bed bungalow the minimum provision would be two spaces.
11. The proposed parking spaces are shown using an existing garage with access from Ashdown Drive. The Council highlights that the garage is below the minimum dimensions that the WLTP says an existing garage can count as a parking space. Given that the width of the existing garage would make it a tight fit particularly to accommodate a larger vehicle especially when there may be a need to help a child get in and out, I have discounted the existing garage as parking space.
12. Further, the hardstanding in front of the garage is less than the length of a standard parking space and is outside the red line plan showing the site. Putting aside whether the hardstanding area is included within the red line plan, this area would again be a tight fit to accommodate a larger vehicle, especially if there would be a need to access the existing garage. I am therefore concerned that such an arrangement could lead to vehicles encroaching onto the pavement resulting in inconvenience and danger for pedestrians.
13. The appellant highlights that they could demolish the existing garage. However, that is not part of the proposal before me and would amount to a material amendment to the proposed development. Rather, based on the information provided on the appeal plans, as clarified above, I am not satisfied that adequate and suitable parking provision would be provided. Further, a reduction in parking provision is not warranted in this case as there are no significant urban design or heritage issues associated with the proposal, parking demand in the area would not be low and parking overspill could not easily be controlled.
14. I therefore conclude that that the proposal would not provide adequate and suitable parking provision and consequently the proposal would conflict with Core Policy 64 of WCS which seeks to ensure that the provision of car parking associated with well designed new residential development will be based on minimum parking standards as included in the WLTP set out above.

Other Matters

15. I accept that the proposal would not result in an unacceptable loss of privacy or appear overbearing for neighbouring residents and the proposed garden area would be sufficient to serve the occupants of the new bungalow. However, these matters do not justify harmful development at the appeal site.

Conclusion

16. I am satisfied that the proposal would not have an adverse impact on the living conditions of the occupants of 14 Sherwood Avenue. However, for the reasons I have set out, the proposal would be harmful to the character and appearance of the area and the proposal would not provide adequate and suitable parking provision. Overall, I conclude that the proposal would conflict with the

development plan as a whole and there are no material considerations which indicate that the decision should be made other than in accordance with it. Therefore, the appeal is dismissed.

S Rawle

INSPECTOR

REPORT FOR THE WESTERN AREA PLANNING COMMITTEE

Date of Meeting	27 September 2023
Application Number	PL/2022/08726
Application type	FULL
Site Address	Land off Ashton Road, Hilperton, Trowbridge
Proposal	Erection of 1No dwelling and detached garage
Applicant	Mr & Mrs C Stone
Town/Parish Council	Hilperton Parish Council
Electoral Division	HILPERTON ED - Cllr Ernie Clark
Case Officer	Gen Collins

Reason for the application being considered by Committee

This application has been called in for committee consideration by Cllr Ernie Clark citing the following concerns:

- The scale of development
- The visual impact upon the surrounding area
- The relationship to adjacent properties
- The design, bulk, height and general appearance
- Environmental/highway impacts
- The application site is located outside the village Policy Limits/Settlement Boundary and is not allocated in the adopted Hilperton Neighbourhood Plan.
- Development of this site would lead to the coalescence of Hilperton and Trowbridge as the application site is part of the narrow green boundary between the two settlements. This separation was established in the Local Plan
- Also, concerns whether just one house on this large site represents the most efficient use of the land when WC is in dire need of more housing and is unable to meet the five-year land supply requirement.
- If the application is to be permitted, the applicant should bear the cost of improving the almost non-existent street lighting along Ashton Road and at the very minimum should be required to provide street lighting to the south of the Grange where the access will be taken from Ashton Road.

1. Purpose of Report

This report assesses the relevant planning considerations for this development proposal, including the consultation responses within the context of local and national planning policy and guidance. The report identifies the various planning constraints and considers whether this represents a sustainable form of development having regard to the social, environmental and economic strands in the NPPF.

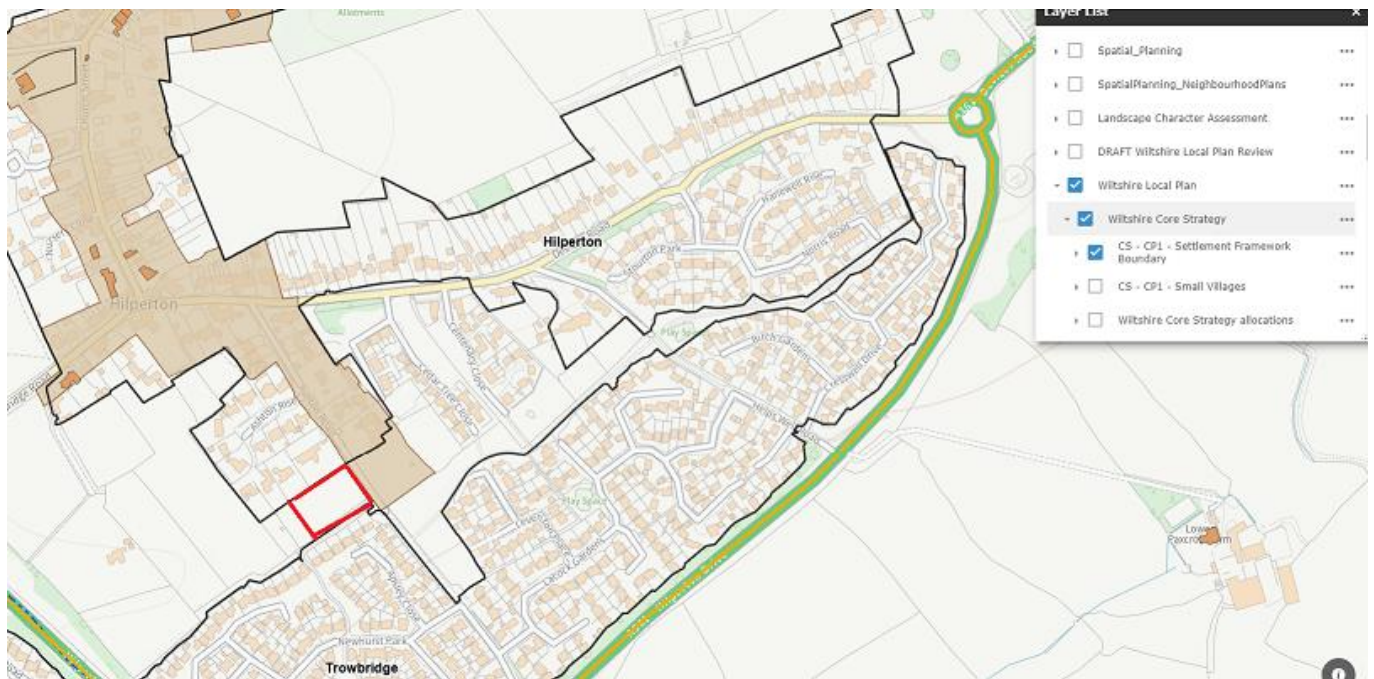
2. Report Summary

The key issues for consideration are:

- The principle of development / Wiltshire's 5-year housing land supply
- The impacts on the living conditions of neighbouring residents
- The impacts on the character of the area/setting of the Conservation Area
- Highway issues
- Ecology issues
- Drainage issues

3. Site Description

The application site forms a plot of land measuring approximately 0.3ha located adjacent to but outside the village limits of Hilperton as shown in red below. The land backs onto residential properties at Ashton Rise (within Hilperton) and Apsley Close (within Trowbridge settlement) as shown below.



The above insert includes the thick black lines representing the defined settlement limits – which reveals that there already exists coalescence - where the Cresswell Drive, Trowbridge properties back directly onto land and properties forming part of Norris Road in Hilperton (where the two 'settlements' join) in the far north-east of the map shown above.

The village conservation area is illustrated by the buff washed over extent with listed buildings being identified in a darker orange.

Access is served by an existing access off Ashton Road in the south-east corner of the site.

There are no formal public rights of way in close proximity to the site but there is a lit footpath access that borders the southern edge of the site. There are no heritage assets on site although the Hilpert Conservation Area abuts the site's eastern edge.

The site is not at risk of flooding and is mapped as flood zone 1 – land with the lowest such risk, and there is no evidence of surface or ground water flooding on the site.

The topography of the site is generally flat however as the site section below shows, the ground level of the application site is about 1.3m above road level.



It is important to note however that the properties to the immediate north-west abutting the site (Cockhatch and Beechwood) and the north-east (The Grange) are on the same ground level as the application site, raised above the road level.



Looking northwest across the application site from the site entrance showing the northern boundary of the site.



Looking west across the site to the site's western boundary with the southern boundary on the left.



Photo of application site looking south across the site to the southern boundary.



Photo of application site looking southeast across the site to the southeastern boundary with existing access in the southeast corner.



Photo of application site looking east across the site to the eastern boundary showing the existing site access and the Grange in the background.

4. Relevant Planning History

There is no recent planning history for the application site; however, representations have referred to other planning applications that are considered have limited weight in the assessment of this application because the policy context has changed significantly, and it must always be acknowledged that each application must be assessed on its own merits.

Nevertheless, the following applications are listed.

W/84/00301/OUT Erection of two dwellings - Refused.

W/85/00904/FUL Utilising existing access to serve a proposed bungalow - Refused.

99/01724/OUT One dwelling. Refused with appeal dismissed under APP/F3925/A/00/1041721.

Notwithstanding the above, Members will be aware that each application must be assessed against current policy and the national policy framework.

Whilst reporting on the above refusals, it is equally valid to record that in recent years, other housing 'windfall' developments have been approved, including a couple of sites that obtained committee endorsement with full regard given to the 5-year housing land supply deficit.

These more recent case examples are set out below and have more material weight than the above listed historic refusals, as they were assessed under the current policy context.

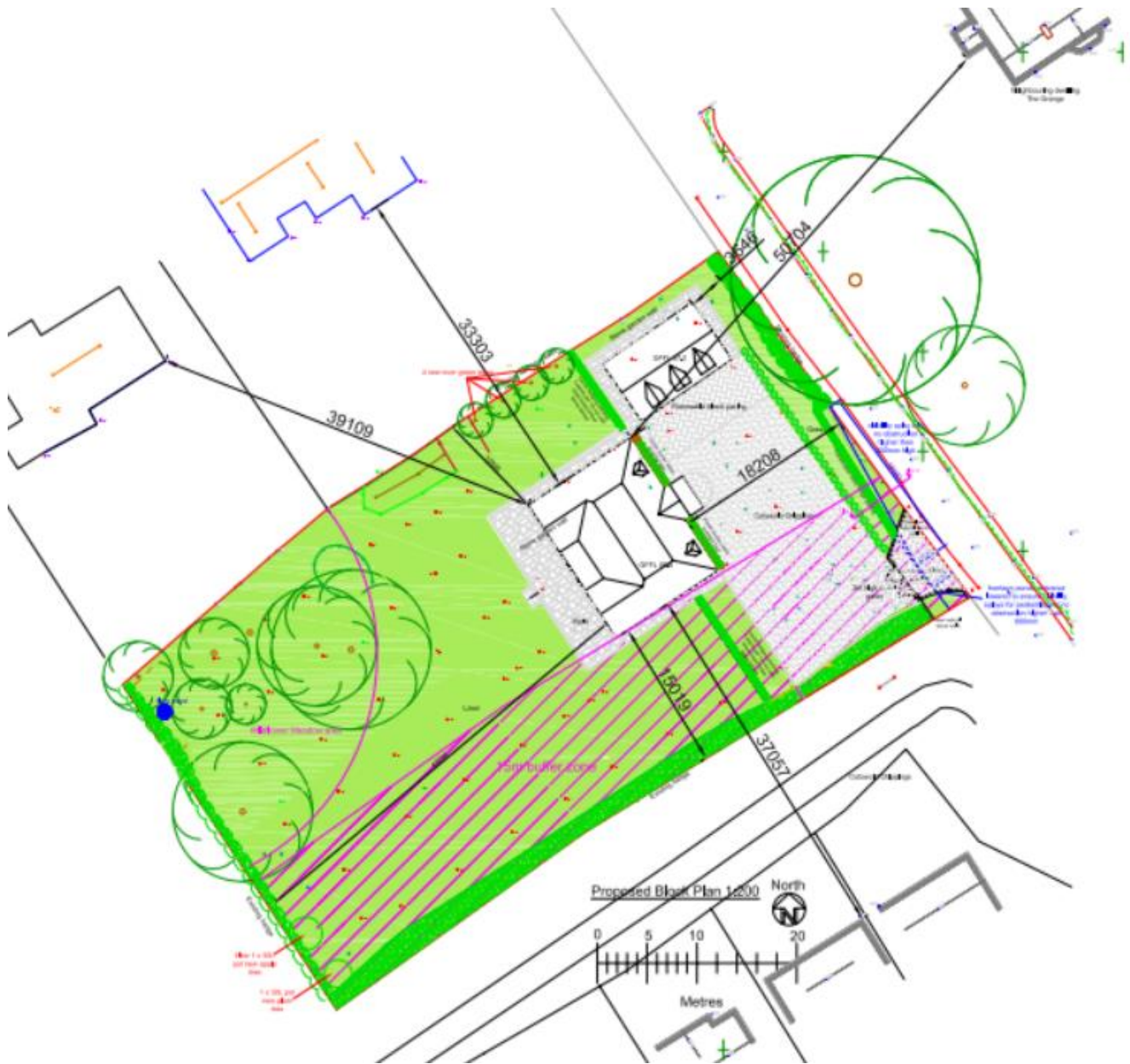
18/00985/FUL (and recent associated variation applications ref:19/11882/VAR & PL/2021/08931) – Erection of 20 dwellings on Land at The Grange, Devizes Road, Hilperton – Approved 11/12/2018

PL/2021/03253 - Erection of two detached dwellings, garages and associated works on Land to the south of Lion and Fiddle, Trowbridge Road – Endorsed at WAPC 16/02/2022 and following completion of s106 application, was Approved 02/03/2023.

PL/2022/05120 - The erection of one detached dwelling with attached double garage and associated private gardens with vehicular access off Ashton Rise, including the re-routing of an existing footpath. Land off Ashton Rise, Hilperton, Trowbridge - Endorsed at WAPC 12/04.2023 and following completion of s106, was Approved 13/07/2023

5. The Proposal

This is a full application for the erection of a 2.5 storey detached 6-bedroom family dwelling with a detached triple garage with home office above. The proposed dwelling would have a kitchen/dining room, lounge, playroom, snug, study and utility room at the ground floor level and four bedrooms with family bathroom at first floor level. There would be a further two more bedrooms with en suites at second floor. The siting of the dwelling is shown below.



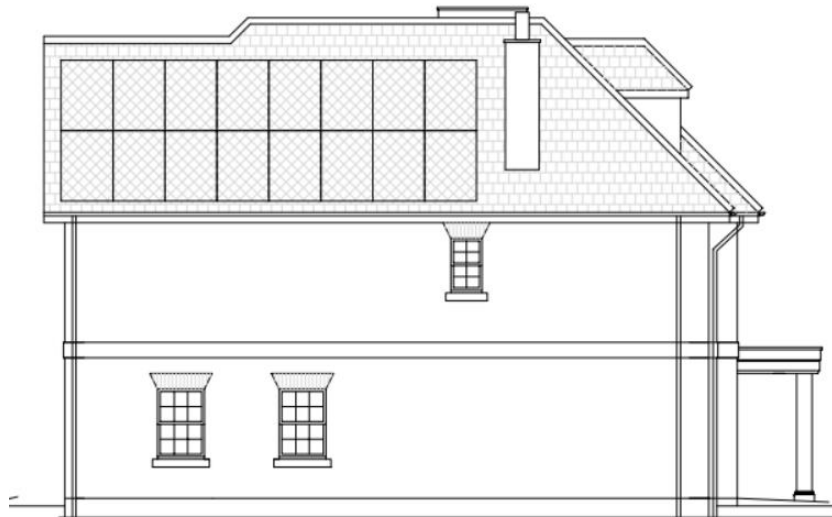
Proposed site plan

The proposed external materials would be red brick with red brick headers and Ashlar stone cills with clay pan tiles for the roof and integrated solar panels on the south-east facing roof slope. The existing boundary treatments to the site comprised of vegetation, fencing and stone wall will remain as existing with additional planting and a new stone wall on the northern boundary.

The applicant proposes additional tree planting on site which is illustrated on the above inserted site plan. The proposed triple garage with home office above would have a forecourt with space to park at least 3 additional motor vehicles. Access to the dwelling would be via an existing access secured with 2m high metal gates and a proposed driveway and turning area comprised of Cotswold Chippings.



Proposed Front (North-East) Elevation 1:100



Proposed Side (South-East) Elevation 1:100



Proposed Rear (South-West) Elevation 1:100



Proposed Side (North-West) Elevation 1:100

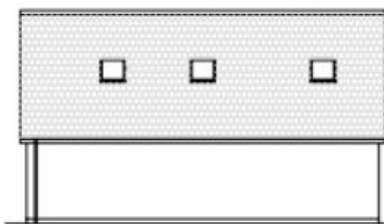
Proposed detached triple garage



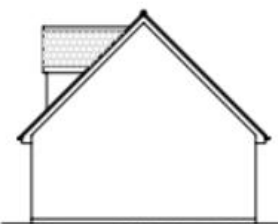
Proposed Front (South-East) Elevation 1:100



Proposed Side (South-West)



Proposed Rear (North-West) Elevation 1:100



Proposed Side (North-East)



Site Section on the east elevation showing the proposal's relationship with the Grange (some 48.7m to the east on the other side of Ashton Road) including the 25-degree rule



Site section north - south across the site showing the proposal's relationship with the house to the north and the property to the south.

6. Planning Policy

Wiltshire Core Strategy (WCS) - Relevant policies include:

- Core Policy 1: Settlement Strategy;
- Core Policy 2: Delivery Strategy;
- Core Policy 29: Spatial Strategy – Trowbridge Community Area;
- Core Policy 41: Sustainable construction and low-carbon energy;
- Core Policy 50: Biodiversity and Geodiversity;
- Core Policy 51: Landscape;
- Core Policy 57: Ensuring high quality design and place shaping;
- Core Policy 58: Ensuring the Conservation of the Historic Environment;
- Core Policy 60: Sustainable Transport;
- Core Policy 61: Transport and Development;
- Core Policy 67: Flood risk

West Wiltshire District Local Plan (1st Alteration) –

U1a Foul Water Disposal

The made Hilperton Neighbourhood Plan 2017-2026 –

Policy 2 (Housing)

Policy 3 (Heritage and Design)

Policy 4 (Sustainable Transport)

Policy 5 (Infrastructure and Developer Contributions)

Other policy/guidance/legislation -

- National Planning Policy Framework 2021 (The Framework)
- Planning Practice Guidance (PPG)
- Wiltshire's Local Transport Plan 2011- 2026
- Housing Land Supply Statement April 2022 (with baseline date of April 2021)
- Waste storage and collection: guidance for developers SPD
- The Hilperton Village Design Statement
- The Trowbridge Bat Mitigation Strategy
- Wiltshire Council Bat SAC Guidance
- Habitat Regulations

7. Summary of Consultation Responses

Hilperton Parish Council: Objects as it is outside Village Policy Limits, and the land is not allocated in the Neighbourhood Plan

Wiltshire Council Highways Team: No objection subject to conditions.

Wiltshire Council Ecology Team: No objection subject to conditions. Refer to the ecology impact appraisal section later in this report.

Natural England: No objection subject to conditions.

Wiltshire Council Archaeology: No objection

Arboricultural officer: No objection subject to condition.

8. Publicity

The application was publicised by individually posted notification letters sent to neighbouring/properties within close proximity of the site. Following the submission of amended plans, additional public notifications were carried out.

As a result of this publicity the Council has received 32 representations, 29 being objections (from 10 people), and 3 letters of support and a petition in support signed by 11 people, which can be summarised as follows:

Those objecting to the application, do so on the following grounds, summarised as follows:

- The proposed building is outside the Village Policy Limits

- Levelling-up and Regeneration Bill will be amended so that 'housing targets' will become advisory; application should be delayed until this Bill becomes law
- Breach of Wiltshire and Hilperton planning policy
- Highway safety
- Visibility cannot be achieved
- The access to Ashton Road has poor visibility and raises highway safety concerns.
- The access road for new residential development was refused in a previous planning application in 1985.
- There is insufficient space for construction vehicles to safely access the site
- Consideration needs to be given to the potential parking of construction vehicles
- Concern raised about damage to existing grass verges
- Waste collection and delivery vehicle access concerns
- The proposed dwelling is too tall, large and bulky, should remain at two storeys
- Property should be dug into ground to reduce ground level.
- Concerns about the proposed tree planting
- Significant increase in the density of properties in the area
- Conflict with users of the road which is used regularly by pedestrians and cyclists
- Loss of vegetation on site/loss of trees on site
- Trees and hedgerow should be retained
- Impact on wildlife, flora and fauna on site
- Impact on hedgerow to south and east
- Part of the bat conservation yellow zone
- Misapplication of TBMS policy
- Accuracy of plans and small sites metric query
- Covenant on land from 1987 prevents anyone building on this site
- Hilperton will lose its identity by merging into a part of Trowbridge
- Loss of privacy/overlooking/loss of light
- Severe and negative impact on the character of the neighbourhood and the conservation area
- Design is not sympathetic
- Garage and dwelling are excessive and would dominate the landscape
- Footprint of house and garage should not be moved further west or south.
- No additional development should be allowed on site
- Garage should be no higher than proposed
- Reference made to refused 1985 application (a previous refusal on highways grounds)
- Noise disturbance concerns in particular from vehicles using access
- Would prefer to see one large house than higher density with multiple houses
- Impact on conservation area, historical asset and setting
- Impact on house value
- Lack of fair and transparent process for purposes of allowing impacted residents to review up to date plans, identify how planning policy and assessments have been implemented and see how fair and transparent decisions are made with due regard for members of the public.

Those supporting the application do so on the following grounds, summarised as follows:

- The plot is located within a village environment on the outskirts of Trowbridge
- There is a mixture of house types and design
- The plot is in a quiet location with no through road

- The grange is very substantial with extensive grounds well screened from the road behind mature vegetation
- The site access is some 40m away from the entrance to the Grange
- Hilperton has a range of facilities and is within easy reach of Trowbridge
- The proposal would enhance the area and not impinge on the neighbourhood
- The plot is an individual house between existing properties and there is no good reason why the application should not be approved.
- The house is 2.5storeys not 3.
- The site is currently scrub land and the proposal will result in an enhancement of biodiversity
- The Paxcroft estate already creates a lot of light so the wildlife will not be affected by the proposal as much
- It is hard to object when considering the large development granted to Ashford Homes (Cedar Tree Close) which is not in keeping with the aesthetic of the conservation area and the loss of wild habitat was enormous by comparison.

9. Assessment

9.1 Principle of Development

Wiltshire Core Strategy 'Settlement' and 'Delivery' Strategies –

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.

Core Policy 1 of the Wiltshire Core Strategy explains that there is a general presumption against development outside the defined limits of the Principal Settlements, Market Towns, Local Service Centres and Large Villages. Core Policy 2 sets out the delivery strategy and advises that within the limits of development, as defined on the policies map, there is a presumption in favour of sustainable development at the Principal Settlements, Market Towns, Local Service Centres and Large Villages. It supports a planned approach to development outside of the limits of development of existing settlements, stating that such development will only be permitted in exceptional circumstances, or if the site is identified for development through a site allocation document or a Neighbourhood Plan. The exceptional circumstances are set out in paragraph 4.25 of the Core Strategy.

The application site lies outside the settlement boundary of Hilperton - which is defined as a 'Large Village' under CP1/CP2 within which development of small housing sites (less than 10 dwellings) may be supported in policy terms subject to a full review of all material consideration. This site is also outside of the Trowbridge settlement which is defined as a Principal Settlement where residential development is acceptable in principle.

The application site's proximity to the defined settlements is a material consideration and as shown in earlier inserts, it is difficult to argue that it is an unsustainable location for housing. It backs onto residential development with domestic gardens to the north and west and more domestic curtilages are found beyond the access road to the east and footpath to the south.

It is accepted that the site has not been promoted through either a site allocations plan, and nor is it identified for residential development in the made Hilperton Neighbourhood Plan. In addition, the proposal does not meet any of the exceptional circumstance as set out within paragraph 4.25 of the WCS.

The made Hilperton Neighbourhood Plan (HNP) includes a housing policy (Policy 2) which supports the construction of new housing “to meet local market and affordable housing needs” within the defined settlement boundary of Hilperton and “exceptionally in the countryside where it satisfies national and strategic policies and delivers:

- a) Self build homes;
- b) ‘Eco-homes’ with innovative designs that incorporate renewable energy and/or sustainable construction methods;
- c) Retirement homes, extra care housing or other homes designed for the over 55s”

With reference to the Neighbourhood Plan, the proposal would incorporate several aspects of sustainable design such as the use of a high thermal superstructure, use of solar photovoltaics to generate renewable electricity, have low water flow devices installed and smart energy meters, LED lights and electric vehicle charging points.

The Council’s Five-Year Housing Land Supply –

The Council’s published Housing Land Supply Statement dated May 2023 (with baseline date of April 2022) addresses the housing land supply situation for the Wiltshire Council area and concludes that the Council cannot demonstrate a 5-years supply of land for housing; the number of years deliverable supply is indicated to be 4.6 yrs.

The recent planning appeal for a 90 house development on the edge of Holt village (PL/2022/03315) was allowed. During the hearing the housing supply was accepted to be 4.59 yrs. The Inspector considered this to be a significant shortfall, concluding “... it constitutes an appreciable deficiency when compared to what the supply should be” (i.e. a deficiency of at least 881 houses).

Paragraph 11(d) and footnote 8 of the NPPF states that where an LPA cannot demonstrate a 5 year housing land supply of deliverable sites, for applications including housing provision, the policies which are most important for determining the application should be considered out-of-date, and that, the presumption in favour of sustainable development (often referred to as the ‘tilted balance’) must be applied and permission should be granted unless protection policies as set out in footnote 7 of the NPPF apply, or the adverse impacts of granting permission would significantly and demonstrably outweigh the benefits (emphasis added).

For this application, the tilted balance flowing from paragraph 11d) ii of the National Planning Policy Framework (NPPF) is engaged. As such the local development plan policies which restrict new housing provision must be treated as being ‘out of date’, but this does not mean that they carry no weight, since the development plan remains the starting point for all decision making.

When the tilted balance is engaged, the NPPF indicates that planning permission should be granted unless any adverse impacts of doing so would significantly and demonstrably outweigh the benefits, when assessed against the policies of the NPPF taken as a whole.

When LPA’s have a housing supply deficit, paragraph 11 of the NPPF sets a presumption in favour of housing delivery unless protected areas or assets of particular importance would be demonstrably harmed by the development proposal and would provide a robust and clear reason for refusing the application.

In this particular case, there are no technical grounds to refuse the application and the Council’s highways officer, tree officer, archaeologist and ecologist all report no objections.

WCS strategic policies CP1 and CP2 cannot be given 'full weight' whilst NPPF para 11 is engaged, but these policies can still be given some weight on the planning balance. However as cited above, with the recent approval of planning permission for 3 additional houses near to the site, this proposal is not considered an unsustainable location for additional housing and there would be no substantive adverse harm that would demonstrably outweigh the benefit of delivering an additional dwelling to the local housing supply.

The extent of the 5-year housing land supply shortfall and the potential for the proposal to deliver housing in the current 5-year period to help remedy the current shortfall should be taken into account in the balancing exercise. In this regard, the 4.59 housing supply is considered a significant under provision, as confirmed by the recent appeal decision in Holt, and with the absence of any adverse impacts and lack of technical reasons to refuse, the application should be supported.

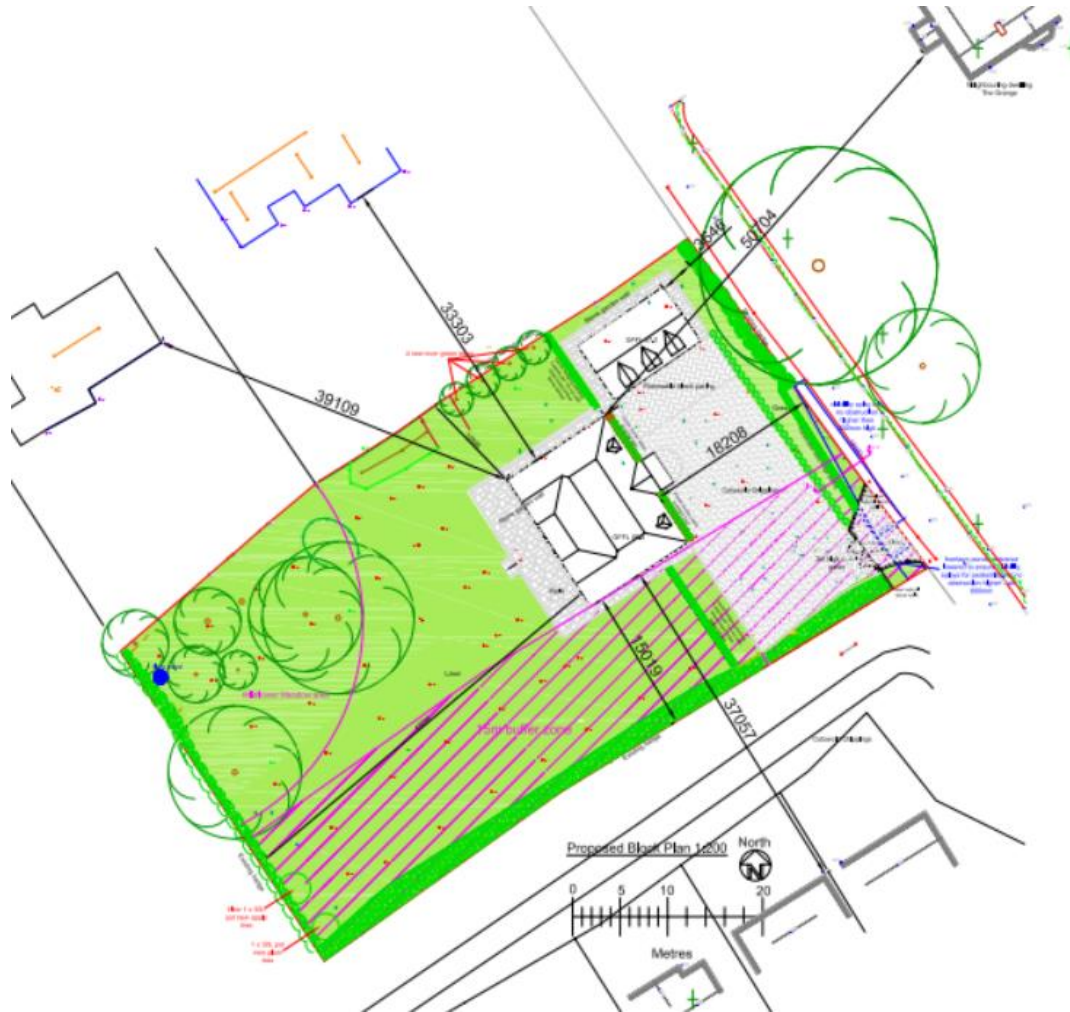
It is accepted that Paragraph 14 of the NPPF makes special provision for areas with 'made' Neighbourhood Plans. However, the Hilperton Neighbourhood Plan is more than 2 years old and given the lack of adverse impacts that would demonstrably outweigh the benefit of delivering additional housing, the Hilperton Neighbourhood Plan does not provide substantive planning policy reasons to refuse the application.

To conclude, the development would be contrary to the spatial strategy and Core Policies 1 and 2 of the Wiltshire Core Strategy; however, the site is not considered an isolated, unsustainable location and given the lack of any technical reasons to refuse the application, when tested against the NPPF, the application should be granted planning permission.

9.2 Impacts on the living conditions of neighbouring residents

Core Policy 57 of the Wiltshire Core Strategy requires a high standard of design in all new developments. It also requires regard to be given to the compatibility of adjoining buildings and uses including the consideration of privacy, overshadowing and noise and light pollution.

The rear gardens of residential properties accessed from Ashton Rise (Cockhatch and Beechwood) adjoin the site to the north. To the south, a streetlight lit footpath separates the site from the rear gardens of no's 13-17 Apsley Close; the access road is located to the east with the property known as The Grange beyond. There is extensive tall mature vegetation and trees along the southern boundary as shown in the above site photos and there are mature trees screening the grounds of The Grange – which are referenced within the public representations.



Site Context to neighbouring residents

The separation distances from the proposed dwelling to the associated rear elevations of the adjoining dwellings to the north-west are approximately 33m to 'Cockhatch' and 39m to 'Beechwood'.

The proposed north-west elevation includes a first-floor window to serve an en-suite bathroom; this could be conditioned to be obscurely glazed. It is also noted that the applicant proposes to plant trees along the site's eastern boundary which would provide additional screening once proposed new trees develop.

There are no properties that would be materially affected by the proposed south-west elevation arrangement.

The separation distances to the rear gardens of No's 13-17 Apsley Close would be approximately 36m at the closest point separated by streetlights and a footpath with a tall mature hedgerow effectively screening the back gardens beyond. There is one window proposed at first floor level on the south-east facing elevation and this would serve an en-suite; again this could be conditioned to be obscurely glazed.

Solar panels would be included on the property's south-east facing roof slope, and it is considered by virtue of the separation distance and angle and the solar panel specification, there would be no harmful glint and glare from these.

In terms of the principal northeast elevation, the proposed dwelling would be set 18m back from the eastern boundary. The separation distance from the northeast front elevation of the proposed dwelling to the west facing elevation of The Grange fronting Ashton Road, measures 48 metres.

There has been some concern raised about the proposed property being 2.5 storeys, sited on raised ground and causing setting harm to the property at The Grange as well as result in overlooking of the private garden. The height of the proposed dwelling is indicated on the plans to be 9.4m and would be set back a considerable distance from The Grange and would be partially screened by the existing well-established trees. At some 48m distant and set at an oblique angle from The Grange, the proposal would not have an adverse impact.

There may be some overlooking of a small part of the front garden area, but this would be minimal and would not give rise to intervisibility harm or a material loss of privacy to such a degree to be sufficient to form a sustainable reason to refuse the application.

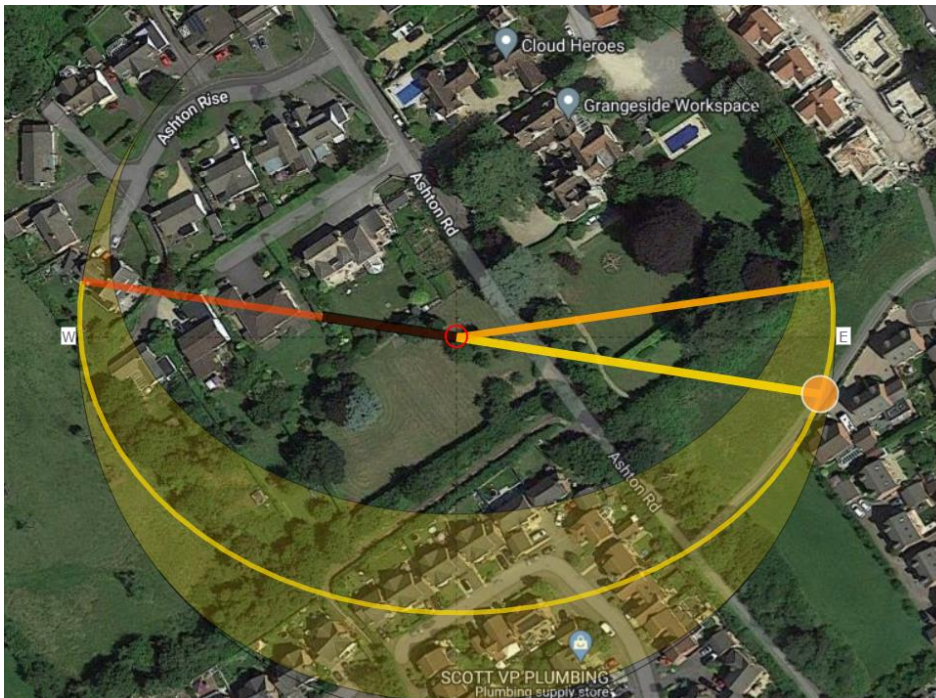
In terms of the proposed detached triple garage and home office, it would have three rooflights on the north-west facing elevation, and it is considered that these would not give rise to any material harm. There would be a window facing south-west and no glazing proposed on the north-east facing elevation of the garage. Three dormer windows facing south-east are also proposed but given the separation distances and the existing tree/hedge planting, this would not result in overlooking or loss of privacy to the properties beyond at Apsley Close.

The separation distances associated with the north-western, north-eastern and south-eastern elevations of the proposed dwelling and the elevations of neighbouring properties exceed 21 metres in every case, which is considered sufficient to ensure that neighbouring privacy and amenity would not be adversely affected. This is especially so given the separation distances involved pursuant to this scheme alongside proposed tree planting and existing boundary screening would ensure that no significant overlooking to neighbouring gardens would arise. Furthermore, due to the separation distances referenced above and the proposed siting of the house within a generous sized plot, the proposal would not result in harmful levels of overshadowing or overbearing impacts on neighbouring residents.

It has been calculated that there would be some limited overshadowing to the rear garden of the neighbouring property in the early morning period - as detailed in the sun calculation diagram below (which is based on taking the highest point of the dwelling at 9.4 metres (the north facing gable), showing the extent of shadowing (illustrated by the black line) as at 8am at the beginning of April and September for example).



Sun calculation diagram for 1 April at 8am



Sun calculation diagram for 1 September at 8am

It is however necessary to appreciate that with the sun moving on its orbit, the overshadowing effects on neighbouring occupiers would be temporary, and would diminish as the day progresses with no overshadowing by late morning.

Through appraising the above example diagrams, the effects are considered acceptable and would not warrant refusal of the application.

Concerns regarding construction traffic, noise and disturbance have been received and are acknowledged. However, such concerns would not be defensible grounds to refuse the application; it is recommended that a planning condition is imposed to secure a Construction Management Plan to establish the construction working practices, including deliveries, and working hours.

On the basis of the above, the proposed development is considered to comply with Core Policy 57 of the Wiltshire Core Strategy, and the NPPF paragraph 130 (f).

9.3 Impact on the character of the area/adjacent Conservation Area

Core Policy 51 of the Wiltshire Core Strategy states development should protect, conserve and where possible enhance landscape character.

Core Policy 57 requires a high standard of design in all new developments, and requires development to respond positively to the existing townscape and landscape in terms of building layout, built form, height, mass, scale, building line, plot size, design, materials and streetscape.

The NPPF states at paragraph 126 that the creation of high quality, beautiful and sustainable buildings and places is fundamental to what the planning and development process should achieve. Good design is a key aspect of sustainable development, creates better places in which to live and work and helps make development acceptable to communities.

Paragraph 130 states Planning ... decisions should ensure that developments:

- a) will function well and add to the overall quality of the area, not just for the short term but over the lifetime of the development;*
- b) are visually attractive as a result of good architecture, layout and appropriate and effective landscaping;*
- c) are sympathetic to local character and history, including the surrounding built environment and landscape setting, while not preventing or discouraging appropriate innovation or change (such as increased densities);*
- d) establish or maintain a strong sense of place, using the arrangement of streets, spaces, building types and materials to create attractive, welcoming and distinctive places to live, work and visit;*
- e) optimise the potential of the site to accommodate and sustain an appropriate amount and mix of development (including green and other public space) and support local facilities and transport networks; and*
- f) create places that are safe, inclusive and accessible and which promote health and well-being, with a high standard of amenity for existing and future users; and where crime and disorder, and the fear of crime, do not undermine the quality of life or community cohesion and resilience.*

From the point of view of the historic environment the main statutory tests are set out within the Planning (Listed Building and Conservation Areas) Act 1990.

Section 72(1) of the Planning (Listed Building and Conservation Areas) Act 1990 requires the Council to pay special attention to the desirability of preserving or enhancing the character or appearance of designated Conservation Areas.

The NPPF sets out three overarching objectives for the planning system in the interests of achieving sustainable development – an economic objective of building a strong economy; a social objective of fostering well-designed, beautiful and safe places and an environmental objective of protecting and enhancing our natural, built and historic environment.

Chapter 16 of the NPPF 'Conserving and enhancing the historic environment' sets out policies concerning heritage and sustainable development and requires a balanced approach to decision making with harm weighed against the public benefits resulting from proposals.

National Planning Practice Guidance provides guidance on interpreting the NPPF.

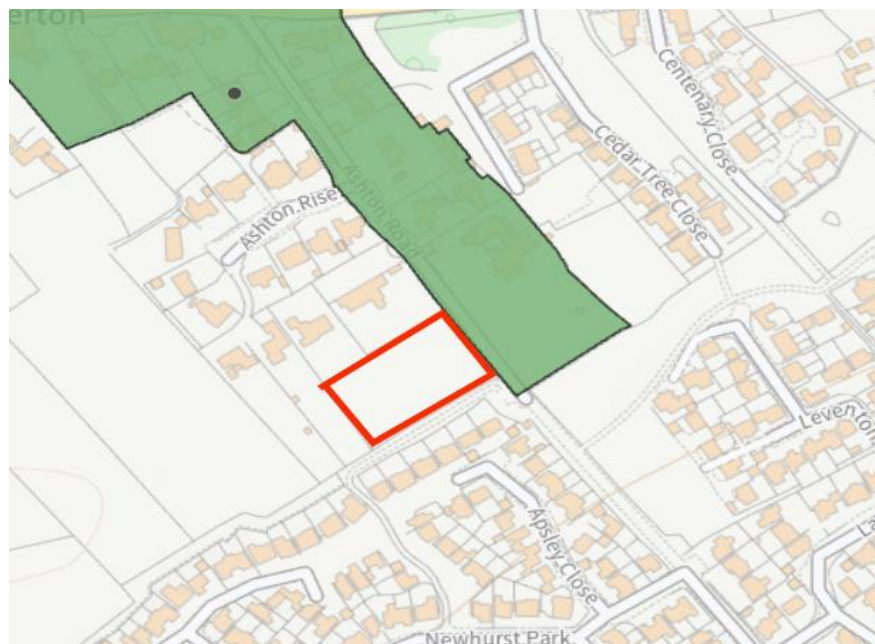
The Council's Core Strategy Policy CP58 'Ensuring the conservation of the historic environment' requires that "*designated heritage assets and their settings will be conserved, and where appropriate enhanced, in a manner appropriate to their significance.*"

Historic England Advice Note 2 – Making changes to Heritage Assets illustrates the application of policies set out in the NPPF in determining applications for PP and LBC.

The application site forms a parcel of grassland bordered by existing fencing and hedgerows and trees. Directly to the north and east of the site is the Hilperton Conservation Area. The Ashton Rise properties as well as Cockhatch and Beechwood to the north are also outside the Conservation Area as well as the residential development of Apsley Close and the land beyond to the immediate south.

Residential development in the immediate area is characterised by detached two storey dwellings of a variety of designs and styles set within relatively large plots, although there is more uniformity, reduced plot and house size found in the more modern 1990's development at Apsley Close to the south.

The extract below shows the built form, urban grain and Hilperton Conservation Area (washed over in dark green) with the site edged red.



Public views of the site from the conservation area from the north and east would not be harmed, and the views would be limited. The proposed design of the dwelling and use of materials (comprising red brick, natural stone and clay pan tiles), and the additional tree planting and site landscaping, are all considered acceptable at this location.

There are no concerns over the proposed building materials; it is considered that the dwelling would assimilate well within the site and its surroundings. Indeed, the proposed design takes details such as the dormer windows and chimneys, and the bulk, mass and materials palette, from 'Cockhatch' to the northwest.

The photo below shows 'Cockhatch' (the nearest property to the proposed dwelling), with detached double garage.



It is considered that the proposal would integrate effectively with its immediate surroundings and respect local identity and character. It would have no adverse impact on the character of the area or harm the setting of the conservation area. In terms of the NPPF the proposal would, therefore, have a neutral impact on the conservation area.

Coalescence has been identified as a concern through the public notification process, but this would be weak grounds to base a refusal on given that the application seeks permission for one dwelling within a large plot and the fact that coalescence already exists with the Hilperton and Trowbridge settlements merging anyway to the north-east as shown in the settlement map insert below.



To conclude, the proposed dwelling would not cause harm to the significance of, or the setting of the Conservation Area, and given the aforementioned separation distances, the proposal would result in no material harm to the non-designated heritage asset, The Grange. It is considered that the proposal is acceptable in terms of its height, scale, materials and bulk, and would effectively integrate into the street scene and would not appear out of context with the properties that immediately surround it or the site itself.

9.4 Trees

The application is supported by a Tree Management Report. The Tree Management Report does not show trees to be retained and removed on the proposed layout. The proposed changes to the existing entrance consisting of lowering the level, a new low natural stone wall and gates could impact on G2 and G3. In absence of a plan showing root protection areas of these groups it must be presumed these could be affected. A tree protection plan for the trees can be secured by condition.

There are four trees highlighted for removal: -

T1 – Leyland Cypress which has been given a ‘C’ category which is considered low quality.
T2, T4 and T7 Leyland Cypress have been given a ‘U’ category.

The low quality of these trees means that they cannot realistically be retained. The proposed Block Plan identifies new planting of four evergreen trees to replace the trees to be removed.

Six trees (T5, T6, T8, T9, T11 and T12 have been given an ‘A’ category and should be retained and protected during the construction stage.

There is a large tree located in the grounds of The Grange which is shown to be encroaching into the site. The plans show a road which separates the proposed site from The Grange and it is likely that the rooting area of this tree has already adapted in view of this road.

It is considered that existing trees to be retained can be protected and the replacement trees secured through the use of conditions. As such conditions requiring an arboricultural method statement of works, protection of retained trees and replacement trees are recommended.

Subject to these conditions being applied, the proposed development is considered to meet requirements of CP51 and CP57 (ii) as well as paragraph 131 of the NPPF.

To conclude, and on the basis of the above, the proposed development is considered to comply policies CP51, CP57 and CP58 of the WCS, provisions 126 and 130 as well as Section 16 of the NPPF and the Hilperton Neighbourhood Plan.

9.5 Highways Issues

Paragraph 110 (b) of the NPPF requires that in assessing ... specific applications for development, it should be ensured that ... safe and suitable access to the site can be achieved for all users.

Paragraph 111 of the NPPF states "*that development should only be prevented or refused on highways grounds if there would be an unacceptable impact on highway safety, or the residual cumulative impacts on the road network would be severe*".

Paragraph 112 (c) of the NPPF also states that ...applications for development should create places that are safe, secure and attractive - which minimise the scope for conflicts between pedestrians, cyclists and vehicles and respond to local character and design standards.

CP57 (ix) of the WCS requires new development to ensure "*that the public realm including new roads and other rights of way are designed to create places of character which are legible, safe and accessible...*" and CP57 (xiv) requires development to meet "*the requirements of CP61 (Transport and New Development)*".

CP61(ii) of the Wiltshire Core Strategy requires new development to be "*capable of being served by safe access to the highway network*" and within the supporting text for CP61, the Council recognises that it is critically important for good planning and safe highway interests for new development to benefit from a suitable connection to the highway "*that is safe for all road users*".

CP64 requires sufficient parking to be provided in new development in line with residential parking standards and requires a reduction in reliance on the use of the private car where possible.

The proposed development would use the existing access off Ashton Road which was historically used as an agricultural access.

Sufficient off-road parking and turning provision can be provided to comply with Council's parking standards and policies.



The existing site entrance

Concern has been raised by third parties about safety issues associated with the driveway/access. The road is unlit by streetlamps at this location and the road is closed off to vehicles and becomes pedestrianised shortly after the site access.

It is important to appreciate that an existing access exists with unrestricted vehicle access and egress rights. It is equally important to recognise that the proposed dwelling would result in an increased volume of vehicle movements, but it would not be significant and through the use of planning conditions, improvements could be secured to achieve appropriate visibility splays to safeguard other users of Ashton Road which connects with Aspley Close for pedestrians and cyclists. In short, some betterment could be delivered through this application by improving the visibility splays in this location.



The pedestrianised footway leading to Aspley Close in Trowbridge



The view along Ashton Road looking north



The view along Ashton Road from outside the Grange looking south with the application site access in the distance near the red and white road closure barriers.

No objections are raised from the Council's highway team subject to conditions ensuring the provision of parking and turning as well as requiring appropriate visibility splays of 0.6m from carriageway level to be

implemented and retained. A plan of the proposed visibility splays has been included as part of the application and is considered acceptable by highways.

To conclude, the proposal includes plans to improve the existing access that was historically used for larger agricultural vehicles, that would not result in unacceptable impacts to highway safety or result in severe cumulative harm, and subject to a planning condition to ensure the appropriate visibility splays, the proposed development would satisfy the requirements of policy CP60, CP61 and CP64 as well as paragraphs 110, 111 and 112 of the NPPF.

9.6 Land Stability Matters

The visibility splays required by the highways officer would require the removal of some of the earth from the bank outside the site and rebuilding the existing stone boundary wall. Details have been provided in the proposed block plan and site section demonstrating how the visibility splays will be achieved, and a planning condition has been agreed with the applicant to ensure this is implemented prior to the occupation of the development and be retained as such for the lifetime of the development.

There is no specific policy in the WCS that addresses land stability, however the NPPF states at paragraph 174(e) that planning decisions should contribute to and enhance the natural environment by preventing new and existing development from contributing to, being put at unacceptable risk from, or being adversely affected by, unacceptable levels of ... land instability. Paragraph 183(a) states that planning decisions should ensure that a site is suitable for its proposed use taking account of ground conditions and any risks arising from land instability and 183(c) says adequate site investigation information, prepared by a competent person, is available to inform these assessments. Paragraph 184 of the NPPF states where a site is affected by ... land stability issues, responsibility for securing a safe development, rests with the developer and/or landowner.

The site section has been reviewed by an independent building control certified professional who considers the proposal is accurate and acceptable. As such the proposed development satisfies the requirements of paragraph 183 of the NPPF.

9.7 Ecology Issues

Core Policy 50 of the Wiltshire Core Strategy states that development proposals must demonstrate how they protect features of nature conservation, and there is an expectation that such features shall be retained, buffered and managed favourably in order to maintain their ecological value.

The application site is located at the edge of the village of Hilperton, with residential development to the north-west and south-east. The application is accompanied by a Preliminary Ecology Appraisal (PEA) and addendum dated November 2022.

The application site comprised an area of managed semi-improved grassland surrounded by hedgerows to the east, south and west. There are scattered trees along the northern boundary.

The site is located within the Council's 'consultation zone' for Bechstein's bats associated with the Bath and Bradford-on-Avon Bat SAC due to the proximity of Green Lane Wood. The site is also located within the 'yellow' medium risk zone and the 'grey hatched' recreational zone of the Trowbridge Bat Mitigation Strategy (TBMS) SPD (adopted Feb 2020). In view of these circumstances of the site, the proposed development requires Appropriate Assessment under the Habitat Regulations to address the effects on the bats.

The 'yellow' medium risk zone represents the areas where habitat has been shown to be of importance, or is highly likely to be of importance, for bats associated with the Bath and Bradford-on-Avon Bat SAC (Bechstein's, greater horseshoe and/or lesser horseshoe bats). Due to the location of the site within the Bechstein's bat consultation zone and within the TBMS 'yellow' medium risk zone, and in the absence of bat activity surveys, it can reasonably be assumed that bats associated with the SAC are using the site's boundary features, and so all boundary features must be retained/created and enhanced and maintained as dark areas.

The only way to prove absence of Bechstein's bats would be to undertake extensive year-round radio tracking/trapping surveys and this would be disproportionate for a one house planning application, and such surveys can also be stressful for the bats in any event. The assumption that there are bats using the site is, therefore, considered reasonable under the circumstances.

A bespoke Appropriate Assessment has been completed and the application has been considered by Natural England on several occasions. Natural England concur with the WC Ecologist's conclusion on the Appropriate Assessment – that is, that subject to mitigation, there would be no adverse effects on the integrity of the Bath and Bradford-on-Avon Bat SAC.

On mitigation, the majority of vegetation on the site would be retained and the proposed plans provide for ecological enhancement in the form of additional planting including: -

- New hedgerow
- 26m of flower border/small hedges/plants
- 4 new large Ever Green Trees
- 2 New Fruit Trees
- New pond
- Large area of wildflower meadow

This is in addition to translocating the existing hedgerow from the eastern boundary to accommodate the visibility splays and retaining 8 mature trees and 122m of existing hedging.

The applicant has also submitted the block plan showing the distances between the property and the hedgerow features (the 'buffer areas'). These buffer areas to the south would be retained as dark and undisturbed corridors. Through the course of officer/agent negotiations, a revised layout has been submitted providing a 15m buffer alongside the dense leylandii hedge on the southern boundary. This was submitted to address Natural England's initial concerns regarding providing sufficient functional habitat across the site for SAC bats. Additional planting of fruit trees, wildflower planting and a pond has been added to the proposal; no objection has been raised to this by the Council's ecologists and Natural England to this.

The site adjoins several residential dwellings to the north, east and south. A small parcel of unmanaged grassland is located to the west. There are no buildings on this site and the site does not have any suitability for roosting bats. The site does offer some limited foraging habitat for bats and provides moderate-quality commuting habitat. In terms of hedgerow connectivity, the eastern hedgerow (c. 70m) does not provide connectivity to the wider network of bat habitat, while the southern conifer hedgerow links Ashton Road with optimal habitat to the west of the site.



Figure showing likely route for Bechstein's bats commuting from Green Lane Wood (purple arrows) and extent of eastern boundary hedgerow (red arrows) in relation to the application site (red arrow).

No evidence of badgers has been recorded at the site and there is limited potential for protected species other than bats.

A planning condition to secure the proposed ecological mitigation enhancement measures is recommended as are conditions requiring integrated features such as bat and bird boxes on the site and a condition regarding the details of the successful translocation of the existing native hedge on the eastern boundary.

Given the importance of the *leylandii* hedgerow and associated 15m buffer (minimum) along the southern boundary, it must be retained and secured for the lifetime of the development. It is considered that this can effectively be done through an appropriately worded condition.

Furthermore, to mitigate the impact on the bat habitat the proposed dwelling is required to contribute £777.62 (index linked from 2018), to be paid before commencement towards habitat mitigation detailed in Appendix 1 of the TBMS. This has been agreed with Natural England and accepted as appropriate in previously approved sites in the locality. The requirement to pay this can be secured through a s.106 agreement.

Finally, the 'grey hatched' recreational zone of the TBMS is an area within the zone of influence within which new residential development is likely to result in increased recreational use of the woodland bat sites. New residential development proposals within this zone are expected to contribute towards the delivery of mitigation to address strategic recreational pressure. Such mitigation is to be paid for through Community Infrastructure Levy (CIL). Developers are not expected to pay directly for strategic

recreational mitigation. Funding will instead be calculated annually from the number of housing completions and taken from the CIL receipts at the following rate: for residential development, £641.48 per dwelling.

To conclude, the ecology implications for this application have been thoroughly considered and assessed, and whilst local concerns continue, the Council's ecologists and Natural England are all satisfied the application can be approved subject to restrictive planning conditions and a s.106 planning obligation.

Concerns raised by the local Councillor and local residents about additional lighting and the approach to applying the small sites metric and compliance with the Trowbridge Bat Mitigation Strategy are all considered below.

Lighting –

Given the established residential nature of this locality there is existing skyglow. This is especially so from the properties to the north-west, off Ashton Road and the properties accessed off Ashton Rise.

Moreover, photographs have been submitted showing external lighting at The Grange at night on the eastern side of the site, below.





Whilst there are no streetlights at this end on Ashton Road, there are along the footpath on the southern boundary and the existing residential development to the south.

Whilst there is this street lighting along the southern side of the Leylandii hedgerow, it has been confirmed by WC's Streetlighting Team that these are LED lights that are dimmed overnight (by 50-75%). The tall Leylandii hedge along the southern boundary would provide significant protection/shelter and minimise light spill from the streetlights to the south of the footpath and cycle track and, as such, the corridor along the southern boundary will likely be used by SAC bats.

Taken together, the existing established skyglow already forces any bats crossing the site to use the western area of the site via the established thick southern boundary hedgerow. This has been identified by the bat specialist at Natural England. It is in the dark western area of the site where additional mitigation planting in the form of bat friendly fruit trees as well as a small pond is proposed to be located, which would be beneficial to bats and biodiversity. Given the importance of the 15m buffer being retained and this western garden location remaining dark and free of built form and artificial light, it is recommended that permitted development rights are removed for any future extensions and outbuildings here by condition so that any potential impacts can be assessed c/o further planning applications.

With respect to the amount of proposed internal lighting and potential light spill affecting the eastern hedgerow from the proposed 11 windows on the front of the house, this has also been considered by Natural England. The ancient eastern hedgerow along the Ashton Road going north is a relatively short stretch of hedgerow (at circa 70m) and it does not form part of an important continuous commuting corridor for bats (See Figure above showing extent of eastern hedgerow in relation to the application site) . Bechstein bats are likely to use the closest route from Green Lane Wood (the location of a core roost) across the site and via the southern hedgerow, and there is minimal glazing proposed on the south-eastern elevation (See Figure above –purple dashed arrow showing likely route from Green Lane Wood to the south).

To ensure any additional sky glow from the proposed dwelling remains within acceptable limits, a planning condition preventing additional external lighting within the site without prior approval from the LPA is recommended. Any such future proposal would require a separate application and permission.

The use of the Small Sites Metric –

The Small Sites Metric is not mandatory in policy or legislation terms and is unlikely to be a requirement until at least April 2024. There is no existing policy requirement, in either the NPPF or under CP50 of the WCS, to provide 10% biodiversity net gain at the present time. The current requirement for minor applications rests on ensuring that there is no loss of functionality for the species using/likely to be using the site.

Third party concern has been raised that the metric would be out of date as it was submitted in Nov 2022 and expired in April 2023. Although not required by policy, the applicant did submit a small sites metric dated April 2022 which supported the application which was validated on 17/11/2022. Members should note that if the Council did require a small sites metric, then the version and date of the metric, as submitted, is acceptable and is not considered to be out of date.

The current advice from Natural England to LPAs is that if an updated version of the metric is published during determination of an application / the lifetime of a project and the applicant has already submitted a metric, the respective version of the metric should continue to be used if any subsequent revisions to the metric are required to inform the determination / consideration of the application.

Approach to the Trowbridge Bat Mitigation Strategy (TBMS) –

The TBMS was primarily written to consider the requirements of new housing being delivered under the WHSAP (Wiltshire Housing Site Allocations Plan) with the overall premise being to set aside large swathes of dark core habitat for the three SAC bat species and ultimately to ensure the proposals do not result in an adverse effect of the integrity of the Bath and Bradford-on-Avon Bat SAC.

The TBMS discusses ‘windfall’ development and so for all small sites such as this one, the sites must be assessed for their impacts on the SAC, and a Habitat Regulations Assessment must be concluded favourably to ensure no adverse effect of the integrity of the SAC.

The ecology team have built up a good knowledge of the movements of the SAC bats, and with more and more survey data being submitted through applications, they are increasing this knowledge all the time.

In terms of bat surveys, for minor developments such as this one, depending on the location, the ecology team do not always request them. The reason being is that it would be very difficult to prove absence of Bechstein’s bats. The ecology team know this species uses adjacent habitats and any surveys using static or handheld detectors are very likely to pick up/record *Myotis* species (note: Bechstein’s bats belong to the *Myotis* genus, but the *Myotis* genus also includes several other species which are difficult to distinguish using calls/sonograms).

The most reliable way to confirm identity of Bechstein’s bats is through hand identification and it would be unreasonable/disproportionate to request radio tracking/trapping surveys for an application such as this one, and in addition such bat surveys would be stressful for the bats. It is therefore assumed that some Bechstein’s individuals and potentially horseshoe species (the other two qualifying SAC bat species) are using the site for (as a minimum) commuting between Green Lane Wood and habitats further north. This is how the proposal has been approached and assessed under the Habitat Regulations Assessment (and furthermore into Appropriate Assessment).

This approach has been agreed with Natural England through the course of the application.

The TBMS confirms at paragraph 43 (p.13), that it is to be considered alongside the Bats SAC Guidance and policy and it is not the only component of the development management process. It is intended as providing simple guidance and is quite clear at section.3.2.5 paragraph 37 (p.11) that it is intended to complement the Bat SAC Guidance, not supersede it, or the policy requirements contained therein.

Accordingly, whilst the TBMS is a material consideration, it must be understood that it was never intended to apply to sites such as this one, and as a consequence, carries less weight as a material consideration in this particular planning assessment, compared to the Habitat Regulations, the Bat SAC Guidance and adopted WCS policy CP50 against which the proposal is considered to be in conformity with, with the full agreement and support of WC's ecologists and Natural England's bat specialists.

Ecology conclusions –

It is concluded that the application proposal would not lead to harmful or significant ecological effects, and the Appropriate Assessment has been agreed by Natural England.

The application has been subject to extensive discussions with the applicant's agent, the Council's ecology team and with Natural England, and through these discussions, it has been agreed that the southern boundary hedgerow would be retained and a dark corridor would be formed alongside that hedgerow (with a 15m buffer and planning conditions preventing external lighting and removing PD), and so the functionality across the site for bats would be maintained. It is for these reasons that the Appropriate Assessment concludes that there would be no adverse effect on the integrity of the Bath and Bradford-on-Avon Bat SAC.

On the basis of the above, the proposed development would have no adverse impact on local ecology and nature conservation and the development complies with national and local policy as well as the Habitat Regulations.

9.8 Drainage Issues

Policy CP67 of the WCS requires that all new development will include measures to reduce the rate of rainwater runoff and improve rainwater infiltration to soil and ground (sustainable urban drainage)

Surface water drainage is proposed to be dealt with by soakaways on site and will ensure that all run off will be retained within the site curtilage and will not run off onto the highway. No information has been submitted with regards foul water drainage which can be addressed by planning conditions requiring full details of the surface water and foul water drainage connections.

9.9 Loss of agricultural land

The application site comprises approximately 0.3 hectares of agricultural land which is categorised as grade 3 land. Grade 3 agricultural land is identified as being 'Medium – Good Quality Agricultural Land'. However, the site has no connectivity to adjacent farmland and the loss of such a small area of land which does not form part of an agricultural holding, would not justify as a reason for refusal.

9.10 Other Issues

Concerns have been raised by third parties with regard to the accuracy of submitted plans; however, following checks, the plans and submitted details are considered accurate and sufficient in detail to accurately show what is being proposed. The application is supported by sufficient evidence and supporting material to enable the Council to reach a decision.

Additional concerns have been raised regarding a private covenant that was entered into by a previous property vendor and two named individuals on the land dating from 1987 which precludes the building of a dwelling on this site. This appears to relate to a previous application for a development that was not implemented. The covenant does not appear to bind the Council in any way and the Council does not appear to be a co-signatory to the covenant. The private covenant could be expunged through separate civil agreements and the existence of the covenant does not prevent the Council from assessing/approving a planning application – which must be based on planning considerations only. The covenant is a separate legal property matter and not a matter that should be afforded weight in the planning assessment of the case.

Additional concerns have been made regarding the Levelling Up Bill with some concerned third parties stating that the development should be delayed until the Bill is passed. It is unknown how long it will take to progress the Bill to be enacted by Parliament and we do not know the final form the Regulations therein would contain. Holding up the determination of any planning application that is ready for decision would be unreasonable, and would expose the Council to non-determination appeals with high possibility of costs being awarded.

Additional concerns have been raised by a local resident about the planning system/process being slanted in favour of applicants. The applicant has raised a counter concern about the planning system being geared far too in favour of those who oppose applications. In response, all planning applications are processed on their merits without any bias and planning officers comply with their professional codes of conduct.

10. Developer Obligations

The developer is obligated to enter into a s106 legal agreement to secure the delivery of the on-site biodiversity mitigation for the reasons provided by the Council's ecologist and as set out within section 9.5 of this report. In accordance with the adopted Trowbridge Bat Mitigation Strategy, the developer is obligated to contribute the sum of £777.62 which would go towards funding the Council led Habitat Mitigation Scheme for residual in-combination effects. This sum would be paid prior to the commencement of development.

Prior to any on-site commencement, the applicant would be required to complete the necessary CIL liability forms and pay the requisite CIL contributions to the council, with 25% of the total sum going to the parish council – which has a 'made' Neighbourhood Plan in place.

11. Conclusion (Planning Balance)

Planning law requires that applications for planning permission must be determined in accordance with the development plan unless material considerations indicate otherwise.

The proposal is located outside the settlement limits of Hilperton, and does not accord with the spatial strategy within the development plan. However, at this time the Council cannot demonstrate a 5-year housing land supply; it can only demonstrate a 4.6 year supply. The deficit is an important material consideration. Whilst the Council is taking steps to address the shortfall, NPPF paragraph 11 is engaged,

which means that adopted WCS core policies CP1 and CP2 (and CP29) cannot be afforded full weight on the planning balance.

The proposed development would provide one market dwelling, which in housing supply terms, would make a small contribution towards addressing the housing shortfall. Nevertheless it is a contribution at a location that would not be isolated due to the very close proximity of the site from the settlement boundaries of Trowbridge and Hilperton. In spatial terms, the site is very well connected with the nearby existing residential properties and transport routes – which merits moderate weight on the planning balance.

There would be some short-term benefits afforded at the construction phase of the proposed dwelling through direct and indirect job creation and the future owners/occupiers of the property would pay council tax. In addition, the development would contribute towards CIL infrastructure funding in the area to go towards supporting or improving existing local infrastructure – which cumulatively, also merits moderate weight on the planning balance.

In terms of neutral impacts, the proposed development would not cause harm to neighbouring residential properties or the amenities of the new owners/occupiers, and the visual impacts of the proposed dwelling can be adequately mitigated by conditions.

Sufficient off-road parking can be provided, and the development would be served by a safe access to the road network.

Subject to conditions it is considered suitable drainage connections can be secured.

The development would result in no adverse impact to local biodiversity, protected species or protected habitats.

To finally conclude, due to the Council being unable to demonstrate a 5-year housing land supply the tilted balance flowing from paragraph 11d) ii of the Framework is engaged. When the tilted balance is engaged, the NPPF indicates that planning permission should be granted unless any adverse impacts of doing so would significantly and demonstrably outweigh the benefits, when assessed against the policies of the NPPF taken as a whole. In this case the development has been assessed against policies of the Council's local plan and the Framework and it is considered the impacts of the development would not significantly and demonstrably outweigh the benefits of allowing an additional dwelling at this location. Indeed, no adverse impacts have been identified. As such the development is recommended for approval subject to the required S106 planning obligation.

RECOMMENDATION: That Committee gives delegated authority to the Head of Development Management to issue the decision to grant planning permission, following –

- a) receipt of written confirmation from Natural England that it is satisfied with the Council's ecology team conclusion that the development would not result in significant or harmful ecological effects; and**
- b) the completion of a s106 legal agreement covering the matters set out within section 10 of this report;**

and subject to the following planning 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 supporting details:

Location & Existing Block Plan Drawing AH2022/67 Sheet 6 Dated 12th Sept 2023
Proposed Block Plan Drawing AH2022/67 Sheet 3 Dated 12th Sept 2023
Proposed Ground & First Floor Plans & Elevations Drawing AH2022/67 Sheet 1 Dated 29th July 2023
Proposed Elevations & Floor Plans Drawing AH2022/67 Sheet 2 Dated 7th Feb 2023
Proposed Sections Drawing AH2022/67 Sheet 4 Dated 7th Feb 2023
Visibility Splay Drawing AH2022/67 Sheet 5 Dated 5th Sept 2023
Preliminary Ecological Assessment 10 Nov
Preliminary Ecological Assessment – Addendum ref: EEL538A230215SP
Tree Management Report

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

3. The development will be carried out in strict accordance with the following documents:

Preliminary Ecological Assessment (PEA) (Ellendale Environmental, 3rd November 2022);
EEL538 Ashton Road, Hilperton (Addendum) (Ellendale Environmental, no date);
Proposed New Dwelling & Garage for Mr C Stone at Land Rear of 124B Ashton Road, Hilperton.
Drwg. AH2022/67 sheet 3 of 4. (A Harlow & Son, 12th September 2023)).

REASON: For the avoidance of doubt and for the protection, mitigation and enhancement of biodiversity.

4. No development shall commence on site (including any works of demolition), until a Construction Method Statement, which shall include the following:

- a) the parking of vehicles of site operatives and visitors;
- b) loading and unloading of plant and materials;
- c) storage of plant and materials used in constructing the development;
- d) wheel washing facilities;
- e) measures to control the emission of dust and dirt during construction;
- f) a scheme for recycling/disposing of waste resulting from demolition and construction works;
and
- g) measures for the protection of the natural environment
- h) hours of construction, including deliveries;

has been submitted to, and approved in writing by, the Local Planning Authority. The approved Statement shall be complied with in full throughout the construction period. The development shall not be carried out otherwise than in accordance with the approved construction method statement.

REASON: To minimise detrimental effects to the neighbouring amenities, the amenities of the area in general, detriment to the natural environment through the risks of pollution and dangers to highway safety, during the construction phase.

5. No construction lighting will be used throughout the development and no development (including demolition, ground works) shall take place outside daylight hours.

REASON: The introduction of artificial light/noise disturbance is likely to mean such species are disturbed and/or discouraged from using established flyways or foraging areas. Such disturbance will constitute an offence under relevant wildlife legislation.

6. Before commencement of development, details of new hedgerow, new trees (including fruit trees), design of wildlife pond, and creation and management of wildflower grassland shall be submitted and approved by the Local Planning Authority. The pond/wildflower grassland and trees/hedgerows will be created/planted in accordance with the approved details in the first planting season following first occupation and maintained and replaced as necessary for the first five years and thereafter retained. The condition will be fully discharged once photographic evidence of all created ecological features have been provided to the LPA for approval.

REASON: To ensure the protection of important wildlife habitat features.

7. No development shall commence above ground slab level until a plan is provided to and agreed in writing by the LPA showing the details integrated features for birds and bats within the 2 buildings proposed within the application boundary. This plan shall show how the features have been incorporated into the green infrastructure that the development will provide.

The integral features for bats and birds should identify, as a minimum:

- a) the bird and bats species likely to benefit from the proposed integral features;
- b) the type of integral features to be installed;
- c) the specific buildings on the development into which features are to be installed, shown on appropriate scale drawings;
- d) the location/elevation on each building where features are to be installed;

The integral features plan for birds and bats plan shall be implemented in accordance with the approved details and all features retained in that manner thereafter.

REASON: In line with BS 4021: Integral nest boxes: Selection and installation for new developments specification and to comply with CP50 and NPPF (2021).

9. No development above ground floor slab level shall commence on site until the manufacturer's details of the materials to be used for the external walls and roofs have been submitted to and approved in writing by the Local Planning Authority. Development shall thereafter be carried out in accordance with the approved details.

REASON: In order that the development is undertaken in an acceptable manner, in the interests of visual amenity and the character and appearance of the area and adjacent Conservation Area.

10. No development shall commence on site above ground floor slab level until full details of the boundary treatment materials have been submitted to and approved in writing by the Local Planning Authority. Development shall thereafter be carried out in accordance with the approved details.

REASON: In order that the development is undertaken in an acceptable manner and to ensure a satisfactory landscaped setting for the development and the protection of existing important landscape features.

11. All the additional planting as set out within the approved landscape plan shown on proposed block plan ref Drawing AH2022/67 Sheet 3 Dated 12th Sept 2023 shall be carried out in the first planting and seeding season following the first occupation 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, 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 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.

12. No development shall commence on site above ground slab level until details of the translocation of the hedgerow on the eastern boundary of the site has been submitted to and approved in writing by the Local Planning Authority.

REASON: In order that the development is undertaken in an acceptable manner.

13. No development hereby approved shall commence above ground floor slab level until a detailed scheme for the discharge of foul water from the site, has been submitted to and approved in writing by the Local Planning Authority. Thereafter, the development shall not be first occupied until foul water drainage has been constructed in accordance with the approved scheme.

REASON: In order that the development is undertaken in an acceptable manner and to ensure that the development can be adequately drained.

14. No development hereby approved shall commence above ground floor slab level until a detailed scheme for the discharge of surface water from the site (including surface water from the access / driveway), incorporating sustainable drainage details together with permeability test results to BRE365 and including all necessary permits, consents and permissions, has been submitted to and approved in writing by the Local Planning Authority. Thereafter, the development shall not be first occupied until surface water drainage has been constructed in accordance with the approved scheme.

REASON: In order that the development is undertaken in an acceptable manner and to ensure that the development can be adequately drained.

15. 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 within Part 1, Classes A or E shall take place on the dwellinghouse(s) hereby permitted or within their curtilage.

REASON: In the interests of the biodiversity of the area and to enable the Local Planning Authority to consider individually whether planning permission should be granted for outbuildings.

16. Before the dwellinghouse hereby approved is first occupied, the first-floor windows that serve the en suites on the northeastern side and southeastern side elevations shall be glazed with obscure glass only [to an obscurity level of no less than level 4] and the windows shall be maintained with obscure glazing in perpetuity.

REASON: In the interests of residential amenity and privacy.

17. No part of the development shall be first occupied until the visibility splays shown on the approved plan ref Drawing AH2022/67 Visibility Splay Sheet Dated 5th Sept 2023 has been provided with no obstruction to visibility at or above a height of 0.6m above the nearside carriageway level. The visibility splays shall be maintained free of obstruction at all times thereafter.

REASON: In the interests of highway safety

18. No external lighting shall be installed on site until plans showing the type of light appliance, the height and position of fitting, illumination levels and light spillage have been submitted to and approved in writing by the Local Planning Authority. The plans shall be in accordance with the appropriate Environmental Zone standards set out by the Institution of Lighting Professionals in their publication GN01:21, 'Guidance Note 1 for the reduction of obtrusive light 2021' (ILP, 2021), and Guidance Note GN08-18 'Bats and artificial lighting in the UK', produced by the Bat Conservation Trust and Institution of Lighting Professionals. The approved lighting shall be installed and maintained in accordance with the approved details and no additional external lighting shall be installed.

REASON: In the interests of the amenities of the area in order to minimise unnecessary light spillage above and outside the development site and to ensure lighting meets the requirements of the Trowbridge Bat Mitigation Strategy.

19. No part of the development hereby permitted shall be first occupied until the visibility splays and turning area for the proposed dwelling have been provided and completed in accordance with the details shown on the approved plans. The areas shall always be maintained for those purposes thereafter.

REASON: In the interests of highway safety.

20. Prior to the commencement of works, including demolition, ground works/ excavation, site clearance, vegetation clearance and boundary treatment works, a Construction Environmental Management Plan (CEMP) shall be submitted to the local planning authority for approval in writing. The Plan shall provide details of the avoidance, mitigation and protective measures to be implemented before and during the construction phase, including but not necessarily limited to, the following:

- a) Identification of ecological protection areas/buffer zones and tree root protection areas and details of physical means of protection, e.g. exclusion fencing.
- b) Working method statements for protected/priority species, such as nesting birds and reptiles.
- c) Mitigation strategies already agreed with the local planning authority prior to determination, such as for great crested newts, dormice or bats; this should comprise the pre-construction/construction related elements of strategies only.
- d) Work schedules for activities with specific timing requirements in order to avoid/reduce potential harm to ecological receptors; including details of when a licensed ecologist and/or ecological clerk of works (ECoW) shall be present on site.

- e) Key personnel, responsibilities and contact details (including Site Manager and ecologist/ECoW).
- f) Timeframe for provision of compliance report to the local planning authority; to be completed by the ecologist/ECoW and to include photographic evidence.

Development shall be carried out in strict accordance with the approved CEMP

REASON: To ensure adequate protection and mitigation for ecological receptors prior to and during construction, and that works are undertaken in line with current best practice and industry standards and are supervised by a suitably licensed and competent professional ecological consultant where applicable.

21. No demolition, site clearance or development shall commence on site until an Arboricultural Method Statement (AMS) prepared by an arboricultural consultant providing comprehensive details of construction works in relation to trees has been submitted to, and approved in writing by, the Local Planning Authority. All works shall subsequently be carried out in strict accordance with the approved details. In particular, the method statement must provide the following:-

- A specification for protective fencing to trees during both demolition and construction phases which complies with BS5837:2012 and a plan indicating the alignment of the protective fencing. The plan should show all trees to be retained along with the root protection areas shown.
- A specification for scaffolding and ground protection within tree protection zones in accordance with British Standard 5837:2012;
- A schedule of tree works conforming to British Standard 3998:2010;
- Details of general arboricultural matters such as the area for storage of materials, concrete mixing and use of fires;
- Plans and particulars showing the siting of the service and piping infrastructure;
- A full specification for the construction of the access along with details of how the new stone wall and gates will be constructed along with any details of any no-dig specification;
- Details of all other activities, which have implications for trees on or adjacent to the site.

REASON: The matter is required to be agreed with the Local Planning Authority before development commences in order that the development is undertaken in an acceptable manner, in order that the Local Planning Authority may be satisfied that the trees to be retained on and adjacent to the site will not be damaged during the construction works and to ensure that as far as possible the work is carried out in accordance with current best practice and section 197 of the Town & Country Planning Act 1990.

22 For the avoidance of doubt the leylandii hedge forming the southern boundary of the development hereby permitted shall be retained at all times at a minimum height of 3metres from **normal** ground level of the site. In the event that this leylandii hedge should become diseased or die then it should be replaced within the first available planting season with a new hedgerow specification to be agreed and approved in writing by the Local Planning Authority.

REASON in the interests of the biodiversity and protected species on site

23 For the avoidance of doubt, the 15m buffer shown on the approved block plan from the southern boundary shall be retained as an ecological buffer and be absent from development for the lifetime of the development hereby permitted unless otherwise agreed in writing by the LPA.

REASON: In the interests of the biodiversity and protected species on site.

Informatives to Applicant:

The applicant is advised that the development hereby approved may represent chargeable development under the Community Infrastructure Levy Regulations 2010 (as amended) and Wiltshire Council's CIL Charging Schedule. If the development is determined to be liable for CIL, a Liability Notice will be issued notifying you of the amount of CIL payment due. If an Additional Information Form has not already been submitted, please submit it now so that we can determine the CIL liability. In addition, you may be able to claim exemption or relief, in which case, please submit the relevant form so that we can determine your eligibility. The CIL Commencement Notice and Assumption of Liability must be submitted to Wiltshire Council prior to commencement of development. Should development commence prior to the CIL Liability Notice being issued by the local planning authority, any CIL exemption or relief will not apply and full payment will be required in full and with immediate effect. Should you require further information or to download the CIL forms please refer to the Council's Website:

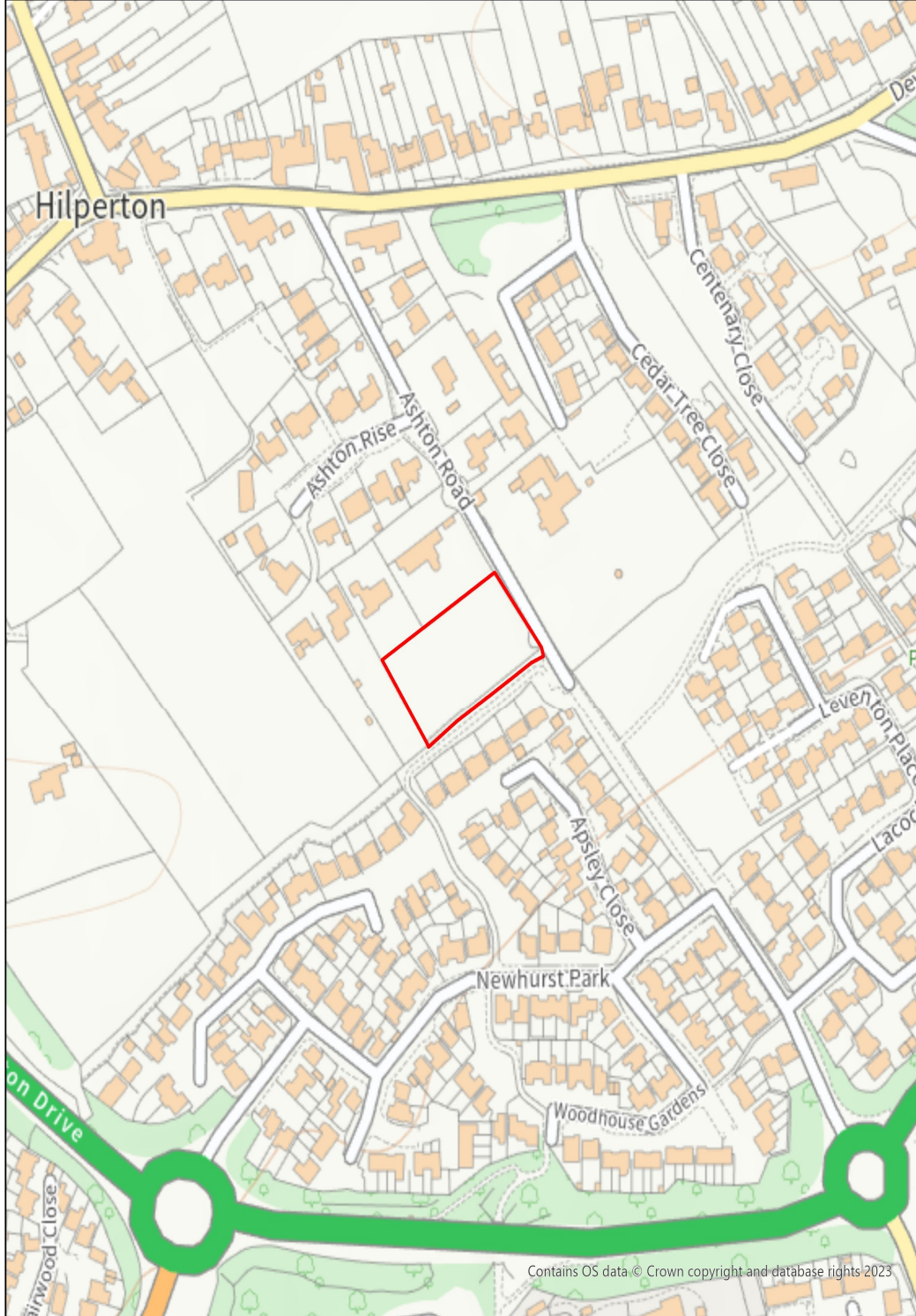
www.wiltshire.gov.uk/planninganddevelopment/planningpolicy/communityinfrastructurelevy

Dorset & Wiltshire Fire and Rescue Service advise the following - A core objective of the Dorset & Wiltshire Fire and Rescue Service is to support and encourage an increase in the provision of residential sprinklers in domestic properties. Residential sprinklers are not new and, although a British invention, significant developments have been made in the United States, Australia and New Zealand. In these countries there are whole communities with such installations and a zero fatality rate from domestic fires where a sprinkler system is installed. The following information may be of interest to you:

- Sprinklers work from a standard main, although a 32mm connection is required
- Are inexpensive to install, particularly in a new building
- Do not activate by accident causing unwanted damage
- Only operate through individually activated heads, not the whole system
- Are not unsightly as they fit flush to the ceiling behind a flat cover
- Cause less water damage in a fire than normal fire fighting operations
- Significantly reduce fire and smoke damage
- If you would like more information on these systems please contact this Authority.

The applicant should note that it is a criminal offence to obstruct a public right of way under section 130 of the highways Act 1980 and therefore no materials, plant, temporary structures or excavations of any kind should be deposited / undertaken which obstruct or adversely affect the public right of way HILP30 whilst development takes place, without prior consultation with, and the further permission of, the highways authority at Wiltshire council.

If a temporary closure is required during the works this must be applied for 3 months before any work is carried out. The applicant should contact the Countryside Access Officer or email rightsofway@wiltshire.gov.uk.



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REPORT FOR THE WESTERN AREA PLANNING COMMITTEE

Date of Meeting	27 September 2023
Application Number	PL/2021/09739
Application type	OUTLINE
Site Address	Land Rear of 54 Woodmarsh, North Bradley, BA14 0SB
Proposal	Outline Application for the construction of up to 23 residential units including detailed access on land to the rear of No. 54 Woodmarsh, North Bradley with all other matters including appearance, landscaping, layout and scale to be reserved
Applicant	Mr Shane Marshall
Town/Parish Council	North Bradley PC
Electoral Division	SOUTHWICK – Cllr Horace Prickett
Case Officer	David Cox

Reason for the application being considered by Committee

This application has been ‘called-in’ by Cllr Horace Prickett for Committee determination for the following reasons:

- The scale of the development
- Visual impact upon the surrounding area
- The relationship to adjoining properties
- The design and general appearance
- Environmental or highway impact and car parking and that;

a) Purpose of Report

The purpose of this report is to assess the merits of the proposal against the policies of the development plan and other material considerations and to consider the recommendation that the application should be approved subject to first completion of a planning obligation / Section 106 agreement covering the matters set out below; and subject to planning conditions.

2. Report Summary

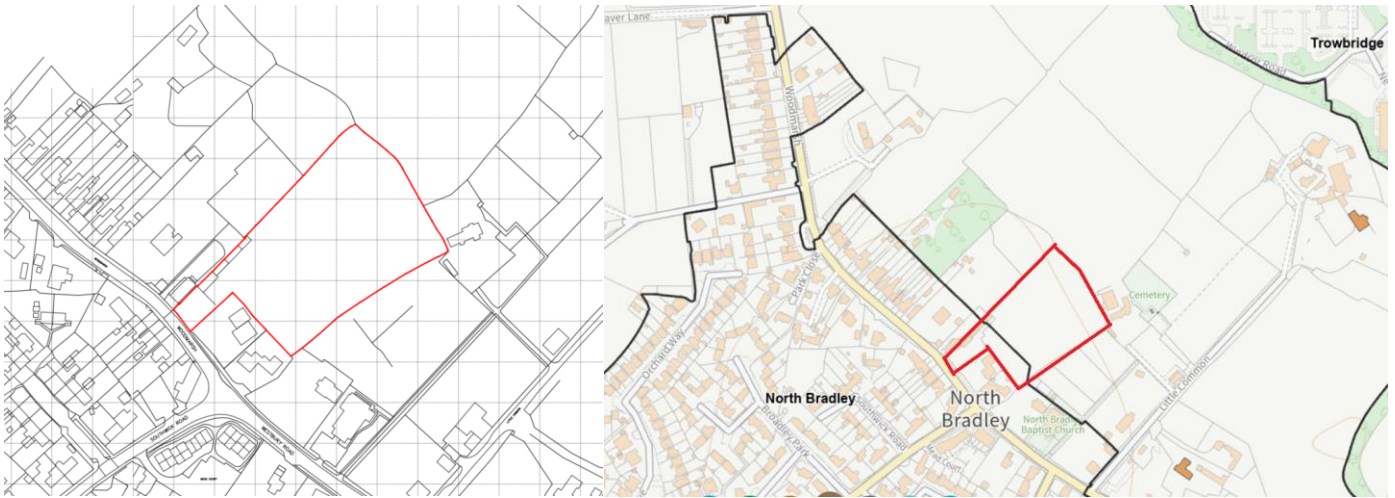
The key determining planning issues are considered to be:

- The Principle of Development
- Ecology and impact on bats (Trowbridge Bat Mitigation Strategy)
- Access and highway safety
- Impact on neighbouring amenity
- Drainage
- Archaeology and Heritage Matters – Listed Buildings
- S106 contributions (affordable housing, Education, Public Open Space, Waste, Ecology)

3. Site Description

The application site covers approximately 1.1 hectares of mainly open countryside located on the north-eastern side of North Bradley and to the north-east of the road named Woodmarsh or Woodmarsh Road. The buildings along this side of Woodmarsh are accessed via Woodmarsh or Westbury Road, with the access to the application site being between the Progressive Hall and No 54 Woodmarsh.

North Bradley is designated as a 'Large Village' in the Wiltshire Core Strategy; the limits of development of the village are shown by the black line on the right-hand plan below. The south-western part of the site is within the limits of development of North Bradley, and the north-eastern part within the countryside.



Site Location Plan and Council Mapping image of the application site

As illustrated in the above plans, whilst the application site does extend beyond the limits of development of North Bradley, there is established development to the north-west, the north and the east including Woodmarsh Farm, the cemetery, no. 3 Little Common and the Little Common Farm Complex.

The site is relatively level and also fairly well contained by existing hedgerow boundaries on the south-eastern, north-eastern and north-western sides as shown in the most recent aerial photograph of the site below.



Aerial photograph of the application site

The application site is not part of the Policy H2.2 allocation within the Wiltshire Housing Site Allocations Plan [WHSAP] (February 2020), for approximately 175 dwellings. (as shown in the below plan taken from the WHSAP).

There are two 'live' planning applications (20/03641/OUT and PL/2022/05426) relating to the H2.2 allocation.



Extract from the Wiltshire Housing Site Allocations Plan – H2.2 allocation

The application site is not within or near to a conservation area, but there are two grade II listed buildings at the Burial Ground “Gateway to burial ground of former Baptist Chapel” and “Two monuments in burial ground of former Baptist Chapel” which are approximately 50m away from the site (but located behind No’s 1-3 King Lodge). The Progressive Hall and Kings Lodge are non-designated heritage assets.

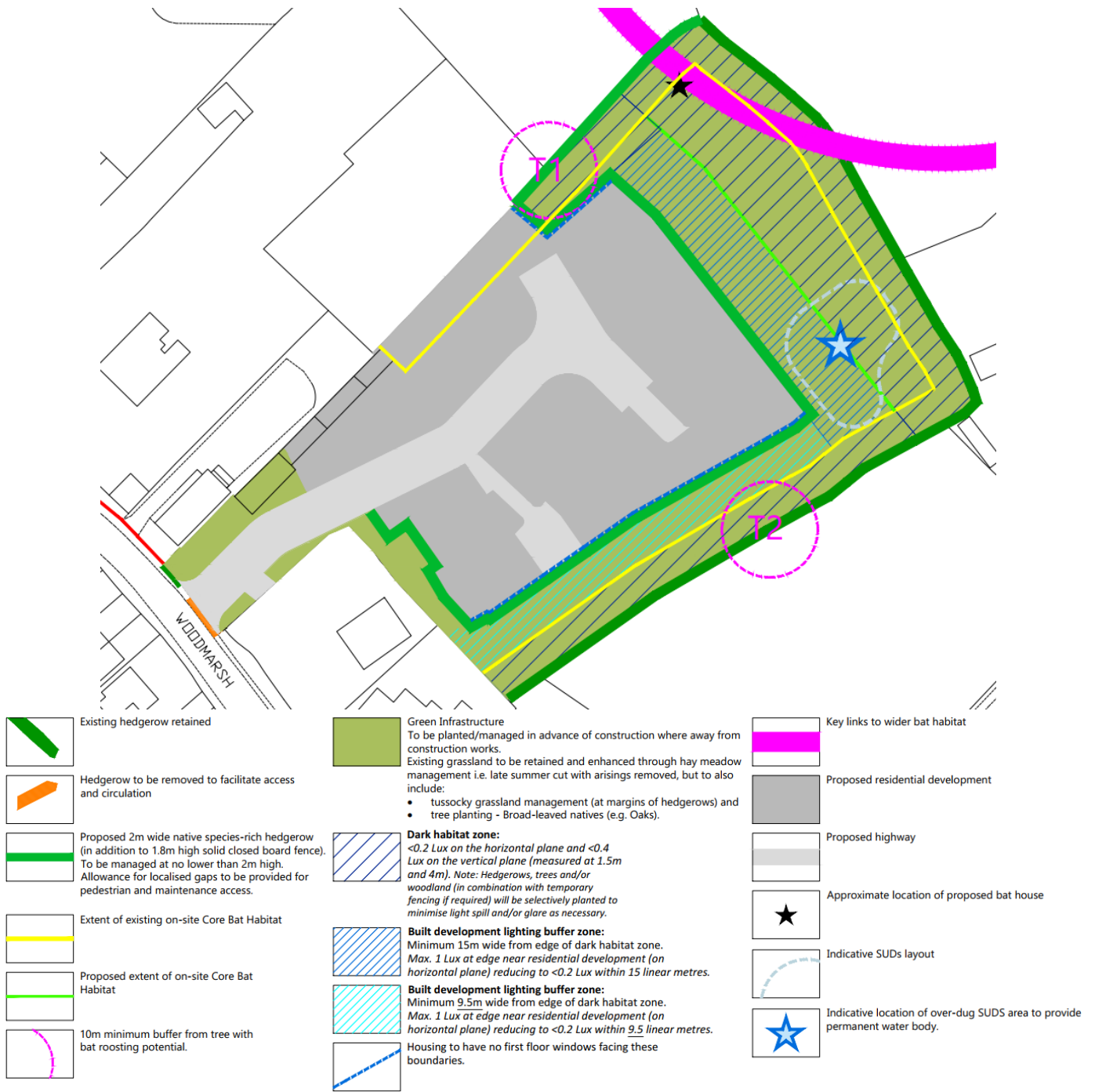
Part of the application site is also within the Bath and Bradford on Avon Special Area of Conservation (SAC) “Bechstein 1500m Core Roost Buffer” for bats as shown by the black hatching on the following plan.

The layout, scale, design, appearance and materials are matters for later 'reserved matters' application(s). Nonetheless, the applicant has provided an indicative proposed site layout plan to demonstrate how the development could be accommodated. The application was originally submitted for 32 dwellings and the illustrative plan for this together with the final illustrative plan for the 23 dwellings is set out below.



Superseded indicative site plan - left (32 dwellings); proposed indicative site plan - right (23 dwellings)

The principal reason the proposal has been scaled down from 32 dwellings to up to 23 dwellings is for ecology reasons, including protecting core bat habitats. The final proposal is informed by an Ecological Parameters Plan, which would – c/o conditions - limit the developable area of the site to the grey area shown on the snip image below. This is key to the proposal in order to satisfy the Habitat Regulations, and specifically the 'appropriate assessment' in relation to the protection of the core bat habitat. Whilst 'layout' is a reserved matter, the built form of the development would in any event be tied to the grey area.



Extract from the Ecological Parameters Plan

The Ecological Parameters Plan sets out where existing grassland and hedgerows would be retained and where new hedgerows would be planted, together with lighting buffer zones and where the existing on-site Core Bat habitat is (yellow line) and where the proposed Core Bat habitat would be in the development (green line). Whilst some Core Habitat will be lost on the north-western boundary, it would be compensated by an enlarged area on the north-eastern boundary, which directly links to the wider bat habitat within the H2.2 allocation (which will also be protected in its development).

6. Planning Policy

National Context:

Local Context:

Wiltshire Core Strategy (adopted Jan 2015):

Core Policy 1 – Settlement Strategy;
Core Policy 2 - Delivery Strategy;
Core Policy 3 - Infrastructure Requirements;
Core Policy 29 - Spatial Strategy – Trowbridge Community Area;
Core Policy 43 - Providing Affordable Housing;
Core Policy 45 - Meeting Wiltshire’s Housing Needs;
Core Policy 46 - Meeting the Needs of Wiltshire’s Vulnerable and Older People;
Core Policy 50 - Biodiversity and Geodiversity;
Core Policy 51 - Landscape;
Core Policy 52 - Green Infrastructure;
Core Policy 57 - Ensuring High Quality Design and Place Shaping;
Core Policy 58 - Ensuring the Conservation of the Historic Environment;
Core Policy 60 - Sustainable transport;
Core Policy 61 - Transport and Development;
Core Policy 62 - Development Impacts on the Transport Network;
Core Policy 64 - Demand Management;
Core Policy 67 - Flood Risk

Wiltshire Waste Core Strategy

WCS6 (Waste Audit)

Saved Policies for the West Wiltshire District Plan 1st Alteration 2004

U1a - Foul Water Disposal

Other:

- Housing Land Supply Statement – Base date: April 2022 – published May 2023
- The Wiltshire Local Transport Plan (LTP) and Car Parking Strategy
- Wiltshire’s Community Infrastructure Levy – Planning Obligations Supplementary Planning Document (Planning Obligations SPD)
- Wiltshire’s Community Infrastructure Levy - Charging Schedule (Charging Schedule)
- Wiltshire’s Community Infrastructure Levy – Funding list

North Bradley Neighbourhood Plan – Policy 3 – Housing Site

The site at 54 Woodmarsh, with an area of 1.12 ha, is allocated for approximately 25 homes, with 8 of these being affordable subject to:

i. Access to be via Woodmarsh Road. Satisfactory and detailed site layout and access design to be agreed prior to development commencing. Due to the site shape and surrounding properties, in order to create a workable design under WCS Core Policy 57, it may be necessary to reduce the number of dwellings from the approximate figure indicated.

ii. Screening and separation from neighbouring properties will be required to protect the amenity of those living there.

iii. Suitable screening and sound reduction measures would be required to protect new homes from noise from Progressive Hall as it is used for meetings and in summer has to have open windows for ventilation.

iv. In view of the risks this development presents to the SAC, this development will be expected to be surveyed, designed and mitigated in full accordance with the Trowbridge Bat Mitigation Strategy. Full mitigation for loss of habitats must be achieved within the application boundary.

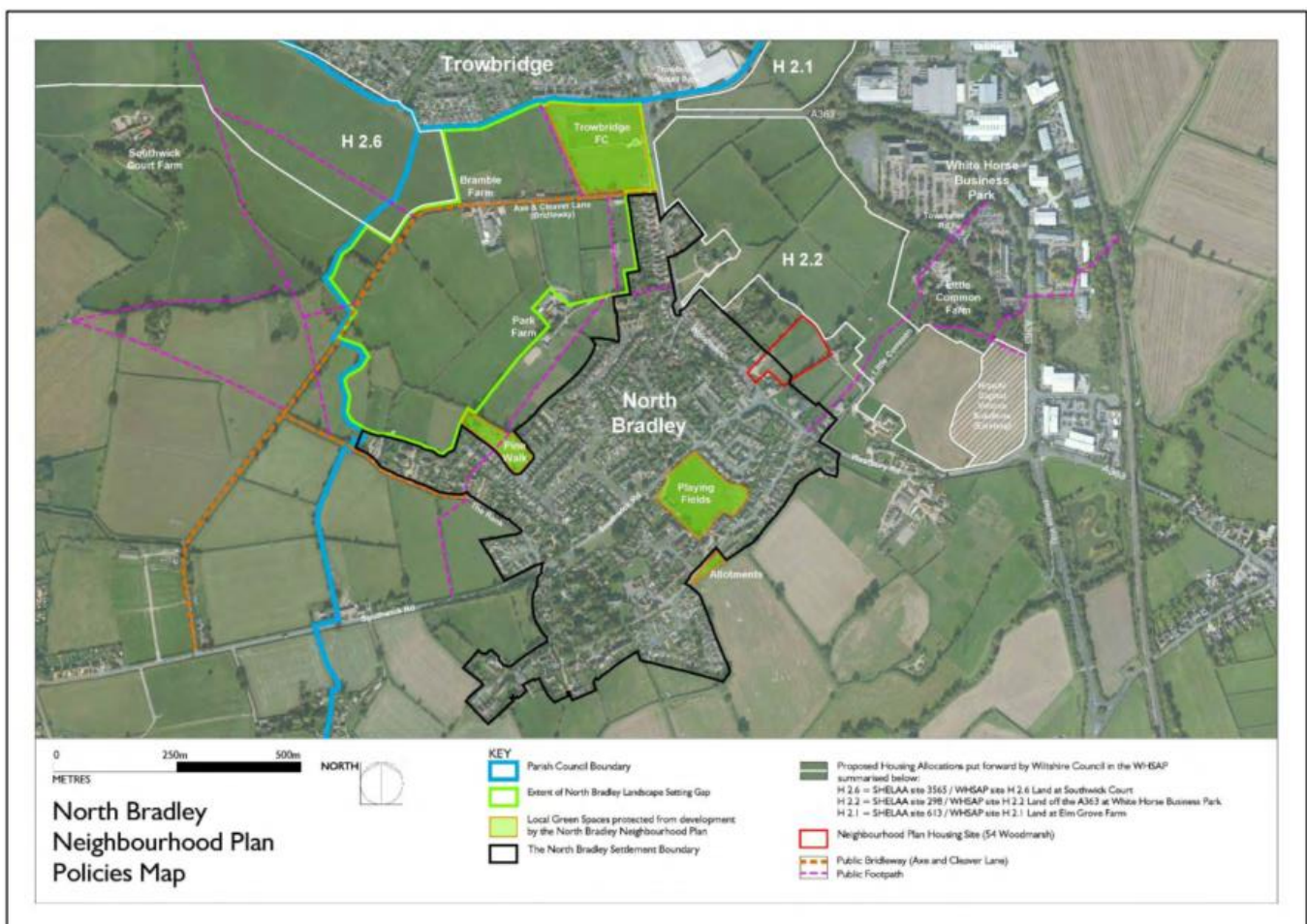
v. The design should deliver for a net gain for biodiversity.

vi. The design of any scheme must avoid harm to the historic but unlisted Kings Lodge and Progressive Hall, their settings or any other heritage assets including the Baptist Burial Ground to the north east.

vii. Given the age of the settlement of North Bradley and the presence of archaeology shown in the Historic Environment Record, a field evaluation will be required prior to development to inform the significance of heritage assets impacted by the proposals.

viii. Charging points for Ultra Low Emission Vehicle (ULEV) should be included.

ix. Due to the lack of comprehensive public storm water drainage and sewerage in the area, drainage and sewerage from the site must be designed to prevent flooding. The advice of the Drainage Authority should be sought. Drainage should be designed to include SuDS where appropriate.



North Bradley Neighbourhood Plan Policies Map

7. Consultations

North Bradley Parish Council – North Bradley Parish Council has provided 4 consultation responses.

11 November 2021 – objection

“The applicant’s proposal is dull and based on previous types of development that the White Paper rightfully criticises. The residents of North Bradley could not be proud of it.

This plan should not be considered in isolation; heed should be taken of the proposed H2.2 development and incorporated into a master plan. Priority of the Neighbourhood Plan is for a landscape gap to be preserved between North Bradley and Trowbridge’s town boundary. There must be no potential for future vehicular access from this site to H2.2.”

7 December 2022 – No objection

“Councillors noted that the number of dwellings had been reduced and therefore resolved to have no objection to the outline plan providing the Highways department has no objection to the access point. They recommend that solar panels be included for all the dwellings.”

6 July 2023 – Objection

While the parish council accepts that the land to the rear of 54 Woodmarsh is allocated for housing, this outline application conflicts with Trowbridge's Bat Mitigation policy and therefore the parish council objects to the proposal.

6 September 2023 (Following receipt of Natural England’s and Ecology Officers final responses) – Objection

Voted for the call in to stand.

Trowbridge Town Council – Objection

This site forms part of the landscape gap between Trowbridge, including allocation H2.2 (Wiltshire Housing Sites Allocation Plan) and the village of North Bradley in accordance with the adopted Core Strategy; “it is recognised that the villages surrounding Trowbridge, particularly Hilperton, Southwick, North Bradley and West Ashton, have separate and distinct identities as villages. Open countryside should be maintained to protect the character and identity of these villages as separate communities”. In addition, in accordance with the adopted North Bradley Neighbourhood Plan. Also a poorly designed layout.

This plan should not be considered in isolation; heed should be taken of the proposed H2.2 development to the north and incorporated into a masterplan with H2.2. Priority of the North Bradley Neighbourhood Plan is for a landscape gap to be preserved between North Bradley and the Trowbridge urban envelope. The applicant appears to have ignored the made North Bradley Neighbourhood Plan, ignoring the 25 dwellings on this site which the plan states “is more than large enough to accommodate immediate local needs as demonstrated in the Housing Needs Survey and Site Selection Report”. This site should be for the benefit of the community; there is no mention of affordable housing and the range of properties intended to be provided does not reflect the character of the village. Some bungalows are required, to allow existing older households to downsize and make larger homes available to developing families.

Wiltshire Council Highways Officer – No objection subject to conditions

I have not had a firm steer from you with regard to the feasibility and master planning of a cycle/ footway link as part of the neighbouring housing allocation. On this basis I will have to assume that a link connecting these two sites will not be feasible. Plans have been updated without a link indicated. I also consider that it

is a necessity that a condition is applied that no vehicle through route connection from this site with the neighbouring house allocation sites takes place. A future walking and cycling link would be acceptable.

I note the latest plan, and that this is an outline application. With access only matters considered at this stage, so layout and car parking is not finalised.

I note various matters have now been addressed with additional information and drawing details. I note that visibility splays of 2.4m x 43m and forward visibility splays of 33m / 26m (technical note 1.0 – appendix 6, 21/07/22, attached) approaching the site. This is considered appropriate when set against the standards in Manual for Streets and the likely speeds. I note the informal crossings now included and link with the desire line to the north and south of the site access.

Wiltshire Council Ecology Officer – No objection subject to s106 contribution and conditions

Discussions had with Natural England have resulted in a revised site layout which will provide continuity of bat habitat along the eastern boundary and northern part of this allocation that will integrate with a larger swathe of bat habitat proposed as part of the WHSAP H2.2 site allocation at White Horse Business Park.

The revised Ecological Parameters Plan shows the measures to be retained and those to be undeveloped and although this is a deviation from the principles of the TBMS, the overall undeveloped area of bat habitat proposed will provide continuity for bats through the landscape. While the western boundary habitat will be lost for bats, this part of the site provided limited functional habitat for bats.

A lesser horseshoe bat night-roost, a common pipistrelle day roost and swallow nesting sites will be lost when buildings along the western boundary of the application site are demolished. A purpose-built replacement for both bat species and swallow mitigation should be provided in accordance with details provided in Para 4.2 of the Update Ecology Appraisal (NPA Ltd, 20/10/2022) located within the newly created/enhanced bat habitat in the northern part of the site.

Biodiversity Net Gain

The submitted Biodiversity Metric 3.1 (NPA, 27/06/2023) on the revised layout predicts a 0.64% increase in habitat units. However, trees, SuDs marginal planting and planting required around the purpose-built bat house have not been included.

Sustainable Urban Drainage Systems

The revised Ecological Parameters Plan shows the SuDs located within the 'dark habitat zone' and this is acceptable. The SuDs should be designed as a permanent waterbody with a diverse marginal structure using trees, shrubs and grasses to provide suitable aquatic habitat for foraging bats. Details to be provided with the Reserved Matters Application

Bird and Bat Integrated Features

It is currently expected that all new developments will provide the ratio of 1:1 feature to building in line with BS 42021:2022 Integral nest boxes – Selection and installation for new developments. Details to be submitted with the RMA. Integral features are generally maintenance-free and seek to benefit a target species/s or group/s and demonstrate viability in terms of position on building, location and clustering in accordance with relevant guidance and the additional features.

All details on exact locations and specifications must be added to all working documents to avoid oversight and to ensure consistency and enforceability.

Natural England – No objection

Natural England notes that your authority, as competent authority under the provisions of the Habitats Regulations, has undertaken an Appropriate Assessment of the proposal, in accordance with Regulation 63 of the Regulations. Natural England is a statutory consultee on the Appropriate Assessment stage of the Habitats Regulations Assessment process.

Your appropriate assessment concludes that your authority is able to ascertain that the proposal will not result in adverse effects on the integrity of the Bath & Bradford on Avon Bat SAC. Having considered the assessment, and the measures proposed to mitigate for all identified adverse effects that could potentially occur as a result of the proposal, Natural England is satisfied and thus we have no objection to the proposals, providing that all mitigation measures are appropriately secured in any permission given.

It is our view that the scheme will provide habitat and functionality for the local bat population and that it is acceptable because it can demonstrate no net habitat loss on-site.

Wiltshire Council Conservation Officer – No objection

The application has been revised to reduce the number of units in line with the site allocation for the Neighbourhood Plan. The reduction in units allows for a more neighbourly scheme which is appropriately landscaped. The previous concerns have been addressed and I have no further objection.

Wiltshire Council Archaeology Officer – No objection

This is to confirm that the application area has been archaeologically evaluated via trial trenching and that a report has been prepared on the results which has been submitted to, and approved by, Wiltshire Council Archaeology Service (WCAS). This evaluation recorded the sub-surface remains of a single post-medieval field boundary that also contained some residual sherds of Romano-British pottery. On the basis of these results I see no need for any further archaeological investigation to take place prior to the determination of this planning application and therefore there are no further issues that I would wish to raise in regard to this proposal. I now withdraw my objection to the application.

Wiltshire Council Drainage Officer – No objection subject to conditions

The application has been supported with a Site-Specific Flood Risk Assessment (FRA). It should be noted that our comments below are reliant on the accuracy and completeness of the FRA and we do not take any responsibility for incorrect data or interpretation made by the authors. The LLFA does not have any objections to the outliner drainage strategy supplied.

Wiltshire Council Landscape Officer – No objection

If the area to the rear of the housing is not meant for public access, then I am happy to change my holding objection to a no objection subject to a pre-commencement condition of details being submitted on fencing to prevent public access whilst still allowing maintenance access.

Wiltshire Council Housing Officer – No objection subject to s106

Wiltshire Council Education Officer – No objection subject to s106 contributions

After application of the affordable housing discount, this gives us 21 properties qualifying for assessment.

As part of the updating/revising process, we've incorporated the latest HLSS data into our forecasts and as a result, we no longer have a need to expand primary school places to meet the needs of this development. Therefore, please take this email as confirmation that we are withdrawing our S106 requirement for them.

However, the secondary school places case remains valid, and has increased slightly as $21 \times 0.22 = 4.62$ rounded to 5 at £22,940 each = £114,700, (subject to indexation).

I note that a case for early years contributions was also made on this application, and so am copying this e mail to the commissioning officer, Nicola J Harris, asking her to confirm whether that case still remains valid. If it does, I've calculated that it will remain unchanged from a total 3 places at £17,522 = £52,566, (subject to indexation).

The list of standard caveats to consultation responses on registered planning applications continues to apply and is attached for reference. All contributions will be secured by S106 agreement, to which standard terms will apply as per the Council's Education S106 Methodology (also attached).

Wiltshire Council Public Open Space Officer – No objection subject to s106 contributions

Wiltshire Council Waste Officer – No objection subject to contribution of £101 per dwelling (£2,121)

Wessex Water – No objection

Existing Services –

There are no known Wessex Water Assets with the proposed site boundary.

Foul Drainage –

Wessex Water will accommodate domestic type foul flows in the public foul sewer with connections made on a size for size basis, Developers fund the cost of connecting to the nearest 'size for size' sewer and Wessex Water will manage the sewer network to accommodate foul flows from granted development. We fund this through our infrastructure charging arrangements. The point of connection to the public network is by application and agreement with Wessex Water and subject to satisfactory engineering proposals constructed to current adoptable standards. A connection for the proposed development can be accommodated into the existing 225mm dia public foul sewer on Woodmarsh.

8. Publicity

The application was initially publicised through the display of a site notice at the site and 19 individually posted neighbour notification letters to local residents residing in adjoining properties. Following the reduction from 32 to 23 dwellings, there was a further consultation period with notification letters sent.

In response to the publicity exercise, a total of 10 representations were received including 8 letters of objection and 2 letters from 'Salisbury and Wilton Swifts'. Of the 8 objections 2 letter are from the same person.

Objections:

- 32 dwellings is in excess of the 25 allocated in the Neighbourhood Plan. Either figure is inappropriate for the size of the plot
- On the basis that an application for 2 houses further down the road have been regularly turned down, how can this much larger application be approved?
- This should be included in the masterplan with the "H2.2" applications
- This would be at odds with new government directives on green land not being built on and the governments "planning for the future" white paper August 2020
- A development here would be in breach of the agreed bat corridor
- Harm to great crested newts
- Access to a busy junction is poor and dangerous. Vehicles often speed over the Rising Sun roundabout, to add an access point at this junction is crazy
- Traffic calming is required
- There are known drainage issues on the site

- Increase in noise and disturbance to local residents
- My personal view from my property would be spoilt
- Other brownfield sites should be developed first
- Residents of the new development would have priority at North Bradley primary school over current residents of Woodmarsh who live geographically further from the school
- There is no point of having a neighbourhood plan if a 25% increase in housing is allowed. This would create a low standard of development for the area. This is still a village not a town. With the three developments in H2-2 not consulting with each other it could mean a total of four foul water pumping stations all going into the main sewer which floods already, how can this be acceptable ?
- The 29th June Ecology Addendum specifies a 15metre gap for the TBMS, so why have they only got a 9.5metre gap. Bats are present in number 47 and both of their neighbours lofts. Not enforcing the 15 metre gap would set a dangerous planning issue, opening up other developers to ask for the same
- It is important that the detail recommended by All Ecology is clearly included by condition should this application be approved as the updated report by Nicholas Pearson Associates has over simplified the wording of the nesting provision expected for birds, which is likely to result in fewer nesting provisions being included.

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 Principle of Development

9.1.1. Principle of development

The Wiltshire Core Strategy (WCS) sets out a 'Settlement Strategy' and 'Delivery Strategy' for development across the County. WCS Core Policy 1 defines the Settlement Strategy and identifies four tiers of settlement – 'Principal Settlements', 'Market Towns', 'Local Service Centres' and 'Large and Small Villages'. Within the settlement strategy (and the Trowbridge Community Area at Core Policy 29), North Bradley is defined as a 'Large Village'. The Principal Settlements, Market Towns, Local Service Centres and Large and Small Villages have defined limits of development. Beyond these limits is countryside.

WCS Core Policy 2 states that the limits of development (and new housing outside the limits) may only be altered through the identification of sites through a site allocations DPD or a Neighbourhood Plan.

As explained in the Proposal and Planning Policy sections of this report, part of the application site is within the existing limits of development of North Bradley. Additionally, the entire application site is allocated for 'approximately 25 dwellings' in the adopted North Bradley Neighbourhood Plan, subject to meeting criteria covering access, safeguarding residential amenity, noise protection measures for residents from Progressive Hall, being in accordance with the Trowbridge Bat Mitigation Strategy, securing net biodiversity gain, avoiding harm to designated and un-designated heritage assets, and drainage.

In view of the Neighbourhood Plan allocation, the proposal – for up to 23 dwellings – is policy compliant and so is, as a matter of principle, acceptable. The acceptability of the proposal in terms of its finer detail is considered in the following sections of the report.

Housing site at 54 Woodmarsh



Extract of the allocation from the North Bradley Neighbourhood Plan allocation

9.1.2. The 5 Year Land Supply Position

Whilst the principle of development is supported via the Neighbourhood Plan allocation, the Council's 5-year supply of deliverable housing situation is also a significant material consideration. The Council is at the present time unable to demonstrate a 5-year supply of deliverable housing land according to the most up to date Housing Land Supply Statement (dated May 2023 (base date: April 2022)), where the number of years deliverable supply is 4.6 years.

In order to help address the supply shortfall Wiltshire Council has issued two briefing notes in September 2020 and April 2022. The April 2022 note is appended to this Committee report. In section 6 - *What can we do to restore a five-year housing land supply?* - it sets out that the Council will:

iii) Positively consider speculative applications where there are no major policy obstacles material to the decision other than a site being outside settlement boundaries or unallocated.

It should be particularly noted that the application site is allocated within the Neighbourhood Plan and that there are no major policy obstacles.

9.1.3. The Tilted Balance

As the Council does not have a 5 year housing supply, this means that the 'tilted balance' flowing from paragraph 11d)ii of the National Planning Policy Framework (NPPF) is engaged; it states the following –

“For decision taking this means:

c) approving development proposals that accord with an up-to-date development plan without delay; or

d) Where there are no relevant development plan policies, or the policies which are the most important for determining the application are out-of-date, granting permission unless:

i) the application of policies in this Framework that protect areas or assets of particular importance provides a clear reason for refusing the development proposed; or

ii) any adverse impact of doing so would significantly and demonstrably outweigh the benefits, when assessed against the policies in this Framework taken as a whole.”

As Wiltshire Council is unable to demonstrate a 5-year housing land supply, the local plan policies which would restrict new housing provision must, therefore, be treated as being out of date. This does not mean that the policies carry no weight, but rather that the NPPF expectation that planning permission should be granted (... unless any adverse impacts of doing so would significantly and demonstrably outweigh the benefits, when assessed against the policies of the NPPF taken as a whole) has effect. And the effect in this case is – in the context of there being no identified adverse impacts outweighing the benefits of the development in terms of it delivering housing – that planning permission should be granted. The other non-‘impacts’ of the development are discussed later in the report.

It is further submitted that significant weight should be given to the contribution to the 5-year housing land supply figure and the 7 affordable housing units.

9.2 Ecology and impact on bats (Trowbridge Bat Mitigation Strategy)

The eastern half of the application site is within the Bath and Bradford on Avon Special Area of Conservation (SAC) Core Roost zone for Bechstein Bats. It is also within the ‘yellow zone’ of the Trowbridge Bat Mitigation Strategy (TBMS) which means there is a medium risk for habitat loss in this area.

The applicants have undertaken 6 months of survey work across the summer of 2022 to produce and updated Ecology Appraisal (NPA October 2022) and Bat Survey Report (NPA December 2022). In an Ecology Addendum (NPA June 2023) it sets out the rationale for the revised proposals (notably the reduction in the number of proposed dwellings). The Addendum report states;

“... the hedgerow at the north-eastern part of the site forms part of important north-south corridor for bats between North Bradley and the White Horse Business Park as they commute/forage from the woodlands to/from the south of Trowbridge to/from components of the Bath and Bradford-on-Avon Bats Special Area of Conservation (SAC) to the north.

Activity by all three bat species for which the SAC is designated were also recorded along the Site’s north-western and south-eastern boundaries and as such Wiltshire ecology have requested, they too be defined as Core Bat Habitat.

Given the importance of north-eastern boundary in a landscape context a greater buffer than set out in the TBMS has been proposed along the Site’s north-eastern boundary with the extent of Core Bat Habitat proposed to be extended by 15m through the provision of enhanced grassland management, scattered tree planting and a permanent water body.

Whilst the north-western and south-eastern boundaries are categorised as Core Bat Habitat, given they lead to urban habitats within North Bradley, reduced buffers were proposed along these boundaries.

In consultation with Natural England and Wiltshire ecology the principle of this approach, and deviation from the requirements of the TBMS, was supported given the importance of the north-south corridor between North Bradley and the White Horse Business Park.

The only variation to the proposals requested by Natural England was to increase the buffer to the species-rich hedge with trees along the south-eastern boundary, noting they accepted that the buffer to north-western boundary (along which no hedgerow is present) could be reduced/omitted.

As shown on the revised Indicative Masterplan (A17 21 26 SK10 Rev L) and Ecology Parameters Plan (NPA ZZ ZZ DR Y 1201 P02) the proposals have now effectively been shifted north-west to allow for an increased buffer of 17m from the edge of development along the south-eastern boundary, with the buffer along the north-western omitted.

Along the south-eastern boundary the Core Habitat will remain dark, as defined by the TBMS, with an associated 9.5m wide lighting buffer zone (with lux levels as defined by the TBMS). These lighting levels will in part be achieved through their being no first-floor windows on building elevations facing this boundary. At ground level there would be a close board fence to shield any light spill to this boundary.

Along the north-western boundary a minimum 10m buffer is proposed around a tree (T1 as described in the Update Ecology Appraisal) identified as having moderate potential to support roosting bats. This buffer area would also be kept dark (in part through housing here having no first floor windows that faced the tree). The only other tree identified as having bat roosting potential was T2 which was considered to have low potential to support roosting bats.

Whilst this proposals along the north-western boundary would technically lead to the loss of some Core Bat Habitat and that the buffers proposed along the south-eastern boundary aren't fully in accordance with the requirements of the TBMS, overall the proposed approach is considered (as agreed by NE and Wiltshire ecology) to protect the bat habitat more robustly than applying the standard TBMS buffers to all three boundaries."

Following consideration of the above report the Council's Ecology Officer has withdrawn their initial holding objection and undertaken a favourable 'Appropriate Assessment' as required under the Habitat Regulations. This also requires a separate consultation with Natural England who have signed-off the Appropriate Assessment confirming;

"... the proposal will not result in adverse effects on the integrity of the Bath & Bradford on Avon Bat SAC. Having considered the assessment, and the measures proposed to mitigate for all identified adverse effects that could potentially occur as a result of the proposal, Natural England is satisfied and thus we have no objection to the proposals, providing that all mitigation measures are appropriately secured in any permission given.

It is our view that the scheme will provide habitat and functionality for the local bat population and that it is acceptable because it can demonstrate no net habitat loss on-site."

The Parish Council's objection is based solely on that the application "*conflicts with Trowbridge's Bat Mitigation policy*" (which implies that there would be harm to bat core habitat). It is acknowledged that elements of the proposal conflict with parts of the Trowbridge Bat Mitigation Strategy, notably that core bat habitat should be retained and that there should be a minimum stand off of 15m from the development to the outside edge of the core bat habitat as set out in paragraph 151 of the TBMS.

151. In addition, to retention and enhancement of core bat habitat, **adequate buffer zones must be provided for retained, enhanced or newly created core bat habitat** (see Figure 6 below). It is likely to be necessary to buffer bat habitat features considerably from development in order to secure suitable habitat conditions and suitable light levels, taking into account the potential for private owners to fit their own external/security lighting in the future. A minimum standoff distance of **15m** from the development to the outside edge of any part of the bat core habitat is required to be provided as a buffer zone. The minimum dark buffer zone (Zone B) that must be provided from core bat habitat features is shown in Figure 6 below, together with associated lux level requirements. Further descriptions of acceptable land uses within the buffer zone is also provided in Section 8.2.

As set out in the proposal section (and the Ecology Parameters Plan) the core bat habitat would be lost on the north-western boundary of the application site; but significantly enhanced on the north-eastern boundary (which is adjacent to the most important bat route, by the H2.2 allocation). In view of the significant

enhancements, it is considered that the overriding aim of the TBMS – which is to protect and enhance the overall core bat habitat to which the north-eastern and south-eastern boundaries are the most important – is achieved, thereby mitigating the loss on the north-western boundary. Furthermore, the ‘Appropriate Assessment’ is a rigorous, detailed and comprehensive assessment carried out by the Council’s Ecology Officers overseen by Natural England. The Appropriate Assessment has concluded favourably, and therefore it must also be concluded that the relevant WCS core policy 50 (biodiversity) and the overarching aim of the TBMS has been complied with.

The Parish Council objection is based on the proposal not complying with the TBMS, and so also not complying with Policy 3 iv) of the Neighbourhood Plan. Policy 3 iv) states;

“iv. In view of the risks this development presents to the SAC, this development will be expected to be surveyed, designed and mitigated in full accordance with the Trowbridge Bat Mitigation Strategy. Full mitigation for loss of habitats must be achieved within the application boundary.”

The policy identifies the risk to the SAC but also crucially allows for any loss of habitat to be mitigated within the application boundary, and the proposal fulfils this to the satisfaction of the Council’s Ecology Officers and Natural England. Accordingly, a refusal decision based solely on the reason that parts of the TBMS are not being adhered to could not be sustained in this case, this in the context of the wider aims of the TBMS (to enhance the overall core bat habitat) and Policy 3 iv) (in seeking to protect the SAC), and that mitigation for any loss would be achieved within the application boundary in any event.

There is also a third party objection that states *“The 29 June Ecology Addendum specifies a 15m gap for the TBMS, so why have they only got a 9.5m gap (with No 54). Not enforcing the 15m gap would set a dangerous planning issue, opening up other developers to ask for the same”*. In response to this specific point, a 15m gap to No 54 is not required as the buffer only has to be applied from the development to the outside edge of any part of the bat core habitat. The boundary with No 54 is not the outside edge of core bat habitat.

The applicant has provided a plan (snipped below) which shows what would happen to the developable area of the site should the TBMS be fully followed. The development would reduce to 14 units, well below the allocation of 25 in the Neighbourhood Plan. The appearance and design opportunities of such a reduced proposal would be significantly affected by the very narrow developable area. Whilst the viability of such a scheme is unknown, it is considered that a development of this reduced size would be a lost opportunity to use the land efficiently, and would not assist the 5 year land supply, and would also be out of character with its surroundings (and there would also be lost affordable housing units). Any such proposal would also be closer to the key north-eastern boundary of the site that is adjacent to H2.2 and therefore would actually restrict the proposed enhanced increase of the core bat habitat as actually proposed.

It is acknowledged that the TBMS is not being implemented to the letter, however, it is considered that the overriding aim of the TBMS is to protect and where possible improve Bat Core Habitat. Due to the proposed boundary buffers, additional planting and pond area, the overall core habitat is proposed to increase over the existing site and therefore both protect and be of benefit to the SAC. It is for these reasons that there is no objection from the WC Ecologists and Natural England, and a favourable outcome for the Appropriate Assessment.



Extract from hypothetical layout plan should the TBMS be enforced in full

The Ecology Officers are also satisfied that the proposal would result in a net bio-diversity net gain.

9.3 Access and Highway Safety

The application is accompanied by a Transport Assessment which addresses the impact of the proposal on the adjoining highway network. Following initial comments from the Council's Highways Officer an additional technical note addressing the access was received. This sets out that the access would be 5.5m wide and provided with adequate visibility splays along with other technical highway details. This shows that there would not be an unacceptable impact in highway safety terms. The Council's Highways Department agree with these conclusions. The proposed site access complies with current standards. In view of the above, there is no highway safety objection to this application.

Objections have been received over traffic levels and speeds along this road leading to the roundabout. The speed limit is 30mph. The roundabout opposite the Rising Sun public house should slow traffic, and any cars turning left into the site from Woodmarsh (from Trowbridge) would also slow the speed of following cars.

9.4 Drainage

The application is accompanied by a site-specific flood risk assessment and drainage strategy which are satisfactory as far as the Council's Drainage Officer is concerned. Whilst the Drainage Officer has sought further information and calculations, these can be considered by condition. In view of this there are no drainage objections to this application.

9.5 Archaeology and Heritage Matters – Listed buildings

Above the various tiers of planning policy and guidance is the over-arching statutory requirement under the Planning (Listed Buildings and Conservation Areas) Act 1990 to have special regard to the desirability of preserving Listed buildings or their setting (S16).

In this case the site is close to the Listed buildings in the burial ground and two non-designated heritage assets, but the Council's Conservation Officer is satisfied that there would be a neutral impact on these. With the revised plans – reducing the number of proposed dwellings to up to 23 – a greater buffer with the Kings Lodge and Listed building would be achieved anyway.

The application has also addressed initial objections from the Council's Archaeology Officer. The applicants undertook trial trenching and submitted an evaluation report, which was approved by Wiltshire Council's Archaeology Service. No further investigation is necessary on the site.

9.6 S106 Contributions

Core Policy 3 states that all new development will be required to provide for the necessary onsite and, where appropriate, off-site infrastructure requirements arising from the proposal. Infrastructure requirements will be delivered directly by the developer and/or through an appropriate financial contribution prior to, or in conjunction with, new development. This Policy is in line with the tests set under Regulation 122 of the Community Infrastructure Levy Regulations 2010, and Paragraph 55 of the National Planning Policy Framework. These are that contributions must be:

- Necessary to make the development acceptable in planning terms;
- Directly related to the development; and
- Fairly and reasonably related in scale and kind to the development.

The infrastructure items listed below are those that are relevant to the application site and are necessary in order to mitigate the impacts of the proposal. The applicant has agreed to provide these:

Affordable Housing

Core Policy 43 of the Wiltshire Core Strategy, as currently amended by the National Planning Policy Framework, sets out a requirement for 30% on-site Affordable Housing provision: on all sites of 10 or more dwellings; or on sites of between 5 - 9 dwellings if the development site is 0.5ha or greater, within this Community Area. Based on the proposed scheme of 23 residential units, there would therefore be a requirement to provide 7 affordable units on the site. To meet current demonstrable need the Affordable Housing units should be provided with a tenure mix of 4 Affordable Rented, 1 shared ownership and 2 first homes.

Education

Early Years Provision - *a total 3 places at £17,522 = £52,566, (subject to indexation).*

Primary School – *“As part of the updating/revising process, we've incorporated the latest HLSS data into our forecasts and as a result, we no longer have a need to expand primary school places to meet the needs of this development.”*

Secondary School – *“the secondary school places case remains valid and has increased slightly as $21 \times 0.22 = 4.62$ rounded to 5 at £22,940 each = £114,700, (subject to indexation).”*

Waste

£101 per dwelling – $23 \times 101 = £2,323$

Ecology

“£777.62 per dwelling (index linked from 2018) to be paid before commencement towards habitat mitigation detailed in Appendix 1 of the TBMS.”

Therefore $£777.62 \times 23 = £17,885.26$

The s106 must also identify who will be responsible for maintaining biodiversity habitat:

- a) Within the application site,
- b) Within the POS/northern and eastern boundaries and
- c) The replacement bat house located within the northern part of the site

The S106 must commit the body(ies) responsible for a), b) and c) to implement the LEMP for the lifetime of the development.

Public open space

Saved Policy LP4 of the Leisure and Recreation DPD states that where new development (especially housing) creates a need for access to open space or sport/recreation provision, an assessment will be made as to whether a contribution to open space or sport recreation is required. Saved Policy GM2 of the Leisure and Recreation DPD requires the management and maintenance of new or enhanced open spaces which will be included within the S106.

As the land around the site is needed to be included in the LEMP and for net bio-diversity net gain, off site contributions are required. Therefore a contribution of £27,599.81 to public open space and £5,862.24 to off site play facilities are required. Officers have identified that the Peace Memorial Trust Playing field and the play are contained are a target site for these off site contributions.

Occupants would have less than 250m walk to the Peace Memorial Trust Playing field.

Sports provision

£5,428 towards the upgrade of playing pitch and ancillary provision at Peace Memorial Trust Playing field and/or sports or ancillary provision within the vicinity of the land.

S106 Monitoring Fee

£250 per S106 term.

10. Conclusion

At the heart of the NPPF there is a presumption in favour of sustainable development, this requiring local planning authorities to approve development proposals that accord with the development plan without delay.

The North Bradley Neighbourhood Plan allocates the site for approximately 25 dwellings and this outline application proposes up to 23 units. Therefore, the principle of development is accepted. The outline includes details of access which has met the satisfaction of the highways officer. Whilst the proposal is not fully compliant with the Trowbridge Bat Mitigation Strategy, which states existing core bat habitats should be retained, the proposal would ensure that lost habitat is replaced and enhanced. The main driving aim of the Trowbridge Bat Mitigation Strategy is to enhance the overall bat habitat, and the proposal would achieve this to the satisfaction of both the Council's Ecology Officers and Natural England.

Also of relevance, the Council cannot currently demonstrate a 5-year supply of deliverable housing land; at the time of preparing this report the current supply figure as set out in the latest Housing Land Supply Statement is 4.6 years. The Council has been repeatably losing appeals for residential development in the last year or so on unallocated sites and sites that are contrary to WCS Core Policies 1 and 2 due to not being able to demonstrate demonstrable harm that outweighs the benefits (paragraph 11d - tilted balance test of the National Planning Policy Framework). As already set out, there are no adverse impacts that would significantly and demonstrably outweigh the benefits that this allocated site on the edge of a sustainable settlement identified for growth would bring.

The Parish Council objection is based essentially on the proposal being contrary to the Trowbridge Bat Mitigation Strategy (and therefore also being contrary to policy 3 iv of the North Bradley Neighbourhood Plan). However, policy 3 iv) allows for full replacement and mitigation of any lost habitat within the application boundary, to which this application secures.

Recommendation

To grant planning permission subject to the applicant first entering into a S106 agreement to deliver the essential infrastructure made necessary by the development set out at section 9.6 of this report, and subject to the following planning conditions -

Planning Conditions:

1. The development hereby permitted shall be begun either before the expiration of three years from the date of this permission, or before the expiration of two years from the date of approval of the last of the reserved matters to be approved, whichever is the later.

REASON: To comply with the provisions of Section 92 of the Town and Country Planning Act 1990 as amended by the Planning and Compulsory Purchase Act 2004.

2. No development shall commence on site until details of the following matters (in respect of which approval is expressly reserved) have been submitted to, and approved in writing by, the Local Planning Authority:

- (a) The scale of the development;
- (b) The layout of the development;
- (c) The external appearance of the development;
- (d) The landscaping of the site;

The development shall be carried out in accordance with the approved details.

REASON: The application was made for outline planning permission and is granted to comply with the provisions of Section 92 of the Town and Country Planning Act 1990 and Article 5 (1) of the Town and Country Planning (Development Management Procedure) (England) Order 2015.

3. An application for the approval of all of the reserved matters shall be made to the Local Planning Authority before the expiration of three years from the date of this permission.

REASON: To comply with the provisions of Section 92 of the Town and Country Planning Act 1990.

4. The development hereby permitted shall be carried out in accordance with the following approved plans and statements:

Site Location Plan (A17 21 26 SK01), Existing Survey/Site Plan (A17 21 26 SK02), Design and Access Statement, Transport Statement, Ecological Appraisal and Dusk Survey for Bats (All Ecology Ltd, July 2021) - all received 12 October 2021;

Update Ecological Appraisal (NPA, 20/01/2022) – Received 3 November 2022

Revised Proposed Site Access Plan (21073 - 010-B) – received 10 November 2022

Site Specific Flood Risk Assessment and Drainage Strategy (IMA-22-103 June 2023), Ecology Addendum (NPA 11257 103 – PO1), Ecology Parameters Plan (Drg No 11257 NPA ZZ ZZ DR Y 1201 P02 - (NPA, 05/08/2022)) and 11257 Biodiversity Metric 3.1 calculation tool - v 7 Layout Rev M Jun23 – all received 29 June 2023

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

NOTE: The indicative masterplan (Drg No A17 21 26 SK10 Rev L) and indicative colour masterplan (Drg No A17 21 26 SK12) are only indicative and do not therefore form part of the approved plan list.

5. No part of the development hereby permitted shall be first occupied until the site junction, access road, footways have been completed in accordance with the details shown on the approved plans (Proposed Site access 21073-010 Rev B (Nov 2022) and properly consolidated. The areas shall be maintained for those purposes at all times thereafter.

REASON: In the interests of highway safety.

6. No part of the development shall be first occupied, until the visibility splays and informal crossing points shown on the approved plans (Proposed Site access 21073-010 Rev B (Nov 2022), Visibility splays 2.4m x 43m, and informal crossing points have been provided with no obstruction to visibility at or above a height of 600mm above the nearside carriageway level. The visibility splays shall always be maintained free of obstruction

REASON: In the interests of highway safety.

7. The roads, including footpaths and turning spaces, shall be constructed so as to ensure that, before it is occupied, each dwelling has been provided with a properly consolidated and surfaced footpath and carriageway to at least base course level between the dwelling and existing highway.

REASON: To ensure that the development is served by an adequate means of access.

8. No development shall commence on site until details of the estate roads, footways, footpaths, verges, junctions, street lighting, sewers, drains, retaining walls, service routes, surface water outfall, vehicle overhang margins, embankments, visibility splays, accesses, carriageway gradients, drive gradients, car parking and street furniture, including the timetable for provision of such works, have been submitted to and approved by the Local Planning Authority. The development shall not be first occupied until the estate roads, footways, footpaths, verges, junctions, street lighting, sewers, drains, retaining walls, service routes, surface water outfall, vehicle overhang margins, embankments, visibility splays, accesses, carriageway gradients, drive gradients, car parking and street furniture have all been constructed and laid out in accordance with the approved details, unless an alternative timetable is agreed in the approved details.

REASON: To ensure that the roads are laid out and constructed in a satisfactory manner.

9. The development hereby permitted shall be carried out in accordance with the Ecological Parameters Plan. Drwg. No. 11257 NPA ZZ ZZ DR Y 1201. Rev. 02. (NPA, 05.08.2022). This document will form the basis for the site layout and will not be altered at Reserved Matters without detailed justification based on additional habitat and wildlife species surveys.

REASON: To protect the ecology on the site.

10. The development will be completed in accordance with the Biodiversity Metric 3.1 (NPA, 27/06/023) or a subsequent revised metric calculation submitted to and approved by the Local Planning Authority. This condition shall be discharged when a report has been submitted to and approved by the Local Planning Authority which demonstrates that the development has been completed in accordance with the approved metric calculation. The report will demonstrate for habitats and hedgerows and that the development will achieve at least 100% mitigation (i.e. no net loss) for land lost to development.

REASON: to meet the requirements of the Trowbridge Bat Mitigation Strategy.

11. Prior to the commencement of works, including demolition, ground works/excavation, site clearance, vegetation clearance and boundary treatment works, a Construction Environmental Management

Plan (CEMP) shall be submitted to the local planning authority for approval in writing. The CEMP shall include a detailed plan showing detail of the avoidance, mitigation and protective measures to be implemented before and during the construction phase, including but not necessarily limited to, the following:

- A) Phasing plan for bat habitat creation and landscape works in the north and east of the site.
- B) Identification of ecological protection areas/buffer zones/bat habitat and tree root protection areas and details of physical means of protection, e.g. exclusion fencing and including who will be responsible for its installation.
- C) Location of construction compounds.
- D) Details on locations of any construction lighting (if required: Note: this must be kept away from boundary features).
- E) Working method statements for protected/priority species, such as nesting birds, and reptiles.
- F) Mitigation strategies already agreed with the local planning authority prior to determination, such as for great crested newts/bats; this should comprise the pre-construction/construction related elements of strategies only.
- G) Work schedules for activities with specific timing requirements in order to avoid/reduce potential harm to ecological receptors; including details of when a licensed ecologist and/or ecological clerk of works (ECoW) shall be present on site.
- H) Key personnel, responsibilities and contact details (including Site Manager and ecologist/ECoW).
- I) Timeframe for provision of compliance report to the local planning authority; to be completed by the ecologist/ECoW and to include photographic evidence.
- J) details of drainage arrangements during the construction phase

Development shall be carried out in strict accordance with the approved CEMP.

REASON: To ensure adequate protection and mitigation for ecological receptors prior to and during construction, and that works are undertaken in line with current best practice and industry standards and are supervised by a suitably licensed and competent professional ecological consultant where applicable.

12. No development shall commence on site until a scheme for the provision and creation of a SuDs located in the northern part of the site/within the public open space area has been submitted to the LPA for approval. The SuDs shall be designed as a permanent waterbody with a diverse marginal structure using trees, shrubs and grasses to provide suitable aquatic habitat for foraging bats.

The scheme shall be completed in accordance with the approved details and in accordance with the timetable detailed in the approved scheme.

REASON: For the mitigation and enhancement of biodiversity.

13. No development shall commence on site until a Landscape and Ecology Management Plan (LEMP) has been submitted to and approved in writing by the Local Planning Authority. The LEMP shall be based on the approved Ecological Parameters Plan. Drwg. No. 11257 NPA ZZ ZZ DR Y 1201. Rev. 02. (NPA, 05.08.2022) the approved Biodiversity Metric 3.1 (NPA, 27/06/023) submitted with the application, or a revised Biodiversity Metric submitted and approved. The LEMP will include long term objectives and targets, management responsibilities and maintenance schedules for each ecological feature within the development, together with a mechanism for monitoring success of the management prescriptions, incorporating review and necessary adaptive management in order to attain targets.

The LEMP shall also include details of the legal mechanism(s) by which long-term implementation of the plan will be secured. The LEMP shall be implemented in full and for the lifetime of the development in accordance with the approved details.

REASON: To ensure the long-term management of landscape and ecological features retained and created by the development, for the benefit of visual amenity and biodiversity for the lifetime of the scheme.

NOTE: The s106 should have a clause that a management company will be required to manage the land required under the terms of the LEMP condition.

14. No external lighting shall be installed on site until plans showing the type of light appliance, the height and position of fitting, illumination levels and light spillage in accordance with the appropriate Environmental Zone standards set out by the Institute of Lighting Engineers in their publication GN01:2011, 'Guidance for the Reduction of Obtrusive Light' (ILP, 2011), have been submitted to and approved in writing by the Local Planning Authority.

The approved lighting shall be installed and shall be maintained in accordance with the approved details and no additional external lighting shall be installed.

This condition shall only be discharged when a post-development lighting survey conducted in accordance with section 8.3.4 of the Trowbridge Bat Mitigation Strategy has been submitted to the Local Planning Authority demonstrating compliance with the approved lighting plans, having implemented and retested any necessary remedial measures.

REASON: In the interests of the amenities of the area, to minimise unnecessary light spillage above and outside the development site and to core bat habitat meets the requirements of the Trowbridge Bat Mitigation Strategy.

15. No development shall commence on site until a plan (details) for the selection, siting, positioning and installation of integral nesting features for bats and birds has been submitted to, and approved in writing by, the local planning authority.

The plan should show the green infrastructure that the development is to provide, illustrating how birds and bats using the boxes have access to the relevant habitat/food resource in nearby suitable habitat. The installation plan should be prepared in accordance with the requirements of BS 42021.

The integral nesting feature should identify, as a minimum:

- a) the bird/bat species likely to benefit from the proposed integral nest feature;
- b) the type of integral nest feature to be installed;
- c) the specific buildings on the development into which features are to be installed, shown on appropriate scale drawings;
- d) the location on each building where features are to be installed, shown on all appropriate building plans and elevations;

No dwelling shall be first occupied until the approved details of the integral nest box plan have been implemented in accordance with the approved details. All boxes shall be retained in good working order in perpetuity.

REASON: For the protection, mitigation and enhancement of biodiversity.

16. Details of the surface water drainage scheme, (including sustainable drainage details), the foul water drainage scheme and timetables for their implementation shall be submitted to the local planning authority for approval with or before the submission of reserved matters. No development shall commence until those schemes have been approved in writing by the local planning authority, and the surface water drainage scheme and the foul water drainage scheme shall then be implemented in accordance with the approved schemes and timetables, and thereafter retained.

REASON: In the interests of ensuring the site can be adequately drained.

NOTE: This will require calculations which demonstrate that the required 20% betterment against greenfield rates has been achieved for all storm events between the 1 in 1 year and the 1 in 100 year return period storm events. This will also require the applicant to undertake a sensitivity analysis on the network considering surcharged outfall conditions and has shown overland exceedance routes on the drainage plan for flows in excess of the 1 in 100 year plus climate change rainfall event.

Informatives:

1. The application involves creation of informal crossing points and lowered kerb. The consent hereby granted shall not be construed as authority to carry out works on the highway. The applicant is advised that a licence will be required from Wiltshire's Highway Authority before any works are carried out on any footway, footpath, carriageway, verge or other land forming part of the highway. Please contact our Vehicle Crossing Team on vehicleaccess@wiltshire.gov.uk and/or 01225 713352 or visit their website at <http://wiltshire.gov.uk/highways-streets> to make an application.
2. Wiltshire Council issues land drainage consents for discharges to ordinary watercourses and also for any works within 8m. The Environment Agency issue environmental permits for discharges to main rivers and any works within 8m, however we agree the flow rate for this as well). Within the calculations, the Additional Storage Volume factor must be set to zero and the margin for "flood risk" warning in hydraulic models been set to $\geq 300\text{mm}$.

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