

AGENDA

Meeting: Western Area Planning Committee
Place: Council Chamber - Council Offices, Bradley Road, Trowbridge
Date: Wednesday 15 June 2011
Time: 6.00 pm

Please direct any enquiries on this Agenda to Marie Gondlach (Democratic Services Officer), of Democratic Services, County Hall, Bythesea Road, Trowbridge, direct line 01225 713597 or email marie.gondlach@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 Trevor Carbin | Cllr Christopher Newbury |
| Cllr Ernie Clark | Cllr Stephen Petty |
| Cllr Rod Eaton | Cllr Pip Ridout |
| Cllr Peter Fuller (Chairman) | Cllr Jonathon Seed |
| Cllr Mark Griffiths | Cllr Roy While (Vice Chairman) |
| Cllr John Knight | |

Substitutes:

| | |
|----------------------|----------------------------|
| Cllr Rosemary Brown | Cllr Tom James MBE |
| Cllr Andrew Davis | Cllr Francis Morland |
| Cllr Russell Hawker | Cllr Helen Osborn |
| Cllr Malcolm Hewson | Cllr Fleur de Rhe-Philippe |
| Cllr Keith Humphries | |

AGENDA

Part I

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

1. **Apologies for Absence**

2. **Minutes of the Previous Meeting** (*Pages 1 - 6*)

To approve the minutes of the last meeting held on 25 May 2011 (copy attached.)

3. **Declarations of Interest**

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

4. **Chairman's Announcements**

5. **Public Participation**

Members of the public who wish to speak either in favour or against an application on this agenda are asked to register in person no later than 5.50pm on the day of the meeting.

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

To receive any questions from members of the Council or members of the public 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 page of the agenda (acting on behalf of the Director of Resources) no later than 5pm on Wednesday 8 June 2011. Please contact the officer named on the front page of the 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. **Proposed Diversion Of Edington Bridleway 15 (Part) And Keevil 5 (Part)**
(*Pages 7 - 20*)

To consider the report of the Corporate Director for Neighbourhood and Planning copy attached.

7. Planning Applications

To consider and determine the following planning applications:

7.a **W/11/01206/FUL** (Pages 21 - 46)

| | |
|------------------------------|--|
| Site Location | Land Adjacent West Wiltshire Crematorium, Littleton, Semington, Wiltshire |
| Development | Change of use to small private gypsy and travellers site for three pitches for eight caravans and associated ancillary works and development (including hard standing blocks, drainage etc) and associated keeping of horses |
| Recommendation | Approval |
| Division Member | Cllr Jonathon Seed |
| Town / Parish Council | Semington |

7.b **W/11/01190/FUL** (Pages 47 - 56)

| | |
|------------------------------|---|
| Site Location | 8 Merlin Way Bowerhill Wiltshire SN12 6TJ |
| Development | Part change of use of existing building from D2 to Nightclub for evening works; proposed single storey side extensions and associated works |
| Recommendation | Approval |
| Division Member | Cllr Roy While |
| Town / Parish Council | Melksham Without |

7.c **W/11/00726/FUL** (Pages 57 - 70)

| | |
|------------------------------|---|
| Site Location | Land At Smallbrook House Smallbrook Gardens Staverton Wiltshire |
| Development | Conversion of Smallbrook House into 3 dwellings; demolition of Brookfield House, a large greenhouse and conservatory. Erection of 2 detached dwellings, 2 semi detached dwellings, garages and access |
| Recommendation | Approval |
| Division Member | Cllr Trevor Carbin |
| Town / Parish Council | Staverton |

8. **Urgent Items**

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

Part II

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

None.

WESTERN AREA PLANNING COMMITTEE

DRAFT MINUTES OF THE WESTERN AREA PLANNING COMMITTEE MEETING HELD ON 25 MAY 2011 IN THE COUNCIL CHAMBER - COUNCIL OFFICES, BRADLEY ROAD, TROWBRIDGE.

Present:

Cllr Trevor Carbin, Cllr Ernie Clark, Cllr Rod Eaton, Cllr Peter Fuller (Chairman), Cllr Mark Griffiths, Cllr John Knight, Cllr Francis Morland (Substitute), Cllr Stephen Petty, Cllr Pip Ridout, Cllr Jonathon Seed and Cllr Roy While (Vice Chairman)

47 Apologies for Absence and Changes to Committee Membership

Apologies for absence were received from Councillor Christopher Newbury (substituted by Councillor Francis Morland).

The Chairman invited the committee to note the changes in membership as agreed at the Annual Meeting of the Council held on 17 May 2011. The Chairman took the opportunity to thank Councillors Malcolm Hewson, Graham Payne and Jeff Osborn for their work over the past two years and welcomed newly appointed members and substitutes.

Resolved:

To note that at the Annual Meeting of the Council held on 17 May 2011, the following changes in membership were agreed:

- **Councillors Pip Ridout and Trevor Carbin were appointed as members in place of Councillors Graham Payne and Malcolm Hewson**
- **Councillors Keith Humphries and Helen Osborn were appointed as substitute members in place of Councillors Pip Ridout and Jeff Osborn.**

48 Minutes of the Previous Meeting

The minutes of the meeting held on 4 May 2011 were presented.

Resolved:

To approve as a correct record and sign the minutes of the meeting held on 4 May 2011 with the following amendments (as shown in bold type):

Minute number 45.a refers:

Officers introduced the report which sought approval and in doing so drew the committee's attention to the late list.

During the ensuing debate members of the committee could not be satisfied that the application would not constitute over development and have a detrimental effect on the character of the area and the street scene.

Minute number 45.b refers:

Councillor David Jenkins, Unitary Member for **Westbury** North, expressed his concerns over the application.

49 **Declarations of Interest**

W/11/00350/FUL - First floor extension over existing ground floor, 10 Beckerley Lane Holt Wiltshire BA14 6QQ

Councillor Trevor Carbin wished for the fact that he had met with both the applicant and objector to be recorded, although he had expressed no opinion on the application. He gave his assurance that he would consider the application with an open mind.

W/11/01171/FUL - Retrospective application for erection of car port attached to existing garage, 23 Warren Road Staverton Wiltshire BA14 8UZ

Councillor Trevor Carbin wished for the fact that he had met with the objector to be recorded, although he had expressed no opinion on the application. He gave his assurance that he would consider the application with an open mind.

Councillor Ernie Clark declared a personal interest as he knew of the objector to the application. He gave his assurance that he would consider the application with an open mind.

50 **Chairman's Announcements**

There were no Chairman's Announcements.

51 **Public Participation**

The Chairman welcomed all present. He then explained the rules of public participation and the procedure to be followed at the meeting.

52 **Planning Applications**

The Committee considered the following applications:

52.a W/11/00350/FUL - First floor extension over existing ground floor, Beckerley Lane Holt Wiltshire BA14 6QQ

Public Participation:

- Mr Joffrey Blwyddin spoke in objection to the application
- Mr Roy Damey spoke in objection to the application
- Mrs Natalie Morant, applicant, spoke in support of the application

Officers introduced the report which sought approval.

During the ensuing debate it was confirmed that the window in the gable end of the neighbouring property was an en-suite bathroom window. The Committee felt that due to the orientation of the gardens (North facing) the loss of sunshine to neighbouring properties would in this instance be minimal.

It was therefore:

Resolved:

That planning permission be GRANTED

For the following reason(s):

The proposed development would not materially affect the amenities of the neighbours or result in any detrimental impact on the street scene and would not significantly harm any interests of acknowledged importance.

Subject to the following condition(s):

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 materials to be used in the construction of the external surfaces of the development hereby permitted shall match in material, colour and texture those used in the existing building.

REASON: In the interests of visual amenity and the character and appearance of the area.

West Wiltshire District Plan 1st Alteration 2004 - POLICY: C31a.

3. The windows marked on Drawing no. PW658/05 as being obscure glazed shall be obscurely glazed before the extension is brought into use and shall thereafter be retained as obscure glazed windows.

REASON: To protect the amenity of residents of nearby properties.

4. The development hereby permitted shall not be carried out except in accordance with the details shown on the approved plans:
PW658/01- 06 dated January 2011

REASON: To ensure that the development is carried out in accordance with the approved plans.

53 W/11/01171/FUL - Retrospective application for erection of car port attached to existing garage, 23 Warren Road Staverton Wiltshire BA14 8UZ

Public Participation:

- Mr Kevin Perrett spoke in support of the application
- Mr Graham Tucker spoke in support of the application
- Mr Mark Fati, applicant, spoke in support of the application

Officers introduced the report which sought retrospective approval.

Resolved:

That retrospective planning permission be GRANTED

For the following reason:

The proposed development conforms to the Development Plan and there are no objections to it on planning grounds.

Subject to the following condition:

1. The development hereby permitted shall not be carried out except in complete accordance with the details shown on the submitted plans:
800-200-01 received on 29 March 2011

Reason: To ensure that the development is carried out in accordance with the approved plans that have been judged to be acceptable by the local planning authority.

54 Urgent Items

There were no Urgent Items.

(Duration of meeting: 6.00 - 6.35 pm)

The Officer who has produced these minutes is Marie Gondlach (Democratic Services Officer), of Democratic Services, direct line 01225 713597, e-mail marie.gondlach@wiltshire.gov.uk

Press enquiries to Communications, direct line (01225) 713114/713115

This page is intentionally left blank

Wiltshire Council

Western Area Planning Committee

15 June 2011

Proposed Diversion Of Edington Bridleway 15 (Part) And Keevil 5 (Part)

Purpose of Report

1. To:
 - (i) Consider and comment on the objection received to an Order, made under Section 119 of the Highways Act 1980, proposing to divert a section of Edington Bridleway 15 and a section of Keevil Bridleway 5.
 - (ii) Recommend that the Order be forwarded to the Secretary of State for the Environment, Food and Rural Affairs for confirmation.

The proposed diversion is shown on the plan attached at **Appendix A**. A location plan showing the surrounding land and path network is attached at **Appendix B**. Photographs of the existing and proposed routes are attached at **Appendix C**.

Background

2. The Council has a power to divert any public path, or part of any public path, under the Highways Act 1980 Section 119 if it is expedient to do so in the interests of the landowner and if certain legal tests laid out below in paragraph 12 are met. Wiltshire Council received an application on 12th August 2010 to divert parts of public bridleways Keevil 5 and Edington 15 and an Order was subsequently made on 15th February 2011 by Mark Boden, Corporate Director of Neighbourhood & Planning. The Order was made because the diversion was expedient in the interests of the landowner for reasons of privacy (parts of existing route are very close to farm buildings), and land management (part of the path cuts diagonally across an arable field and part of the existing path passes through a field with cattle)..
3. In August 2010, Council Officers consulted widely on a proposed diversion of part of Edington Bridleway 15 and part of Keevil Bridleway 5 at Newhurst Park Farm, Keevil (as shown in **Appendix A**). The consultation was sent to landowners, Keevil and Edington Parish Councils, neighbouring properties, statutory undertakers and a range of groups representing users, both locally and nationally. The user groups consulted include the Ramblers Association, the British Horse Society, the Wiltshire Bridleways Association and the Byways and Bridleways Trust.

4. Responses were received from the landowner, Edington Parish Council, Keevil Parish Council, Development Control, various statutory undertakers, Wiltshire Bridleways Association and the Ramblers Association. The only representation against the proposed diversion was from the Ramblers Association, expressing the view that it was more pleasant to cross a field than to go around the edge on a track and proposing different diversions.
5. After a further exchange of correspondence with the Ramblers Association a decision to make an Order was taken by the Corporate Director of Neighbourhood & Planning and an Order was made on 15 February 2011. Notice of the Order was advertised in a local paper, copies of the notice were erected on site and on the Parish Council notice boards and there was a Statutory Consultation involving all parties mentioned above in paragraph 3, allowing 28 days for any objections to the Order to be received by the Council.
6. The only objection received was from the Ramblers Association, who state that there would be no benefit to walkers and that the diverted route is longer. The letter of objection dated 18 March 2011 is attached as **Appendix D**.
7. A letter was subsequently sent to the Ramblers Association seeking withdrawal of the objection because the legal tests for confirming the Order were met but this proved to be unsuccessful and the objection remains outstanding.

Main Considerations for the Council

8. Wiltshire Council has the power to make Orders to divert public paths under Section 119 of the Highways Act 1980.
9. The Order may be made in the interest of the public or in the interests of the landowner. This Order was made in the interests of the landowner but can only be confirmed if the new path or way will not be substantially less convenient to the public, having regard to the effect of the diversion on the public enjoyment of the path or way as a whole.
10. The Council has received an objection to the proposed Order and Members have to decide whether they still wish to support the Order or formally resolve not to proceed with it.
11. Section 119(1) of the Highways Act 1980 states that:

“Where it appears to a Council as respects a footpath, bridleway or restricted byway in their area (other than one that is a trunk road or a special road) that in the interests of the owner, lessee or occupier of land crossed by the path or way or of the public, it is expedient that the line of the path or way, or part of that line, should be diverted (whether on to land of the same or of another owner, lessee or occupier), the Council may, subject to subsection (2) below, by order made by them and submitted to and confirmed by the Secretary of State, or confirmed as an unopposed order:

- (a) *create, as from such date as may be specified in the order, any such new footpath, bridleway or restricted byway as appears to the council requisite for effecting the diversion, and*
- (b) *extinguish, as from such date as may be [specified in the order or determined] in accordance with the provisions of subsection (3) below, the public right of way over so much of the path or way as appears to the Council requisite as aforesaid.*

An Order under this section is referred to in this Act as a “public path diversion order”.

12. Section 119(2) of the Highways Act 1980 states:

“A public path diversion order shall not alter a point of termination of the path or way:

- (a) if that point is not on a highway; or*
- (b) (where it is on a highway) otherwise than to another point which is on the same highway, or a highway connected with it, and which is substantially as convenient to the public”.*

In this case the start and end points of the diversion are the same as existing.

13. The Committee must now consider the second test under Section 119(6) which must be met at the Order confirmation stage.

“The Secretary of State shall not confirm a public path diversion order, and a Council shall not confirm such an Order as an unopposed Order, unless he or, as the case may be, they are satisfied that the diversion to be effected by it is expedient as mentioned in Sub-section (1) above and further that the path or way will not be substantially less convenient to the public in consequence of the diversion and that it is expedient to confirm the Order having regard to the effect which:

- (a) the diversion would have on public enjoyment of the path or way as a whole;*
- (b) the coming into operation of the Order would have as respects other land served by the existing public right of way; and*
- (c) any new public right of way created by the Order would have as respects the land over which the right is so created and any land held with it.*

14. The Council must have regard to The Equality Act 2010 which requires (broadly) that in carrying out their functions, public authorities must make reasonable adjustments to ensure that a disabled person is not put at a substantial disadvantage in comparison with persons who are not disabled. This duty is named in Section 149 of the Act as the ‘*public sector equality duty*’.

15. The Council must have regard to the Wiltshire Council Rights of Way Improvement Plan (ROWIP). The ROWIP recognises the Council's duty to have regard to the Disability Discrimination Act 1995 (now repealed and replaced by the Equality Act 2010) and to consider the least restrictive option when considering whether to implement gaps, gates or stiles on new routes.
16. The Council must have regard to the needs of agriculture and forestry.

Comments on the Objection

17. The letter of objection indicates that the diversion is longer than the existing route; it is not (see paragraph 18(a) below). The objection letter also states that the diversion is not in the interest of walkers.
18. The legal tests to be met for an Order to be confirmed are that:

(a) The path will not be substantially less convenient to the public in consequence of the diversion and

(b) That it is expedient to confirm the Order having regard to the effect which the diversion would have on public enjoyment of the path or way as a whole.

(a) **Not substantially less convenient:**

The new route is wider than the existing path and the gradient is similar. It will be well signed and will have easier accessibility because of fewer gates/stiles. The proposed route is also shorter at approximately 740 metres opposed to approximately 800 metres. Therefore it is wholly reasonable to say that the new route is not substantially less convenient than the existing route.

(b) **Effect which the diversion would have on public enjoyment of the path or way as a whole:**

The diversion, by replacing a cross-field path with a field-edge path, still offers similar views of the same open field and also gives views of another adjacent open field. On the other side of the field-edge path are hedgerow views, which many people find interesting. The existing route also passes very close to domestic buildings which in the Officer's experience tends to make many walkers feel embarrassed or uncomfortable, whereas the new route avoids this, giving a more rural feel to the walk. These points amply demonstrate that there is no substantial detraction to the public's enjoyment of the way as a whole.

19. The Order has no effect on other land served by the existing right of way.
20. By offering easier accessibility with fewer gates/stiles, the diverted route fulfils the Council's 'Public Sector Equality Duty' under Section 149 of the Equality Act 2010 and also compliments the 'Least Restrictive Option' principle in Wiltshire Council's Rights of Way Improvement Plan.

Environmental Impact of the Recommendation

21. There are no significant environmental implications arising from the recommendations set out within this report.

Risk Assessment

22. There are no risks associated with the diversion that are over and above the normal risks associated with using any other rural public bridleway.

Financial Implications

23. The making of a public path diversion order is a discretionary duty of the Highway Authority, rather than a statutory duty. Provision has been made within existing budgets for the costs involved in processing this Order.
24. If the Committee decided to refer the Order to the Secretary of State with the request that it should be confirmed, the Secretary of State must decide the most appropriate method of reaching his decision. In cases where there are few objections to an Order and these are of a relatively straightforward nature, it is often appropriate to make the decision after an exchange of written representations or by means of a hearing. Provision has been made within existing budgets to cover this.

Options Consider

25. The following options have been considered:
 - (i) Not to continue with the Order.
 - (ii) That the Order be referred to the Secretary of State for determination with the recommendation that it be confirmed as made.

Reasons for Recommendation

26. The proposed diversion meets the tests contained in Section 119 of the Highways Act 1980.

Recommendation

27. That the Order be referred to the Secretary of State for determination with the recommendation that it be confirmed as made.

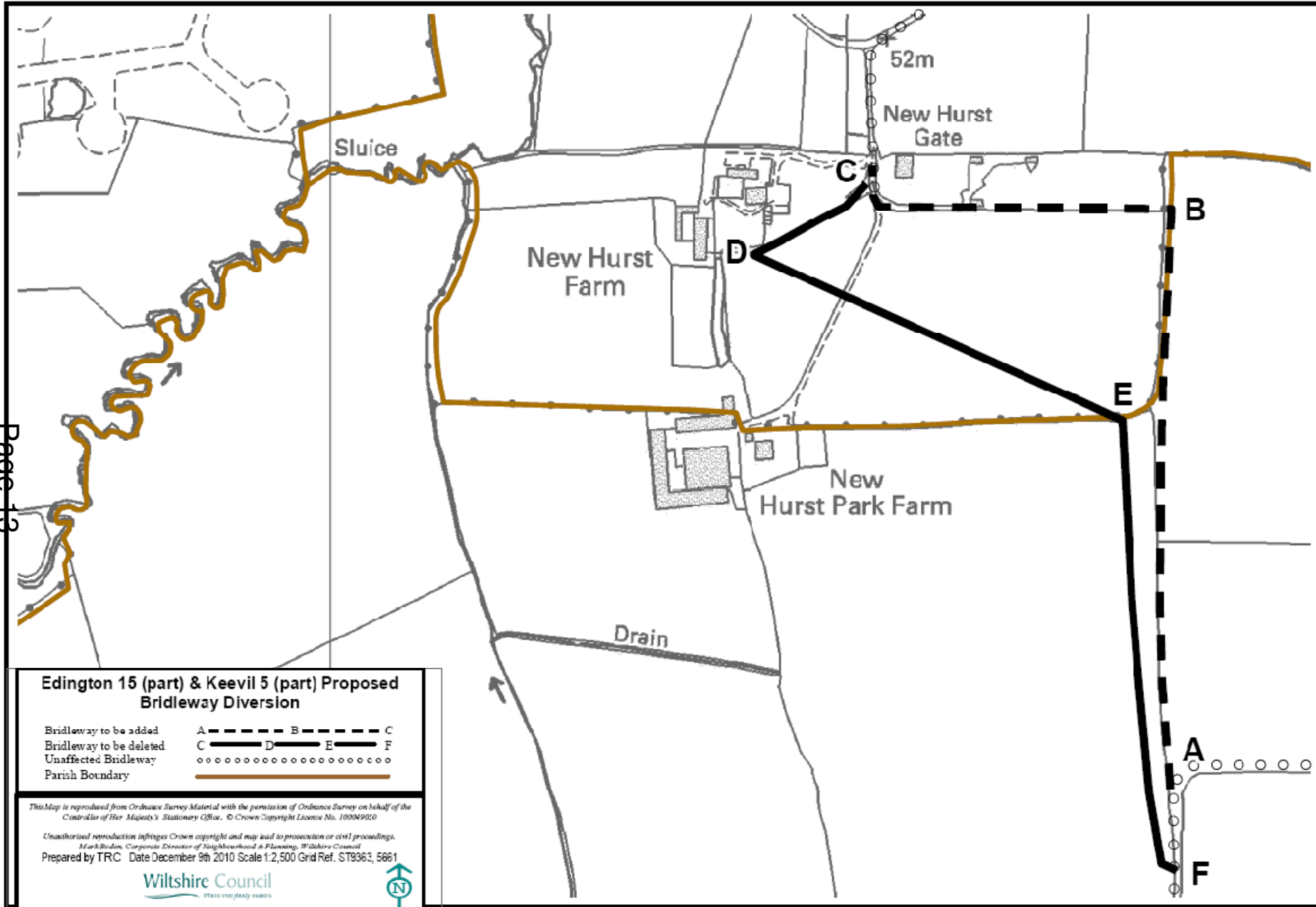
Mark Boden

Corporate Director for Neighbourhood and Planning

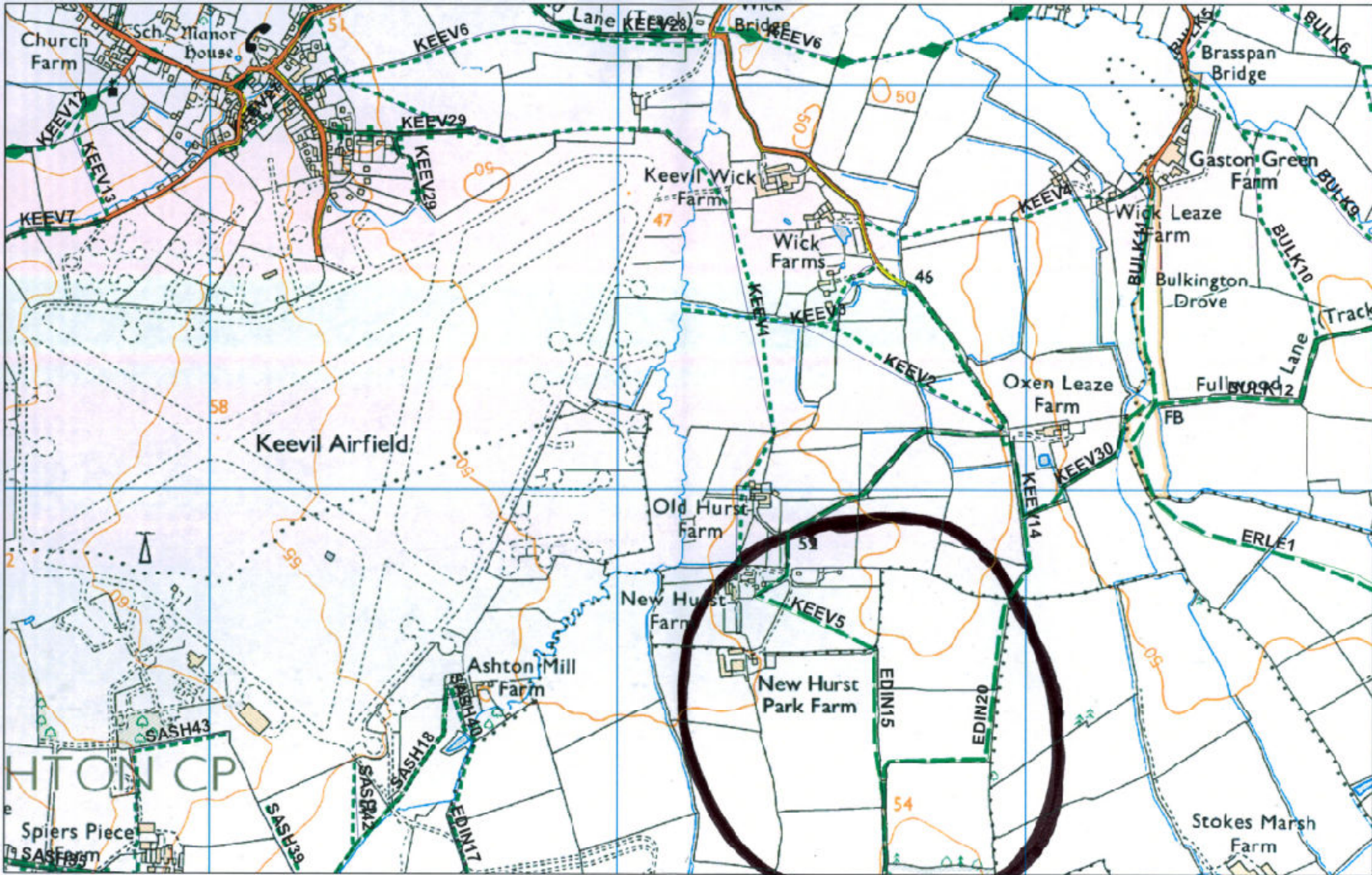
Report Author: **Tim Chinnick, Rights of Way Officer**

The following unpublished documents have been relied on in the preparation of this Report: Correspondence to and from objector

This page is intentionally left blank



This page is intentionally left blank



Reproduced from the Ordnance Survey map with the permission of the Controller of Her Majesty's Stationary Office © Crown Copyright 2000. Unauthorised reproduction infringes Crown Copyright and may lead to prosecution or civil proceedings.

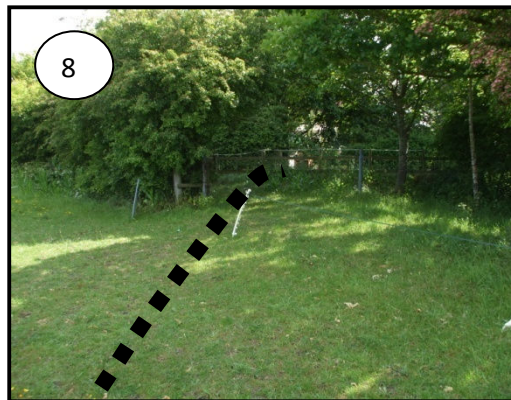
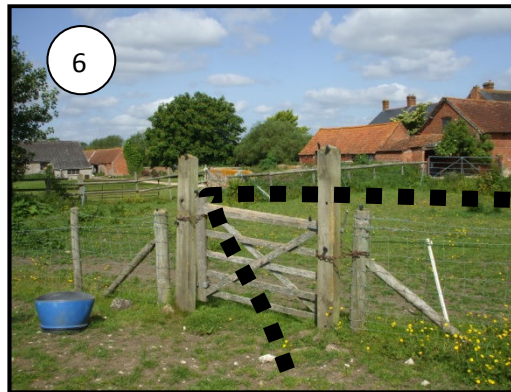
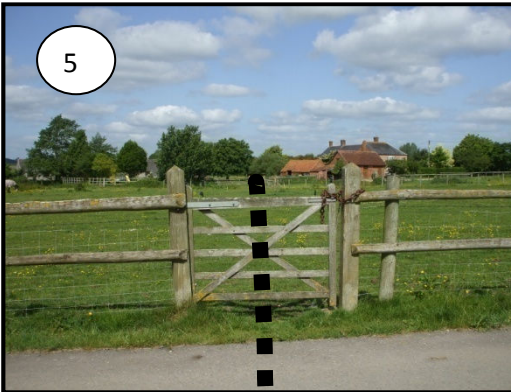
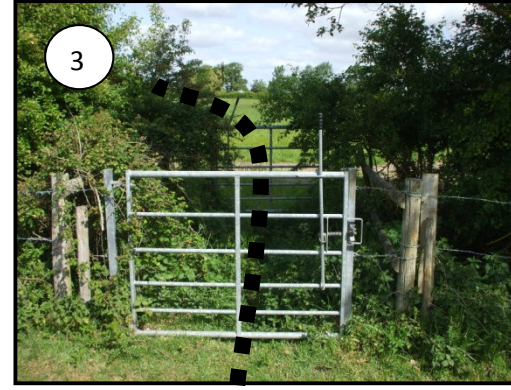
Produced using ESRI (UK)'s MapExplorer 2.0 - <http://www.esriuk.com>

Date: 09 December 2010
SLA: 100023455
Scale: 1:12000

This page is intentionally left blank

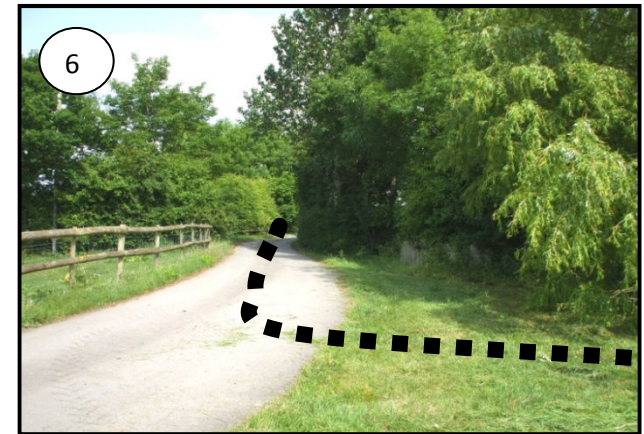
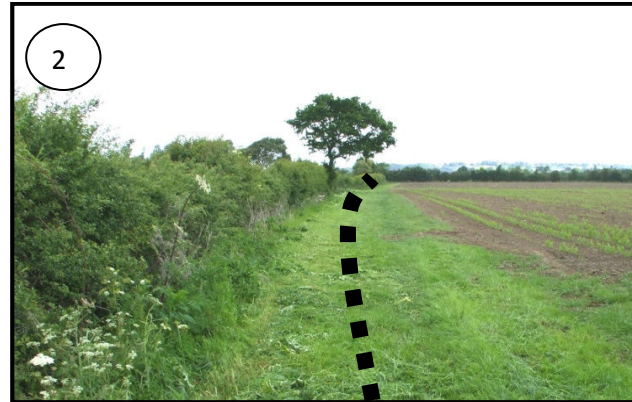
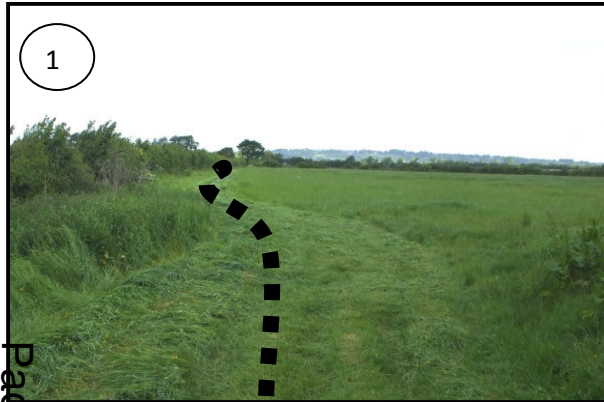
Existing Route

APPENDIX C



1. Impassable hedge at point F
2. View from near point F looking toward point E near corner of field top right
3. Double set of gates at Point E
4. Between points E-D
5. Gate between points E-D
6. Gate at point D
7. Between points D-C
8. looking towards double set of gates at point C

Proposed Diversion



1. Proposed route looking north from point A

2. Proposed route between points A-B

3. Open views from point B looking south toward point A

4. Proposed route looking west from point B

5. Open views looking south from route between points B-C

6. Looking north along farm track toward point C



Brackenfell
Charlton Hill
Edington
Westbury
Wiltshire
BA13 4PL
01380 830478
soniaheywood@btinternet.com

18 March 2011

Dear Tim Chinnick

Edington 15 and Keevil 5 Diversion Order ref TC/PPO/E15K5

Thank you for the copy of the Diversion Order. The Ramblers Association objects to the proposed diversion.

I sympathise with the landowner's proposal to divert the path at D where it is very close to domestic buildings. However I do not see why the path needs to be diverted via B. The path could be more simply be diverted north along the track between New Hurst Park Farm and New Hurst Gate at C. There is no benefit to walkers of removing the field path. One of the pleasures and traditions of walking is to cross fields. To take the path along the track as I have suggested would retain the field path, remove the path from being so close to buildings and be shorter both than the present path or the diversion. I conclude that the diversion is not in the interests of walkers, and that there is an acceptable alternative to the Diversion. The Ramblers therefore object to the Diversion Order.

Please note that it was difficult to inspect the present path as it was completely obstructed from where the path from E to D crosses the track to Hurst Park Farm. I was unable to walk this part of the footpath. This does not affect my conclusions.

Yours sincerely,

Sonia Heywood
Footpath Secretary
West Wiltshire Ramblers Association

The Ramblers Association is a registered charity no 1093577 and a company limited by guarantee no 4458492. Details can be found on www.ramblers.org.uk

This page is intentionally left blank

REPORT TO THE WESTERN AREA PLANNING COMMITTEE

| | | | |
|----------------------------|--|---|---------------|
| Date of Meeting | 15.06.2011 | | |
| Application Number | W/11/01206/FUL | | |
| Site Address | Land Adjacent West Wiltshire Crematorium Littleton Semington Wiltshire | | |
| Proposal | Change of use to small private gypsy and travellers site for three pitches for eight caravans and associated ancillary works and development (including hard standing blocks, drainage etc) and associated keeping of horses | | |
| Applicant | Mr Patrick Ward | | |
| Town/Parish Council | Semington | | |
| Electoral Division | Summerham And Seend | Unitary Member: | Jonathon Seed |
| Grid Ref | 390246 160130 | | |
| Type of application | Full Plan | | |
| Case Officer | Mr James Taylor | 01225 770344 Ext 15169 james.taylor@wiltshire.gov.uk | |

Reason for the application being considered by Committee

Councillor Jonathon Seed has requested that this item be determined by Committee due to:

- * Scale of development
- * Visual impact upon the surrounding area
- * Relationship to adjoining properties
- * Design - bulk, height, general appearance
- * Environmental/highway impact
- * Other: Public concern at the development

1. Purpose of Report

To consider the above application and to recommend that planning permission be granted.

Neighbourhood Responses

9 letters of objection.
3 letters of support.

Semington Parish Council Response

Objection.

2. Report Summary

The main issues to consider are:

- * Planning history
- * Current and emerging local and national policy
- * Status of the applicant
- * Need for the development
- * Impact on the countryside
- * Highway safety

3. Site Description

The application site is currently occupied by the Ward family in accordance with planning permission 08/03870/FUL. The site measures approximately 65m x 60 metres and has been subdivided into three plots. The remainder of the land is to be used for the keeping of horses.

It is accessed via the A361 and has an access track leading to the area allocated for 3 pitches including 8 caravans and dayrooms. The pitch areas are laid to hard standing and are relatively flat. Sewerage facilities are temporarily provided by portable toilets and electricity is temporarily provided by generators.

Either side of the made up access track is post and rail fencing enclosing grassed areas. To the far west of the site is a public right of way with the West Wiltshire Crematorium beyond. To the east are a pond and the A350 junction with the A361.

The site is enclosed by a mix of fencing, bunding and hedges.

4. Relevant Planning History

07/03870/FUL - Change of use to private caravan site for three pitches, eight caravans for single extended family with associated works (hardstanding, drainage, fencing and utility buildings) and associated keeping of horses, for occupation by travellers (part retrospective) – Permission (subject to personal and temporary conditions) on 31.07.2008

5. Proposal

Permission is sought for the permanent change of use of this land in open countryside to a private caravan site for three pitches and eight caravans for a single extended family including associated works (hard standing, drainage, fencing and utility buildings). The proposals include the associated keeping of horses on land not used for the caravans.

The occupiers moved onto the site in late 2007 and subsequently obtained a temporary planning permission which expires on 31 July 2011. It is now sought to make this development permanent.

A supporting statement was submitted with this application. This covers not only the planning policies the applicant considers are relevant to this application, but also sets out the personal circumstances behind the applicant's need for a settled base. These include the medical and educational needs of the family. This is significant as the personal needs of gypsy and travellers are important material considerations that are given significant weight in planning decisions, including the recent one at Framptons Farm, Wiltshire. Details of the personal circumstances are set out in the applicant's supporting statement, available on the application file and on the Council's web site.

6. Planning Policy

Wiltshire and Swindon Structure Plan 2016

DP1 Sustainable development

DP3 Development Strategy

DP14 Housing, employment and related development in the open countryside

West Wiltshire District Plan First Alteration (June 2004)

CF12 Gypsy Caravan Sites

C1 Countryside protection

C32 Landscaping

C38 Nuisance

R11 Footpaths and rights of way

H19 Development in open countryside

T10 Car parking

U1a Foul water disposal

U2 Surface water disposal

Gypsy and Travellers DPD Issues and General Approach Consultation Report (November 2010)

National guidance

PPS 1

PPS 7

Delivering Sustainable Development
Sustainable Development in Rural Areas

ODPM Circular 01/2006

Planning for Gypsy and Traveller Caravan sites

DCLG Planning for Traveller Sites Consultation (April 2011) including Annexe A Draft Planning Policy Statement: Planning for Traveller Sites.

7. Consultations

Semington Parish Council

Objection. An 8 page letter of objection has been received which provided the following summary of their objection:

“* We note that the previous application (07/03870/FUL was only granted temporary planning permission, because, as stated in condition 1, this was a form of development that would not be appropriate on a permanent basis. It is still not appropriate on a permanent basis.

* The inappropriate nature of the development given its location in open countryside; that it is next to a crematorium and requires pedestrian and vehicular access to the main road system.

* It does not comply with the existing plans and policies.

* There has been a significant change in attitude from Central Government since 2008 including the proposed withdrawal of circular 01/2006 and a removal of top down targets for traveller sites and the abolition of regional authorities.”

Arts Development Officer

No objection: “Due to the relatively small size of this site, we would not wish to have contributions towards public art for this application.”

Education

No objection: “I can confirm that we will not be looking for S106 contributions from this development.”

Enforcement (Planning)

In summary there are no breaches on the existing temporary permission at conditions 1, 2, 5, 6 or 7. Condition 3 has been breached in part but enforcement action was not deemed to be expedient by the then area development manager (ADM). Condition 4 has some outstanding planting. Finally in connection with condition 8 the ADM has accepted the temporary use of portable toilets whilst only temporary planning permission exists due to the cost of a permanent solution.

Environmental Health

No objection subject to condition on bonfires and burning of manure.

Gypsy and Traveller Liaison Officer

No comment: "As this is a private site and I have no jurisdiction over it and therefore register no comment".

Highway Authority

No objection:

"Members of the former West Wilts DC Planning Committee overruled the highway objections and the development proceeded with a revision to the access position. The new position and the works to complete the access were fully approved by the Highway Authority and remedied one of three highway grounds for refusal. As the development has subsequently proceeded, it is not, in my view, a matter for which this Authority can now recommend refusal.

I understand the proposal is to continue residence on the site on a permanent basis, but by occupation of caravans rather than permanent habitable structures. It would therefore seem reasonable to make any consent personal to the applicant and in accordance with the submitted scheme and I would recommend appropriate conditions or Section 106 if necessary to secure this form of development."

Housing

No objection: "There is currently no policy justification (for any housing contributions)"

Leisure Management

No objection: "Due to the location of the site, we would not wish to request an open space contribution for this application. Any target sites would be outside of the distance thresholds to spend monies."

Property & Estates

No response received.

Rights of Way Officer

No objection.

Spatial Plans

Comments set out in full in Appendix 1. No objection summarised by the following extract: "No overall policy objection. There could be some concern that granting permanent permission at this site would be premature in light of the preparation of the Gypsy and Traveller Site Allocations DPD. However, there is an identified need for Gypsy and Traveller pitches in the west Wiltshire area, and the applicant has indicated that there are personal circumstances which should also be taken into account. The Site Allocations DPD is not anticipated to be adopted until after examination and inspectors report in Spring/Summer 2012, and the current temporary permission expires at the end of July 2011.

It is therefore considered that the identified need for permanent pitches in the west Wiltshire area, together with the personal need of the applicants, is sufficient to outweigh any concerns about predetermining the outcomes of the Site Allocations DPD process. This response is largely informed by the inspector's report on the Framptons Farm appeal. (Appeal decision attached as Appendix 2).

This case officer will need to be satisfied that the application site still fits reasonably well with the criteria set out in the Policy CF12 of the West Wiltshire District Plan, and the guidance provided in Circular 01/2006, taking account of any changes of circumstance since the 2007 application."

Wessex Water

No objection.

8. Publicity

The application was advertised by site notice, press advert and neighbour notification.

Expiry date: 13 May 2011

Summary of points raised in support (3 letters):

- * It was promised at the committee meeting that if there are no sites for you after the temporary period, we will allow you to stay.
- * They have worked hard to try and fit in with the local community.
- * Whilst a distinct nomadic way of life is no longer feasible, the essential way of life for Irish Travellers should be maintained.
- * Ward family contribute to the diverse racial and cultural civilisation of Britain.
- * A shortage of sites exist and a clear personal need.

Summary of points raised in objection (9 letters):

- * The temporary permission states that the site is not suitable for permanent occupation.
- * Site too close to the crematorium
- * Government have stated an intention to withdraw current policy and replace it with a fairer approach. No permanent decision should be taken until the new principles are formally in place.
- * The previous conditions have not yet been met, including sewerage system.
- * Inaccuracies in the submission
- * Problems logging objection on-line
- * How many do you think we should have in one village
- * We must be treated fairly / anyone can be a traveller / there should be no discrimination
- * The site should never have been granted in the first instance, as it was set up illegally on green belt land.
- * Access to the site is dangerous
- * Keep the field as open land
- * The outcome of the application will determine if my family and myself will become travellers
- * Concern about the validity of other travellers in the area
- * No longer feel comfortable using the public footpath since travellers moved in.
- * Would have expected an environmental impact would have been required.
- * If allowed it represents an extraordinary planning gain which will reward a blatant disregard of the planning regulations.
- * Can't be bothered to raise objection as it will obviously go through.

9. Planning Considerations

- * Planning history

- * Current and emerging local and national policy

ODPM Circular 01/2006 – Planning for Gypsy and Traveller Caravan Sites - is the current government advice relevant to this proposal. As it is more recent than the District plan, it carries significant weight in the decision making process and district plan policies should be interpreted in a way which takes into account the circular.

The Circular requires local planning authorities to carry out Gypsy and Traveller Needs Assessments to identify the need for new sites and pitches and to inform the Local Development Framework processes. In other words the needs assessment identifies the number of site and pitches needed. The Development Plan Document and Local Development Framework identify and allocate sites.

Spatial Plans in their consultation response have specified that the west Wiltshire area has a residential need for 9 pitches up to 2016. Work to identify and allocate sites in the Development Plan Document (DPD) and Local Development Framework will follow from Spatial Plans, although this process has been subject to delay.

It must be acknowledged that the new government has clearly stated an intention to withdraw this circular and replace it with a "light touch" document. This is in a consultation process at present and in the interim the Circular remains the relevant policy consideration. The draft guidance can only be given very limited weight and in any case proposes as an objective the need to increase significantly the number of traveller sites in appropriate locations with planning permission over the next 3-5 years to address under provision, and for local planning authorities to plan for a five year supply of traveller pitches/plots.

Turning to local policy the principle relevant policy of the local development plan remains CF12, the emerging development plan document (DPD) for Wiltshire Council has been in production for some time and has been delayed. On the most up to date timetable there is no date for adoption and there are a number of processes and procedures to go through before this which will take the process beyond the summer of 2012. Therefore the emerging DPD is not considered to have great weight given the limited stage that it has progressed to at this time, although the Spatial Plans team are still able to confirm a residual need in the area for traveller pitches. Indeed in this specific case the need is demonstrable given the Ward family are living on site and have been for several years. They have stated that they have no alternative and suitable accommodation and they have now become integrated to the community with the need to access health and education facilities.

Policy CF12 states that proposals to provide caravan sites for gypsies will be permitted in appropriate locations having regard to:

- A Potential nuisance to adjoining land uses, in particular, residential areas;
- B Encroachment into open countryside;
- C The needs and safety of future occupants & their children;
- D Highway safety, access, pedestrian safety, the impact of traffic on local roads & access to public transport;
- E Availability and adequacy of infrastructure e.g. electricity, drinking water, sewerage or on-site treatment or storage of effluent;
- F The proximity of local services and facilities e.g. shops; refuse collection, hospitals, medical services & schools;
- G The need to protect the best and most versatile agricultural land;
- H Potential flood risk and any unacceptable increased flood risk to other riparian owners arising from the development.

“Proposals will not be permitted in the Western Wiltshire Green Belt, Areas of Outstanding Natural Beauty, Sites of Special Scientific Interest, Sites of Nature Conservation Importance, Areas of High Ecological Value, Scheduled Ancient Monuments or where inappropriate to the character or appearance of a Conservation Area or the setting of a Listed Building.

“All schemes should be well screened by landscaping and/or fencing.

The District Plan continues commenting:

“The District Council recognises proposals for caravan sites for gypsies need special consideration by virtue of the particular needs of gypsies consistent with their nomadic lifestyle. The Council notes the advice expressed in Circular 1/94 and 01/2006. Gypsy Sites and Planning and defines gypsies as ‘persons of a nomadic habit of life, whatever their race or origin’. The gypsy community for the purposes of Policy CF12 includes long distance travellers. There are two permanent gypsy caravan sites in West Wiltshire at Bratton (10 pitches) and Fairhaven, Dilton Marsh (7 pitches). The Council will monitor the need for further pitches and seek to ensure adequate provision is made for gypsies residing in, or resorting to, West Wiltshire and permit appropriate schemes for additional caravan sites for gypsies in accordance with Policy CF12.”

The proposal is now considered against the criteria set out in Policy CF12 and advice given in Circular 1/2006.

1 Potential nuisance to adjoining land uses, in particular, residential areas

The closest neighbouring properties are some distance from the site to the west of the site towards Semington Village. The movements of vehicles to and from the site on the A361 will not materially affect amenity, particularly in view of the busy nature of the road network in this area.

The nearest sensitive use is the crematorium but again this is some distance away and tree planting and fencing serves to screen the part of the site being occupied by caravans from the crematorium. The paddock offers a further buffer from the crematorium.

2 Encroachment into open countryside

The site is in open countryside. However it needs to be noted that open countryside is not an unusual location for this particular use. The site is not in the Green Belt or on land with any specific landscape designation. Circular 1/2006 comments that rural settings, where not subject to special planning constraints, are acceptable in principle and indeed the emerging national statement indicates that subject to the scale of development not dominating the nearest settled community then sites in rural areas and the countryside may be acceptable. This proposal is not considered to be of a scale that dominates Semington either in isolation or cumulatively with other established traveller sites.

The site was formerly very open. Positioning caravans on the site clearly affects its appearance. However this has been mitigated with appropriate fencing, bunding and planting. Given that not all the approved landscaping has been implemented under the temporary permission a further condition is required in this regard.

The Parish Council contend that the site is not sustainable and it would be better if the site were on the fringe of the village. Whilst a village or fringe of village site would be more in accordance with national policy, this site is not considered to be very isolated. It is approximately 320 metres to the village policy limit along public rights of way, which in these circumstances is considered to be reasonable. Whilst each case is assessed on its own merits, it is noted that far more isolated traveller proposals in the area have been deemed as acceptable since Circular 01/2006.

3 The needs and safety of future occupants & their children

The site is capable of meeting the needs and safety of the occupants and their children. It is level and well suited to the stationing of caravans. The improved access to the site has been well established and no objection from highways has been received.

4 Highway safety, access, pedestrian safety, the impact of traffic on local roads & access to public transport

The access to the site has been amended since the temporary planning permission and the previous access blocked up for the site. An agricultural access only now remains. It is not considered that there is any demonstrable harm from the existing vehicular access which has good visibility.

Wide verges and footways along the A361 offer reasonable facilities for walking.

The site is on a bus route.

Circular 1/2006 comments that in assessing the suitability of sites in the countryside for this use local planning authorities should be realistic about the availability or likely availability of alternatives to the car in accessing local services.

The Parish Council point about crossing the A361 not being a safe option is noted. However it is considered that in the event of reasonable behaviour the road can be crossed safely, indeed there is a right of way at this point which requires walkers to cross the A361. There are also wide highway verges which can be walked on safely before more formal pedestrian facilities to the west outside the crematorium.

5 Availability and adequacy of infrastructure e.g. electricity, drinking water, sewerage or on-site treatment or storage of effluent

Electricity and drinking water supplies are available at the site. Foul sewage arrangements can be controlled by condition. It is accepted that the use of portable toilets is not a long term solution, but equally it is understandable why the applicants do not want to invest in a permanent solution when they only have a temporary permission, i.e. cost.

Contrary to the Parish Council comments a permanent sewerage solution can be achieved quite reasonably by the use of conditions.

6 The proximity of local services and facilities e.g. shops; refuse collection, hospitals, medical services & schools;

Local services – primary school, shop, church, public house are available at Semington. Further facilities are available in Trowbridge and Melksham. Refuse collection is available.

Indeed it is noted now that the family have become established in the area and that children attend local schools and some of the adults make use of the local health facilities. Not to allow them to stay would potentially jeopardise the health and education of the family.

7 The need to protect the best and most versatile agricultural land

The site was previously used for grazing and has been severed from associated farmland in recent years by the Semington by pass.

8 Potential flood risk and any unacceptable increased flood risk to other riparian owners arising from the development.

The use of the site in the manner proposed is acceptable in terms of flood risk both on and off site.

Wessex Water have been consulted on the application and they note that water supply, and foul sewerage can be achieved.

* Status of the applicant

It is considered prudent to be clear that the traveller status of the applicant has previously been accepted in granting temporary planning permission in 2008. There has been no known change of circumstance in this regard in the intervening period.

* Any other matters

For the sake of clarity, views on whether any contributions to planning gains can be justified, have been sought. No requests for section 106 contributions have been requested in the consultation process and indeed there is no planning policy to support such a suggestion.

It has been noted that Semington Parish Council has submitted a very detailed objection to the proposals. They contend that the proposals fail to accord with criteria A-F of policy CF12. However this Council, in granting temporary planning permission have accepted that the development is broadly in accordance with policy CF12 already.

The spatial planning team responsible for the production of the DPD has stated that they have no overall objections to the proposals.

* Temporary / Permanent

There is considered to be a residual need for the development. Whilst the Council has previously acknowledged this, it has also stated that any permanent permission would prejudice the work on the DPD production to allocate gypsy and traveller sites in Wiltshire to meet the identified need. As such temporary permissions have been granted. This approach has however been successfully challenged within Wiltshire and proven to be inappropriate, in the view of the Secretary of State's Planning Inspectors. Spatial Plans have acknowledged this opinion and therefore are placing greater weight on other factors such as the need for development and personal circumstances. They have succinctly summarised above why a permanent permission is now considered to be acceptable.

As the DPD work remains at an early stage and given the identified need and personal circumstances of the applicant, and indeed that the development is broadly in accordance with the local plan and national guidance, both current and emerging; then it is considered that a permanent planning permission may be granted.

Indeed it is noted that in concluding the previous officer report in 2008 it stated that the granting of a temporary permission "highlights the need for the Council to expedite the identification of sites. Refusing planning permission just because of a sole reliance on harm to the open countryside is not justified especially where personal needs are significant as well as the shortage of suitable

alternatives". Progress on the DPD has been slow in the intervening period (in part due to the change of government and the need to await the new national planning policy statement), a need is clearly remaining and the only identifiable harm to the open countryside has been mitigated with bunding and landscaping. Furthermore it must be considered that temporary permissions, in accordance with guidance in circular 11/95 on the appropriate use of conditions, cannot be repeated granted in perpetuity. Therefore permanent permission is justified.

Recommendation: Permission

For the following reason(s):

The proposed development conforms to the Development Plan and there are no objections to it on planning grounds.

Subject to the following condition(s):

- 1 The occupation of the site shall be limited to the applicant and his family only during the lifetime of the applicant and his children. Thereafter, the site shall not be occupied by any persons other than gypsies and travellers as defined in paragraph 15 of ODPM Circular 01/2006, or if this Circular is replaced, by any subsequent definition of gypsies and travellers in any replacement national planning guidance.

REASON: This permission is only granted having regard to the particular circumstances of need advanced in support of the development for the named applicants and the shortage of alternative sites in Wiltshire.

POLICY: West Wiltshire District Plan - 1st Alteration 2004 - Policy CF12

- 2 Within three months of the date of this permission details of landscaping of the site have been submitted to, and approved in writing by, the Local Planning Authority. The landscaping scheme shall include provision for landscape planting, the retention and protection of existing trees and other site features, walls, fencing and other means of enclosure and any changes in levels.

Upon approval:

* The approved scheme shall be fully implemented with new planting carried out in the planting season October to March inclusive, following occupation of the building(s) or the completion of the development whichever is the sooner, or in accordance with a timetable to be agreed in writing with the Local Planning Authority;

* all planting shall be carried out in accordance with British Standards, including regard for plant storage and ground conditions at the time of planting;

* the scheme shall be properly maintained for the lifetime of the development, and any plants (including those retained as part of the scheme) which die, are removed or become damaged or diseased within this period shall be replaced in the next planting season with others of a similar size and the same species, unless the Local Planning Authority gives written consent to any variation; and

* the whole scheme shall be subsequently retained.

REASON: In the interests of consistency and visual amenity, to ensure that the approved landscaping scheme is carried out at the proper times and to ensure the establishment and maintenance of all trees and plants.

POLICY: West Wiltshire District Plan - First Alteration 2004 - Policies C32 and C40.

- 3 Within three months of the date of this permission, details of the works for the disposal of sewage and foul drainage works to serve the site hereby permitted, shall be submitted to and approved in writing by the local planning authority. The works shall be undertaken within three months of the approval of these details and shall be maintained as approved thereafter.

REASON: In the interests of consistency and to ensure that the development can be adequately drained and serviced.

POLICY: West Wiltshire District Plan - 1st Alteration 2004 - Policy U1A.

- 4 The development hereby permitted shall be carried out in accordance with the following approved plans and any details approved in compliance with the attached conditions:

Drawing: Site location plan;
 Drawing: Site layout plan; and
 Drawing: Proposed utility / bathroom block.

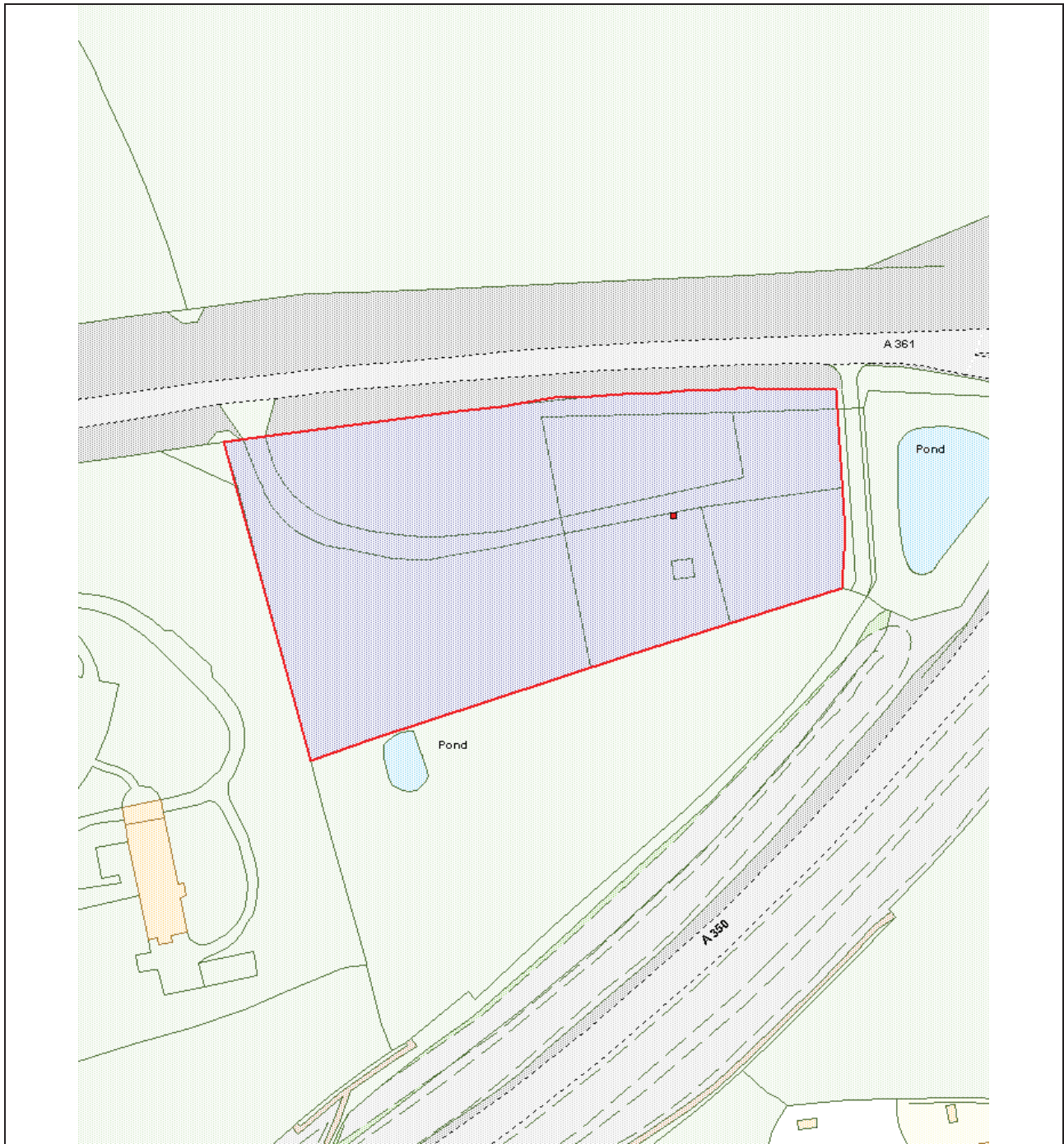
REASON: For the avoidance of doubt and in the interests of proper planning.

- 5 No more than three pitches, and 8 caravans, as defined in the Caravan Sites and Control of Development Act 1960 and the Caravan Sites Act 1968 shall be stationed on the site at any time.

REASON: To ensure that the development is in accordance with the evidence put forward and assessed for the proposal.

West Wiltshire District Plan 1st Alteration 2004 - POLICY: CF12

| | |
|--|---|
| <p>Appendices:</p> | <p>Appendix 1 – Comments of the Council’s Spatial Planning Services Officer</p> <p>Appendix 2 – Recent appeal decision (January 2011) on a proposal for a single gypsy pitch on land at Frampton’s Farm, Sutton Benger, Wiltshire</p> |
| <p>Background Documents Used in the Preparation of this Report:</p> | <p>Previous application file; National Planning Guidance; Proposed Draft National guidance and appeal decision at Framptons Farm, Sutton Benger</p> |



Reproduced from the Ordnance Survey mapping with the permission of the Controller of Her Majesty's Stationery Office ©
Crown Copyright. Unauthorised reproduction infringes Crown Copyright and may lead to prosecution or civil proceedings. Tel:
01225 770344 Fax: 01225 770314 Development Control West Wiltshire Council Bradley Road Trowbridge Wiltshire BA14 0RD
www.wiltshire.gov.uk

MSA: 100022961

This page is intentionally left blank

MEMO

Spatial Planning Service

To: James Taylor

From: Anna Lee

Ext No: 01225 718461

cc: Carolyn Gibson

My ref: W/11/01206/FUL

Your ref: W/11/01206/FUL

Date: 31 May 2011

31 MAY 2011

Consultation Response

SCANNED

Application Number: W/11/01206/FUL

Application for: Change of use to small private gypsy and traveller site for three pitches for 8 caravans and associated ancillary works and development (including hardstanding utility blocks drainage etc) and associated keeping of horses. The supporting information indicates that the use will also include 3 mobile homes: it is assumed that this does not alter the number of pitches to be provided.

Relevant Policy and Guidance:

National guidance is provided in Circular 01/2006. The government has recently published a draft Planning Policy Statement on planning for traveller sites which includes the general principle of aligning planning policy on traveller sites more closely with that for other forms of housing and of requiring council's to demonstrate a five year supply of pitches against a long term target based on clear evidence. It is intended that the finalised Planning Policy Statement will replace current policy set out in Circulars 01/2006 and 04/2007.

Strategic and local planning policy is provided by the Wiltshire and Swindon Structure Plan and the West Wiltshire District Plan 1st Alteration. Policy DP15 of the Structure Plan and policy CF12 of the District Plan are particularly relevant to this application.

Cabinet report relating to consultation to inform Wiltshire Core Strategy

A consultation to inform the Wiltshire Core Strategy will be undertaken between June and August 2011. Proposals for this consultation were presented to Cabinet on 24 May 2011, and this included draft text for a 'core policy' on meeting the needs of gypsies and travellers.

A residual requirement for 9 pitches (by 2016) is identified in the west Wiltshire area, once pitches which have been granted permanent permission since 2006 have been taken into account. It is noted that if temporary permissions are counted, then there would be a residual requirement for 6 pitches in the west Wiltshire area.

The draft supporting text states that "Specific sites to meet the residual need will be identified in a Gypsy and Traveller Site Allocations Development Plan Document. The preference will be for small, private sites".

A criteria based policy is proposed (in an appendix to the Cabinet Report), which states the following:

"In appropriate locations outside or within settlement boundaries where no planning policy or other barrier to development exists, proposals for gypsies and travellers pitches must satisfy the following general criteria:

I. No significant barriers to development exist in terms of flooding, poor drainage, poor ground stability or proximity to other hazardous land or installation where conventional housing would not be suitable;

II. Unacceptable impacts on the character and appearance of the surrounding landscape will be minimised through the sensitive and appropriate design of the scheme;

III. The site is located in or near to existing settlements with access to a range of local services such as shops, doctors and schools, and a range of amenities including play areas and other recreation facilities.

IV. The proposal will not result in an unacceptable loss of amenity of neighbouring land uses; and

V. Mixed-use proposals (that is sites that include a business use) will only be considered if appropriate to the locality and such uses will not result in an unacceptable loss of amenity".

Timetable for preparation of Gypsy and Traveller Site Allocations DPD

A Gypsy and Traveller Site Allocations DPD will be prepared to identify specific sites to meet residual need in Wiltshire. The timetable for the preparation of the DPD is available on the council's website (www.wiltshire.gov.uk/gypsyaandtravellersdpd). This timetable indicates that a pre-submission consultation will be undertaken in autumn 2011, with examination and inspectors report in spring/summer 2012, and adoption date to be confirmed. However, it is also noted that the timetable is provisional and may be subject to further amendment.

Background: The site has temporary permission for three pitches (8 caravans), associated works and keeping of horses. Temporary permission was granted in 2007, and ends on 31 July 2011. The reason given for granting temporary permission is "because this is a form of development which would not be appropriate on a permanent basis". The 2007 committee report recommending temporary permission considers the application against the criteria set out in Policy CF12 of the West Wilts District Plan, which is still the relevant local planning policy, and Circular 01/2006, which is also still relevant. The committee report states that "the application site fits reasonably well the criteria set out in the Policy CF12 but not so well that the long term need for the site as a gypsy/traveller caravan site should not be tested against other possible sites in the district as part of a process of identifying need and sites for gypsy and traveller caravan sites". The report goes on to state that "the proposal would with the limited provisions of the Local Plan only impact on the open character of the countryside ... refusing planning permission just because of a sole reliance on harm to the open countryside is not justified especially where personal needs are significant as well as the shortage of suitable alternatives".

Key Issues: There is an identified need for Gypsy and Traveller provision in the west Wiltshire area, and consideration of an application for three pitches on this site in 2007 led to the conclusion that the "application site fits reasonably well the criteria set out in Policy CF12 of the West Wilts District Plan". The reason given for imposing a temporary

condition in 2007 was that "this form of development would not be appropriate on a permanent basis", but a clear justification for this statement is not provided in the committee report. Instead, the report indicates that the reason for granting temporary permission was to enable consideration of the site against other possible sites in the area.

The key issue is considered to be whether it would be premature to grant permission at the site, in light of the preparation of the Gypsy and Traveller Site Allocations DPD.

A recent appeal decision relating to land adjacent Framptons Farm, Sutton Benger (APP/Y3940/A/10/2122592) is considered to be relevant to this case. The appeal related to an application for the change of use of land to include one gypsy pitch on a permanent basis. A temporary permission had previously been granted by the council, and the applicants sought the removal of a condition limiting the period of permission to 3 years. The appeal was allowed on 18 January 2011. The inspector considered the main issue in the appeal to be "whether a time-limited condition is reasonable and necessary having regard to the preparation of the Council's Gypsy and Traveller Site Allocations DPD". In concluding, the inspector states that "the emerging Gypsy and Traveller Site Allocations DPD is a material consideration: however at the date of the inquiry [July 2010] it was at a relatively early stage in its preparation, and the granting of planning permission on an indefinite basis would not prejudice its preparation".

The Framptons Farm appeal relates to an application for a single pitch, and this was considered against a residual need for 20 pitches in the north Wiltshire area for 2006-2011. The residual need in the west Wiltshire area is lower (at 9 pitches by 2016), and the current application is for a greater number of pitches (3). It could therefore be argued that granting permanent permission at this site would be more likely to have a significant impact on predetermining decisions about the allocation of gypsy sites within the Gypsy and Traveller Site Allocations DPD than the Framptons Farm application for a single pitch. However, the Framptons Farm appeal decision is nonetheless considered to be a relevant consideration.

The inspector also raises 'other matters' in relation to the Framptons Farm appeal, including that "the council anticipates adoption of the Gypsy and Traveller Site Allocations DPD in November 2011 [this timetable has now been amended], only one month before the expiry of the existing permission for the appeal site. It is agreed that a period of time will be required following adoption to bring forward any sites which are not already occupied. The potential absence of an alternative site following expiry of the temporary permission adds some further weight to the personal need for permanent accommodation".

Policy Recommendation: No overall policy objection. There could be some concern that granting permanent permission at this site would be premature in light of the preparation of the Gypsy and Traveller Site Allocations DPD. However, there is an identified need for Gypsy and Traveller pitches in the west Wiltshire area, and the applicant has indicated that there are personal circumstances which should also be taken into account. The Site Allocations DPD is not anticipated to be adopted until after examination and inspectors report in Spring/Summer 2012, and the current temporary permission expires at the end of July 2011.

It is therefore considered that the identified need for permanent pitches in the west Wiltshire area, together with the personal need of the applicants, is sufficient to outweigh any concerns about predetermining the outcomes of the Site Allocations DPD process. This response is largely informed by the inspector's report on the Framptons Farm appeal.

This case officer will need to be satisfied that the application site still fits reasonably well with the criteria set out in the Policy CF12 of the West Wiltshire District Plan, and the guidance provided in Circular 01/2006, taking account of any changes of circumstance since the 2007 application.

11 01206



Appeal Decision

Inquiry opened on 27 July 2010

Site visit made on 27 July 2010

by **Richard Clegg** BA(Hons) DMS MRTPI

an Inspector appointed by the Secretary of State
for Communities and Local Government

The Planning Inspectorate
4/11 Eagle Wing
Temple Quay House
2 The Square
Temple Quay
Bristol BS1 6PN

☎ 0117 372 6372
email: enquiries@pins.gov.uk

Decision date:
18 January 2011

Appeal Ref: APP/Y3940/A/10/2122592

Land adjacent Framptons Farm, B4069, Sutton Benger, Wiltshire, SN15 4RL

- The appeal is made under section 78 of the Town and Country Planning Act 1990 against a refusal to grant planning permission under section 73 of the Town and Country Planning Act 1990 for the development of land without complying with conditions subject to which a previous planning permission was granted.
- The appeal is made by Mr M Ward against the decision of Wiltshire Council.
- The application Ref N/09/01033/S73A, dated 10 June 2009, was refused by notice dated 12 August 2009.
- The application sought planning permission for the change of use of land to include the stationing of one touring caravan and one mobile home, the erection of a day room building and a hardstanding area for one gypsy pitch, without complying with a condition attached to planning permission Ref 08/02114//FUL, dated 4 December 2008.
- The condition in dispute is No 1 which states that: The use hereby permitted shall be for a limited period being the period 3 years from the date of this decision. At the end of this period the use hereby permitted shall cease, all materials and equipment brought onto the premises in connection with the use shall be removed, and the land restored to its former condition, or such condition as may be authorised by any other extant planning permission.
- The reason given for the condition is: The provision of potential sites has yet to be considered by the Implementation Executive under the Local Development Scheme. A permanent permission in advance of this process would be premature.
- The Inquiry sat for two days, on 27 and 28 July 2010.

Decision

1. I allow the appeal and grant planning permission for the change of use of land to include the stationing of one touring caravan and one mobile home, the erection of a day room building and a hardstanding area for one gypsy pitch on land adjacent Framptons Farm, B4069, Sutton Benger, Wiltshire, SN15 4RL, in accordance with the application Ref N/09/01033/S73A dated 10 June 2009, subject to the conditions in the attached schedule.

Application for costs

2. At the Inquiry an application for costs was made by the appellant against the Council. This application is the subject of a separate Decision.

Procedural matters

3. On the application form, the location of the site is given simply as land adjacent Framptons Farm, Sutton Benger. The site is on the B4069, and I have identified it accordingly in the appeal details above.

4. In a written answer on 26 July 2010, the Government announced its intention to replace ODPM Circular 01/2006 – Planning for Gypsy and Traveller Caravan Sites with new light-touch guidance, and this was subsequently publicised in a press release on 29 August. After the inquiry closed, the main parties were given the opportunity to comment on this intention in relation to their cases.

Main issue

5. I consider that the main issue in this appeal is whether a time-limited condition is reasonable and necessary having regard to the preparation of the Council's Gypsy and Traveller Site Allocations Development Plan Document (DPD).

Reasons

The Development Plan

11 01206

6. The appeal site is in the open countryside about 0.5km to the east of Sutton Benger. It is occupied by the appellant and his family in accordance with the extant planning permission, and on the occasion of my visit, there were a mobile home, a touring caravan and a timber day room on the land. The Development Plan for this part of Wiltshire includes the saved policies of the Wiltshire and Swindon Structure Plan 2016 and those of the North Wiltshire Local Plan 2011.
7. Policy DP15 of the Structure Plan is concerned with accommodation for gypsies. It explains that suitable sites may be found both within and outside settlements: they should have a minimum impact on adjoining land uses and the natural and built environment. In addition, sites should be well located to meet the needs of occupants and permitted business activities and there should be acceptable access and services. The land adjacent to Framptons Farm is not subject to any landscape designation constraint, and there is substantial tree and hedgerow cover along the frontage of the site and continuing beyond it in both directions. In consequence the site is not a prominent feature in the locality, and it does not appear out of keeping with its surroundings. Apart from agricultural land, there is land with planning permission for another temporary gypsy site immediately to the south and west, and a small group of dilapidated buildings and a sewage treatment plant are also nearby. There is nothing before me to indicate that the site has any adverse impact on adjoining uses. The appellant had no objection to a condition preventing commercial activities from taking place on the site, and, although there is no footway along the B4069 in the vicinity of the site, it is within easy reach of Sutton Benger and of Christian Malford to the east where there are several local facilities. The committee report on the original proposal explains that the Highway Authority was satisfied with the adequacy of the access to the site.
8. In the Local Plan, Policy H9 explains that gypsy sites will be permitted, provided that there is reasonable access to local community facilities and services, and that the development would not unreasonably prejudice the amenities of neighbouring residential occupiers and land. There is a nearby residential site in the form of the adjacent land with planning permission for four gypsy pitches, which would not be adversely affected by a similar use on the appeal site, and the other criteria reflect matters covered in Policy DP15. It is common ground between the main parties that the appeal proposal is

consistent with the gypsy policies in the Development Plan, and I share this view.

9. The former North Wiltshire District Council referred to Policy C3 of the Local Plan in its committee report on the original proposal. This policy sets out a series of criteria against which all new development should be assessed. Amongst other matters, proposals should respect the character of the area, avoid the unacceptable loss of amenities to other uses, ensure a safe access, and promote sustainable patterns of development. Insofar as gypsy sites are concerned, Circular 01/2006 makes it clear that issues of sustainability should not only be considered in terms of transport mode and distances from services, but that co-existence with the local community, easier access to health services, regular school attendance, avoidance of the need for long-distance travelling and possible environmental damage resulting from unauthorised encampments, and avoidance of areas of high flood risk should also be taken into account. There is no detailed evidence to indicate that the site is within an area of high flood risk, and its use as a settled base would be consistent with the other considerations. Proposals should not be rejected if they would give rise to modest additional daily vehicle movements. Even if most trips to and from the site, which is in an open countryside location and on a stretch of road with no footway, are made by car this would not involve lengthy journeys to reach local facilities and the site only accommodates a single pitch. The proposal does not represent an unsustainable form of gypsy site development, nor does it conflict with the other criteria in Policy C3 of the Local Plan.

Prematurity and the emerging Development Plan Document

10. The Council is concerned that, having regard to the preparation of its Gypsy and Traveller Site Allocations DPD, it would be premature to grant a permanent planning permission for a gypsy site on the land adjacent to Framptons Farm. An Issues and General Approach Consultation Document was published in April 2010. It discussed the issues concerning site provision in Wiltshire, referred to the level of anticipated pitch provision, set out a methodology for site selection, and issued an invitation for sites to be put forward. The document refers to a residual level of need for the period 2006-2011 of 49 pitches for Wiltshire and 16 for the North area in which the appeal site is located. Subsequently the Council has revised these figures as a result of updating its evidence base, and at the inquiry it explained that the residual number of pitches required in Wiltshire and the North area is 52 and 20 respectively¹. These levels of need are derived from the requirements given in the Proposed Changes to the draft revised Regional Spatial Strategy for the South West. In a letter dated 27 May 2010 to Council leaders, the Secretary of State highlighted the Government's commitment to abolish regional strategies, but the Council explained that it was continuing to work to bring forward 20 pitches in the North area.
11. The Issues and General Approach consultation period ended in June last year, and work has now started on assessing candidate sites. No details of possible sites for inclusion in the emerging DPD had been published at the time of the inquiry, but the Council explained that all those with a temporary planning permission would be considered for inclusion on the shortlist of candidate sites. It was intended that an Options Report would be produced by July/ August

¹ Table 3 in Appendix 1 of Document 2.

2010. Subsequent stages would involve identification of the preferred option and preparation of the submission document. Following examination, it is anticipated that the DPD will be adopted in November 2011. I note that the timetable put forward at the Inquiry² does not include the consultation period on the Options Report, although the Council took the view that there is scope within the overall programme for this to be accommodated. However, bearing in mind that work was still underway on possible site options at the date of the inquiry, and that there are three stages of the plan-making process (Options, Preferred Option and Final Document) to be completed before examination, it may be difficult to maintain the intended programme should any complications arise.

12. The Government document *The Planning System: General Principles* sets out the approach to questions of prematurity. It explains that it may be justifiable to refuse planning permission on the ground of prematurity where a DPD is being prepared if a proposal is so substantial or the cumulative effect would be so significant that granting permission would pre-determine decisions about the scale, location or phasing of new development. The appeal proposal is a modest scheme involving a single gypsy pitch. The Council argued that the granting of planning permission on a permanent basis would encourage similar proposals to come forward in respect of other temporary sites, which it calculated as comprising about 22 pitches. However the full circumstances concerning these sites are not before me. Moreover, the Council itself granted permanent planning permission for seven pitches at Glenville Nurseries in Wootton Bassett in October 2009, after the decision to refuse planning permission for the appeal proposal. I consider that this larger scheme would have been more likely to encourage applications for permanent gypsy sites than the single pitch of the appeal proposal. The schedule of applications and appeals submitted by the Council includes no record of a further application in the period between October 2009 and March 2010, in respect of a site previously identified as having temporary permission. Whilst some such applications may be submitted, the information before me does not indicate that the appeal proposal would be likely to result in a cumulatively significant effect in respect of proposals for permanent gypsy sites. For the above reasons, I do not consider that the granting of a permanent planning permission in respect of the appeal proposal would predetermine decisions about the allocation of gypsy sites which are to be addressed in the emerging DPD.
13. The Council suggested that if the methodology for site selection in the emerging DPD were endorsed this would undermine the consultation process. I note that the Council itself has considered the gypsy site against the three tier site selection methodology in the Issues and General Approach Consultation Document, and at the Inquiry it expressed the view that the development met the criteria in each tier. Whilst I do not disagree with this view, the emerging DPD was still at a relatively early stage in the plan-making process at the date of the inquiry and it only carried limited weight. The policies of greatest relevance are those in the Development Plan, with which the proposal for a permanent site complies. Moreover, whilst it is intended to replace Circular 01/2006 it remains national policy at the present time, and the proposal is

² Included in Appendix 1 of Document 2.

consistent with the sustainability considerations set out therein. The granting of a permanent permission would not endorse the draft site selection methodology, and consequently it would not prejudice the DPD process in this way.

14. Nor does attributing limited weight to the DPD undermine its credibility. I have taken into account the extent of preparatory work which has been undertaken, but at the date of the inquiry no response to the initial consultation document had been published and possible locations for sites had not been identified. The emerging DPD was, therefore, at a relatively early stage in the plan-making process. As such, in accordance with the advice in paragraph 18 of *The Planning System: General Principles*, it could not carry considerable weight as suggested by the Council.
15. Whilst the time-limited condition was imposed to tackle a specific concern about the effect of the proposal in relation to the emerging DPD, the granting of a permanent planning permission would not be premature. No other reason for the condition has been put forward. It follows that the time-limited condition is unnecessary, and it does not meet the first test for conditions in the annex to Circular 11/95. I do not consider that planning permission would have had to be refused if the condition had not been imposed.
16. Paragraphs 45-46 of ODPM Circular 01/2006 provide advice on the use of time-limited conditions in respect of proposals for gypsy sites. Where there is unmet need, but no available alternative provision, and a reasonable expectation exists that new sites are likely to come forward to meet that need, for example through the preparation of a DPD, consideration should be given to granting a temporary permission. As paragraph 45 explains, this part of Circular 01/2006 should be read with Circular 11/95. The annex to that circular makes it clear that conditions should only be imposed where the tests at paragraph 14 are met, the first of which is the test of necessity. There is no need for a time-limited condition in respect of the gypsy site, and consequently, whilst the circumstances which may justify a temporary permission exist in Wiltshire, they do not indicate that such a condition should be imposed in this case.
17. The appellant's agent argued that the time-limited condition on the existing permission was unreasonable since it placed a severe limitation on his ability to dispose of the property should his personal circumstances change, given the likely higher cost of a site with planning permission elsewhere. In addition it was an impediment to the construction of the day room building thereby affecting the family's living standards. Although the permanent building, comprising a day room/ kitchen and a bathroom has not been erected there is a timber building on the site which currently serves as a day room, and there was no evidence from the appellant that the family's present living standards were unsatisfactory. All the indications from the appellant's evidence are that he and his family wish to remain on the appeal site. Nevertheless circumstances may change. If they did, given the shortage of sites it is possible that the land could be sold to another gypsy family, and I do not agree that a time-limited condition would place a severe limitation on the freedom of the appellant to dispose of his property. The Council accepted that the site would be worth less with a temporary permission than with a permanent permission, but there is nothing before me to indicate that the difference in value would be so great as to affect the ability of the family to relocate. In

respect of these matters, I do not consider that a time-limited condition would be unreasonable.

18. Notwithstanding the preparation of the Gypsy and Traveller Site Allocations DPD, for the reasons given above (paras 12-16) I conclude that a time-limited condition on the gypsy site is unnecessary.

Other matters

19. It is common ground between the main parties that there is an unmet need for gypsy and traveller sites both within Wiltshire and in the North area. The Council has identified a residual need for 20 pitches in the North area for 2006-2011. Beyond this period there will be a need for further provision. The appellant had calculated that this would amount to 16 pitches in the North area, which was not disputed by the Council. The immediate need for a relatively high level of permanent pitches carries significant weight in favour of the appeal proposal.
20. There are no policies in the Development Plan which specifically address the need for gypsy accommodation in the North area, and this will not be remedied until the emerging DPD is at a more advanced stage. The existing policies in the Structure and Local Plans provide for the assessment of proposed sites, but there is no means of ensuring that a particular level of pitches comes forward. The nature of the current policy framework for gypsy sites provides some additional weight in favour of the proposal.
21. The appellant travels to seek work as a builder, and he may be away from the site for several weeks at a time. Gypsy status is agreed in the statement of common ground, and I am satisfied, having regard to the definition in Circular 01/2006, that the occupiers of the site are gypsies for the purpose of planning policy. The appellant and his family have a personal need for a site, which is a consideration of significant weight. The main parties agree that there are currently no alternative sites available in the North area of the County. The Council anticipates adoption of the Gypsy and Traveller Site Allocations DPD in November 2011, only one month before the expiry of the existing permission for the appeal site. It is agreed that a period of time will be required following adoption to bring forward any sites which are not already occupied. The potential absence of an alternative site following the expiry of the temporary permission adds some further weight to the personal need for permanent accommodation. The family has a daughter of school age and a son who is currently at nursery. A settled base facilitates access to education and healthcare services, and this is an important consideration.

Conclusions

22. The proposal for a permanent gypsy site is consistent with policies in the Development Plan and Circular 01/2006. The emerging Gypsy and Traveller Site Allocations DPD is a material consideration: however at the date of the inquiry it was at a relatively early stage in its preparation, and the granting of planning permission on an indefinite basis would not prejudice its preparation. A time-limited condition is not necessary on the ground of prematurity, and there is no other reason to restrict the use of the site in this way. Gypsy and personal considerations carry weight in favour of the proposal, but as no material harm would be caused, they are not needed to provide support for the

proposal in reaching my overall conclusion. Representations were made to the effect that the human rights of the appellant and his family would be violated if the appeal were dismissed. As I have decided to allow the appeal, I do not need to deal with the question of whether the decision would result in a violation of their human rights.

23. For the reasons given above, and having regard to all other matters raised, I conclude that the appeal should be allowed.

Conditions

24. I have already referred to a condition restricting commercial activities on the site which I intend to impose. As the site is in the open countryside where development is carefully controlled, a condition is necessary to limit occupation of the site to gypsies. However a personal occupancy condition is not appropriate, as my decision does not rely on the personal need and circumstances of the occupants. To ensure that the development would be in keeping with its surroundings, details of the materials to be used in the day room building should be submitted for approval, and no fencing and gates should be erected or external lighting installed other than in accordance with the site development scheme approved in relation to the existing planning permission. For the same reason, the number and type of caravans should be specified, and there should be no vehicles over 3.5 tonnes on the site. However, given the extent of tree and hedgerow cover along the frontage a landscaping condition is unnecessary. In the interest of highway safety, gates at the entrance to the pitch should be fitted so that they open away from the access road. The only plan submitted with the application was a location plan, but the effect of the proposal is to seek a fresh permission for the development for the use of the land as a gypsy site. In the interests of proper planning and for the avoidance of doubt, it is necessary that the proposal is carried out in accordance with the relevant approved plans relating to the original permission. The main parties agreed that the approved proposed site plan had been superseded by the layout forming part of the site development scheme.

Richard Clegg

INSPECTOR

Schedule of Conditions

- 1) The development hereby permitted shall be carried out in accordance with the following approved plans: the location plan ref 08_192_001A, the site development scheme ref 08-192-005A (submitted in respect of planning permission ref 08/02114/FUL), and the floor plan and elevations of the day room building on drawing ref 08_192_004 (submitted in respect of planning application ref 08/02114/FUL).
- 2) The site shall not be occupied by any persons other than gypsies and travellers as defined in paragraph 15 of ODPM Circular 01/2006.
- 3) No more than two caravans, as defined in the Caravan Sites and Control of Development Act 1960 and the Caravan Sites Act 1968 (of which no

more than one shall be a static caravan or mobile home) shall be stationed on the site at any time.

- 4) Construction of the day room building shall not take place until samples of the materials to be used in the construction of its external surfaces have been submitted to and approved in writing by the local planning authority. The development shall be carried out in accordance with the approved details.
- 5) Notwithstanding the provisions of the Town and Country Planning (General Permitted Development) Order 1995 (or any order revoking and re-enacting that Order with or without modification), no fences, gates or walls shall be erected within the site and no external lighting shall be installed other than in accordance with the site development scheme ref 08_192_005A and the accompanying sheet of photographs (photos 1-3).
- 6) No commercial activities shall take place on the land, including the external storage of materials.
- 7) No vehicle over 3.5 tonnes shall be stationed, parked or stored on the site.
- 8) The gates at the access to the pitch shall be fitted so as to prevent them opening towards the access road.

APPEARANCES

FOR THE LOCAL PLANNING AUTHORITY:

11 01206

Mr E Grant of Counsel Instructed by the Solicitor to Wiltshire Council.
He called
Mrs T Smith BA(Hons) Area Team Leader.
BTP MRTPI
Mr J Millard Senior Spatial Plans Officer.

FOR THE APPELLANT:

Mr M Green Partner, Green Planning Solutions LLP.
He gave evidence
himself, and called
Mr M Ward Appellant.

DOCUMENTS

- 1a-d Plans relating to the temporary planning permission for a gypsy pitch on the appeal site. Submitted by Mr Grant.
- 2 Appendices to the addendum to Mrs Smith's proof of evidence.
- 3 Statement of common ground.
- 4 Minutes of the meeting of North Wiltshire District Council Development Control Committee – 26 November 2008. Submitted by Mr Grant.
- 5 Minutes of the meeting of Wiltshire Council Northern Area Planning Committee – 12 August 2009. Submitted by Mr Grant.
- 6a-c Planning application, design & access statement and accompanying letters relating to the temporary planning permission for a gypsy pitch on the appeal site. Submitted by Mr Grant.
- 7a-b Site development scheme plan and details of external lighting relating to the temporary planning permission for a gypsy pitch on the appeal site. Submitted by Mr Grant.
- 8 Temporary planning permission for four gypsy pitches on land adjacent to the appeal site. Submitted by Mr Grant.
- 9a-b Planning application and planning design & access statement relating to Document 8. Submitted by Mr Grant.
- 10a-c Plans relating to Document 8. Submitted by Mr Grant.
- 11 Planning Policy Statement 3 – Housing. Submitted by Mr Grant.
- 12 Email dated 3 March 2010 from the Council's Senior Traveller Liaison Officer concerning public gypsy sites. Submitted by Mr Grant.
- 13 Note on sources of information in Appendix 1 of Document 2. Submitted by Mr Grant.

MR PATRICK WARD
GREEN ALLOR CARAVAN PARK, LITTLETON SEMINGTON WILTSHIRE BA14 6HL

APPENDIX 8

Letters from School and Community Nurse regarding Bridget Duran

11 01206

REPORT TO THE WESTERN AREA PLANNING COMMITTEE

| | | | |
|----------------------------|---|---|-----------|
| Date of Meeting | 15.06.2011 | | |
| Application Number | W/11/01190/FUL | | |
| Site Address | 8 Merlin Way Bowerhill Wiltshire SN12 6TJ | | |
| Proposal | Part change of use of existing building from D2 to Nightclub for evening works; proposed single storey side extensions and associated works | | |
| Applicant | Mr Gary Cooke | | |
| Town/Parish Council | Melksham Without | | |
| Electoral Division | Melksham Without South | Unitary Member: | Roy While |
| Grid Ref | 391037 162526 | | |
| Type of application | Full Plan | | |
| Case Officer | Mr James Taylor | 01225 770344 Ext 15169 james.taylor@wiltshire.gov.uk | |

Reason for the application being considered by Committee

Councillor Roy While has requested that this item be determined by Committee due to:

“The Melksham Without Parish Council are very concerned about late night noise and disorder problems affecting residents who live in the vicinity. Also about lack of on-site parking and transport access from Pathfinder Way”.

1. Purpose of Report

To consider the above application and to recommend that planning permission be granted.

Neighbourhood Responses

No comments received, although noted that an earlier application reference W/10/03845/FUL (Withdrawn on 10 February 2011) was subject to some public objection.

Parish Council Response

Melksham Without Parish Council objects.

2. Report Summary

The main issues to consider are:

- * Noise and environmental health issues
- * Residential amenity
- * Highway safety including parking, and pedestrian/vehicular access

3. Site Description

The application site is located within the commercial area of Bowerhill. The site is currently occupied by a large industrial style building which is used as a children's play centre with ancillary facilities such as a café, office space and storage. Part of the building has a dedicated 'laser quest' area for themed parties and groups. The surrounding land uses are industrial and agricultural including a brewery and a steel fabricating/engineering firm.

To the front of the building is a dedicated area for parking laid to hard standing; to the north and east are small outdoor areas connected to the existing use or underused with agricultural land beyond. To the south of the site is a further ancillary outdoor space with a brewery beyond the natural hedge boundary.

The existing parking area can accommodate up to 60 cars, with approval (reference W/09/03317/FUL) for further parking provision to the north; this was detailed as 44 cars in the application. Access to the site is either on foot or by car via the Merlin Way and Lancaster Road. For those not visiting from within Bowerhill, Pathfinder Way is generally the most logical route.

4. Relevant Planning History

W/09/03317/FUL - Change of use of agricultural land to form outdoor leisure and recreational use – Permission on 08.02.2010

W/10/03845/FUL - Proposed part change of use to a section of existing unit from D2 to Night Club and proposed single storey extension – Withdrawn on 10.02.2011

5. Proposal

This is a proposal to add single storey extension to the south elevation of the building, an outdoor decked area to the east elevation; new secure boundary fence to the eastern boundary and new retaining wall to the southern boundary; all of which to facilitate the part change of use of the building to allow a D2 night club use of the site. The remainder of the building remains in use as an existing children's play facility during the day.

The application has been submitted with the usual scaled plans and design and access statement; but in addition to previous application reference W/10/03845/FUL, an acoustic noise survey has been submitted which has helped inform a revised design approach to the proposals.

6. Planning Policy

West Wiltshire District Plan 1st Alteration (2004)
C31a Design
C38 Nuisance
E2 Employment Policy Areas

National guidance
PPS1: Delivering Sustainable Development
PPS4: Planning for Sustainable Economic Growth
PPG13: Transport

7. Consultations

Melksham Without Parish Council

Objection:

"...the Council does strongly object to plans having a late-night club especially to 3am on Fridays and Saturdays. The Council therefore asks that previous comments be reiterated as follows:

1. Bowerhill is a large and quiet residential area. The proposed site is adjacent to residential homes which will inevitably suffer noise and disorder problems from other late-opening night club on their doorstep. The drink-related problems from other late-night establishments nearby in Melksham are well documented. It is requested that opening hours be kept in line with existing pub hours i.e. 12 midnight as the latest time.

2. The late night opening hours will attract both pedestrian and motor traffic from The Pilot and other nearby drinking establishments when they close. Popular night-clubs can also attract large groups from other towns, resulting in noise and disorder disturbance.

3. The large outside seating area will encourage people to be outside until very late which will also lead to noise disturbance for residents.

4. The proposals as they stand are inadequate because

(a) It is unclear what the intended capacity of the club is. There is no clear strategy for dealing with additional visitors and ensuring that there are no disorder problems as a result.

(b) The past history of late-night opening clubs in Melksham indicates that these proposals will have Crime and Disorder implications for the local Police who are already stretched to capacity. There is no full CCTV at present either in the town or on roads leading to the site to enable easy identification of those who misbehave.

(c) There is no transport strategy to ferry users to and from the site at times being proposed for use. There is no public transport for Melksham in the early hours. Any transport strategy would need to include permanent provision of a night-club minibus which takes clients right to their homes. Please note the last buses in Melksham are as follows: Melksham to Chippenham – 21.43; Bowerhill to Bath – 22.18; Melksham to Trowbridge – 22.30 and Bowerhill to Devizes – 23.52.

(d) In the absence of any workable transport strategy, there will be a reliance on private car transport. The existing car parking of 60 spaces may be inadequate and could lead to parking around the residential and industrial estate roads of Bowerhill. This in itself could lead to noise and risk to residential and industrial property.

5. For the Parish Council to give support to these proposals, the following revisions would be required:

(a) The night club opening hours be restricted to 12.00 midnight and an hours restriction be imposed on use of the outdoor seating area.

(b) The applicant in liaison with Police agree the club capacity and a strategy for dealing with those who seek to “gate-crash” if they are refused entry.

(c) The main access and egress to the club be sited away from residential and industrial estate to avoid any disorder and security issues. It is suggested that provision be made for the club to be accessed directly from the new link road between Bowerhill and the A350 Diversion road when it is built. Wiltshire Council needs to address the outstanding issues relating to the link road so that it can be built as soon as possible.

(d) Inner and outer doors should be provided with inner door being self closing to ensure that no noise disturbance can be heard when people leave the club.

(e) Care be taken that no flashing lights inside the club are visible from the outside.

(f) CCTV to be installed on roads from town to Bowerhill and in all the external areas around the site.

(g) A new safe and lit crossing be installed on Pathfinder Way to ensure safe passage for those using the club at night.

(h) A condition be imposed to ensure a minibus service is provided permanently to ensure users can be driven to/from the site and can be taken home safely when the club closes.

Highways

No objection subject to conditions:

“The proposal is to change the use of Laser Quest and storage areas at the Boomerang Children's Centre to a Nightclub consisting of two separate function rooms plus a covered decking area on the north eastern facade and a single storey extension on the south eastern facade accommodating toilets and a kitchen. The site has some 60 car parking spaces and consent, under planning reference W/10/3317, for a 44 space overflow car park in the field to the north west.

For general use of the nightclub, outside of the operating hours of the children's centre, I consider the permanent car park will be adequate as the majority of clients would not be expected to drive to the site because of the 'drink-drive' laws. The applicant is also proposing to operate a mini-bus service between the site and Melksham town centre. This should be secured by the preparation of a Travel Plan that will also address the wider travel arrangements for the site. To encourage the use of bus travel, possibly linked to an extended 'late' service to Bowerhill, a continuous footpath should be provided from Merlin Way to the building entrance.

With the various dual uses of the function rooms, particularly when overlapping with operation of the children's centre, there is a risk that the permanent car park will prove inadequate. This could be the case if a wedding reception, for instance, was held at the same time as the centre. It is for this reason that I consider the provision of the overflow car park will be necessary for the proposed change of use.”

Environmental Health

No objection subject to conditions:

“The applicant has submitted an acoustic report carried out by Hepworth Acoustics Ltd, Ref 30901.1v1. The report has indicated that in order to prevent noise problems at the nearest residential properties a number of measures will need to be implemented prior to operation.

The measures required are specified in Sections 5.1 to 5.6 in the report and provided that the level of music within the venue is limited to those values specified in Table 2 with the corresponding sound reduction indices set out in Table 3 then music noise break out from the venue should not be a problem. There are other measures included surrounding fires exits, lobby doors etc but these have been addressed in the report.

Finally the report has briefly addressed the issue of noise from fixed plant, Sections 5.4 to 5.6. Whilst a cumulative noise value has been provided, which should protect against noise from impacting on nearby residential properties there are no specific details given and therefore I would advise that all external plant be subject to a separate planning condition.”

Melksham Police Division

No response. Although it is noted that on the previous application reference W/10/03845/FUL they raised no objection and they have been involved in pre-application discussions.

8. Publicity

The application was advertised by site notice and neighbour notification.

Expiry date: 13 May 2011

Summary of points raised:

* No comments received. Although it is noted that on the previous application reference W/10/03845/FUL there were 8 local objections. These have been given consideration in reaching a conclusion on this application.

9. Planning Considerations

All planning applications should be assessed against the relevant policies of the development plan and then in light of any other material planning considerations. If no demonstrable harm can be identified in planning terms then the application should be approved. The principal development plan policy pertaining to this application is E2 of the West Wiltshire District Plan 1st Alteration (2004). This states that proposals for employment development including extensions and changes of use will be permitted provided that they meet set criteria. These are addressed below:

i) They do not create an adverse impact on the appearance and character of the surroundings. The proposed extensions and alterations to the building pose no concerns. The site and surroundings are characterised by utilitarian development and the proposals are sympathetic to this context, indeed they are relatively minor. In terms of the change of use the character of the area is already established as an industrial/commercial area which in principle is a suitable location for this type of development. The applicants' design and access statement has detailed the measures that they are incorporating including all the recommendations of the police and their acoustic surveyor to ensure that any impact on the character and appearance is minimised. All reasonable measures to design out crime have been taken in light of advice from the police and those measures can be controlled by condition as appropriate.

ii) They provide adequate services for disposal of surface water without risk of flooding. The site is located in flood zone 1, the lowest risk of flooding. Furthermore the physical alterations are relatively minor and would not create a significant increase in surface water flows.

iii) Provide adequate water supplies, sewerage and sewerage treatment. This is an existing site and all the existing facilities will be utilised for these extensions and the change of use.

iv) Provide safe and convenient connection to existing and planned transport networks and the highway. The proposals have been subject to consultation with highway officers and they have raised no objection to the proposals subject to conditions. It is noted that they request an extension to the footway facilities, a Green Travel Plan and the completion of the previously approved overspill car parking by condition. It is considered that the latter two conditions are reasonable in light of the additional use being created and the nature of the change of use. However the former requiring extension to the pedestrian facilities is considered to be unnecessary and unreasonable in this case as there is a pavement directly to the site already. It is however considered reasonable to require the entrance gate to be widened to avoid having to step off the raised kerb when leaving the site. The highway conditions would ensure that there is provision of a bus, as detailed by the applicant. Although there would be an inevitable increase in traffic at a different time of day compared to the existing levels this is not considered to be unreasonable as the access network is designed to cater for commercial/industrial traffic.

v) That the development does not conflict with other development plan policies. In this case it is considered that policy C31a on design and C38 on nuisance are relevant. Issues of noise have been raised in this application and in the previous application by some local residents. The environmental health officers have raised no objection to the proposals and in discussions it has been agreed that many of the issues raised can be handled through their own licensing regulations or through appropriate planning conditions. The applicants own noise survey has informed this revised application so that with the implementation of the survey recommendations the internal use would have no impact on residential amenity over night time background levels. The new plant equipment for the new kitchen area can be controlled by condition. The outside area would be required as a smoking area during the late opening hours. However licensing presents the best opportunity to ensure that the outside bar is closed, the area is constantly staffed and no drinks are allowed, thus reducing the likelihood of customers dwelling in this area. Furthermore a condition can be imposed to prevent amplified music being played outside.

Other material considerations.

The proposals have given rise on previous applications and indeed on this occasion by the Parish Council on the basis of anti-social behaviour and late night noise. These issues are frequently raised

with uses such as this, but given the location of this site in an industrial/commercial area, it is not considered that this would have an adverse impact on the amenity of local residents as there are no houses adjacent to the site.

The Parish Council has requested that the opening hours be restricted, but this is deemed to be better controlled under licensing regulations. The police have been in discussions with the applicants and previously raised no objection to the change of use. The provision of a separate access to the site is not considered to be reasonable. The provision of CCTV cameras on the site and a minibus service are considered to be reasonable requests and can be required by conditions.

In conclusion the proposed extensions to the building and the partial change of use to allow a night club pose no significant concerns subject to the appropriate use of conditions. For the reasons detailed above it is considered that the proposals would not create any significant harm in planning terms and on that basis the application is recommended for permission subject to conditions.

Recommendation: Permission

For the following reason(s):

The proposed development conforms to the Development Plan and there are no objections to it on planning grounds.

Subject to the following condition(s):

- 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 No development shall take place until a specific noise assessment is carried out with regard to the proposed plant, in this instance a kitchen extract unit. The measurement and assessment shall be made in accordance with BS4142: 1997 and the report must include any attenuation measures, if required. The assessment and mitigation works if necessary shall be submitted to and approved in writing by the local planning authority prior to any works taking place and shall be implemented prior to the extraction unit being brought into use.

REASON: In the interests of amenity.

POLICY: West Wiltshire District Plan 1st Alteration (2004) Policies E2 and C38.

- 3 In order to prevent noise break out from the venue the development shall be constructed in accordance with Section 5.1 to 5.3 of the Acoustic Report, Ref 30901.1v1, submitted as part of the application. The noise level of music within the proposed development shall not exceed the levels given in each frequency specified in Table 2 of the report and consequently the SRI values set out in Table 3 must be achieved. The applicant will need to submit written details for approval by the Local Planning Authority (LPA) that all the measures in the above Sections have been implemented prior to the use commencing and the details shall also include post installation acoustic testing showing compliance. If there are any proposed changes to the measures outlined in the report or the figures used (Table 2 and Table 3) they must be agreed in writing by the LPA prior to being implemented. Upon completion of the works forming part of the scheme no alterations to the structure, roof, doors, windows or external facades of the building shall be undertaken without the prior written approval of the LPA.

REASON: In the interests of amenity and in order to define the terms of this permission.

POLICY: West Wiltshire District Plan 1st Alteration (2004) Policies E2 and C38.

- 4 The hereby approved development shall not be first brought into use until the access gates have been widened to allow safe pedestrian access onto the existing raised pavements. Details of which shall be submitted to and approved in writing by the local planning authority prior to the works taking place.

REASON: In the interests of highway safety.

POLICY: West Wiltshire District Plan 1st Alteration (2004) Policy E2.

- 5 No part of the development hereby permitted shall be first brought into use until overflow parking spaces have been provided in accordance with the details previously approved under planning permission W/09/03317/FUL. The areas shall be maintained for those purposes at all times thereafter.

REASON: In the interests of highway safety.

POLICY: West Wiltshire District Plan 1st Alteration (2004) Policy E2.

- 6 No development shall commence on site until a Green Travel Plan (including the provision of a shuttle bus service) has been submitted to and approved in writing by the Local Planning Authority. The Travel Plan shall include details of implementation and monitoring and shall be implemented in accordance with these agreed details. The results of the implementation and monitoring shall be made available to the Local Planning Authority on request, together with any changes to the plan arising from those results.

REASON: In the interests of road safety and reducing vehicular traffic to the development.

POLICY: West Wiltshire District Plan 1st Alteration (2004) Policy E2.

- 7 Outside of the building, including the hereby approved "Covered Decking Area" no sound amplifying equipment, loudspeaker or public address system shall be installed/operated or music played.

REASON: In the interests of local amenity.

POLICY: West Wiltshire District Plan 1st Alteration (2004) Policies E2 and C38.

- 8 Prior to the hereby approved development first coming into use details of CCTV monitoring of the premises and its curtilage shall be submitted to and approved in writing by the Local Planning Authority, and then subsequently installed in accordance with those approved details.

REASON: In the interests of public safety and the character of the area

POLICY: West Wiltshire District Plan 1st Alteration (2004) Policy E2.

- 9 The development hereby permitted shall be carried out in accordance with the following approved plans:

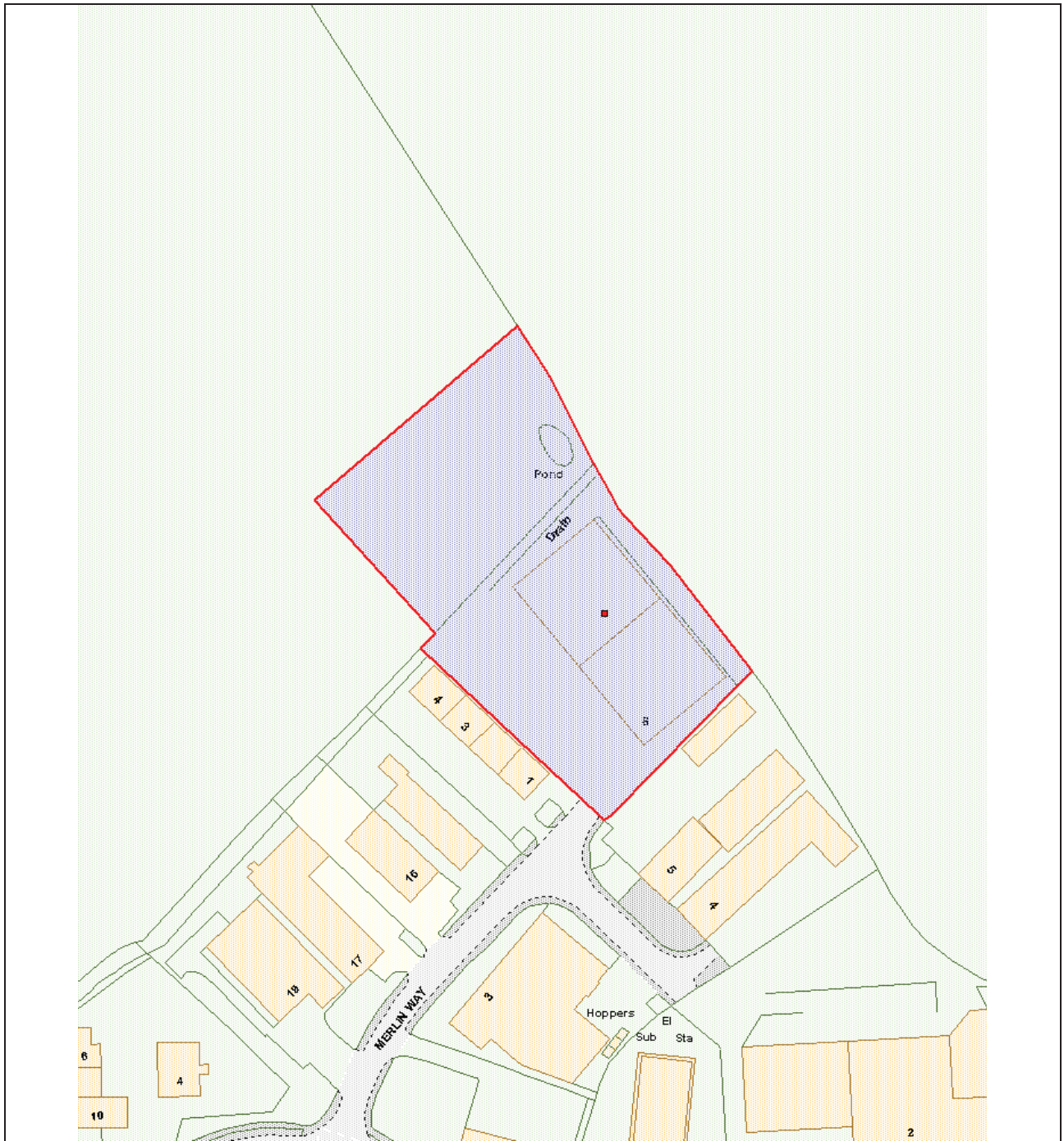
Drawing: AH2010/41 sheet 1 of 7 received on 4 April 2011;
Drawing: AH2010/41 sheet 2 of 7 received on 4 April 2011;
Drawing: AH2010/41 sheet 3 of 7 received on 4 April 2011;
Drawing: AH2010/41 sheet 4 of 7 received on 4 April 2011;
Drawing: AH2010/41 sheet 5 of 7 received on 4 April 2011;
Drawing: AH2010/41 sheet 6 of 7 received on 4 April 2011;
Drawing: AH2010/41 sheet 7 of 7 received on 4 April 2011;
Document: Design and Access Statement received on 4 April 2011; and
Document: Hepworth Acoustics Noise Assessment received on 4 April 2011.

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

Informative(s):

- 1 The developer will need to obtain a premises licence under the provisions of the Licensing Act 2003 and should contact the Licensing Department.
- 2 The developer is advised that under the terms of the Wildlife and Countryside Act 1981, it is an offence to disturb nesting birds. You should note that the work hereby granted consent does not override the statutory protection afforded to nesting birds and you are advised to seek expert advice if you suspect that the works, including hedge works, would disturb any nesting birds.

| | |
|---|--|
| Appendices: | |
| Background Documents Used in the Preparation of this Report: | |



Reproduced from the Ordnance Survey mapping with the permission of the Controller of Her Majesty's Stationery Office ©
Crown Copyright. Unauthorised reproduction infringes Crown Copyright and may lead to prosecution or civil proceedings. Tel:
01225 770344 Fax: 01225 770314 Development Control West Wiltshire Council Bradley Road Trowbridge Wiltshire BA14 0RD
www.wiltshire.gov.uk

MSA: 100022961

This page is intentionally left blank

REPORT TO THE WESTERN AREA PLANNING COMMITTEE

| | | | |
|----------------------------|--|--|---------------|
| Date of Meeting | 15.06.2011 | | |
| Application Number | W/11/00726/FUL | | |
| Site Address | Land At Smallbrook House Smallbrook Gardens Staverton Wiltshire | | |
| Proposal | Conversion of Smallbrook House into 3 dwellings ; demolition of Brookfield House, a large greenhouse and conservatory. Erection of 2 detached dwellings, 2 semi detached dwellings, garages and access | | |
| Applicant | Mr Andrew Huxham | | |
| Town/Parish Council | Staverton | | |
| Electoral Division | Holt And Staverton | Unitary Member: | Trevor Carbin |
| Grid Ref | 385896 160304 | | |
| Type of application | Full Plan | | |
| Case Officer | Mr Kenny Green | 01225 770344 Ext 15174 kenny.green@wiltshire.gov.uk | |

Reason for the application being considered by Committee

With officers minded to grant permission, Councillor Carbin has requested that this item be determined by Committee due to:

- * Visual Impact upon Surrounding Area
- * Relationship to adjoining properties
- * Car parking
- * Environmental or Highway Impact

1. Purpose of Report

To consider the above application and to recommend that planning permission be granted.

Neighbourhood Responses

11 letters of representation were received.

Parish Council Response

No objections.

2. Report Summary

The main issues to consider are:

Additional Residential Development within Town Policy Limits Design and Detailing Site Servicing Impact on neighbours and immediate surroundings Impact on Trees/landscape (including TPO) Archaeological and Ecological interests

3. Site Description

The application site is located on the northern periphery, but within the defined Town Policy Limits of Trowbridge and to the southern side of the public highway (New Terrace) . The identified site is an irregular shaped parcel of land located within a predominantly residential area of Staverton.

There are two properties on the site which measures just under 0.4 ha. Smallbrook House is a large, unlisted two-storey 8-bedroomed traditionally built Victorian house which is set back from the public highway. The property is currently licensed by Wiltshire Council for up to 20 people, occupying it as a large HMO (House in Multiple Occupation). Following amendments made to The Town and Country Planning (Use Classes) (Amendment) (England) Order 2010, a large HMO consists of a property which is occupied by more than 6 unrelated people that are not related, but share certain facilities such as toilets, bathrooms and kitchens). A large HMO does not fall within any class and is excluded from the newly created use class of C4 (covering HMO's that accommodate between 3-6 unrelated people forming a household).

The frontage of the site (facing New Terrace) has several well established trees, which are subject to a TPO. The Smallbrook property currently has three separate access points (one off New Terrace and two off Smallbrook Gardens).

Brookfield House (No. 50a New Terrace) is a 1970s chalet bungalow and is located to the west of Smallbrook House. It is similarly set back from the public highway with a treed boundary. Brookfield House has a parallel access with Smallbrook House off New Terrace.

Towards the south-west part of the site, there are two substantial outbuildings comprising a large former commercial greenhouse and an ornate double height conservatory.

The site backs onto residential properties located along Smallbrook Gardens to the east, Warren Road to the south and the Old Vicarage Care Home to the west.

Having visited the site several times over the course of the past 6 months, there have been numerous vehicles recorded (comprising cars, vans and even a mini bus) parked both within the site at the front and rear and even along Smallbrook Gardens itself.

4. Relevant Planning History

96/01452/FUL - Erection of glasshouse - Permitted 27.02.97 97/01479/FUL - Erection of conservatory - Permitted 29.01.98 03/00069/FUL - Erection of 1 four-bedroomed house with parking area - Refused 14.03.2003 03/00766/FUL - Erection of 1 four-bedroomed coach house with parking - Approved - 13.02.2004 04/00436/FUL - Three bedroomed house and two parking spaces - Permitted 05.05.2004 10/03883/FUL - Conversion of Smallbrook House into 3 flatted dwellings, demolition of Brookfield House, a large greenhouse and conservatory and erection of 2 detached dwellings, 4 terraced dwellings, garages and car ports - Withdrawn 28.01.2011.

5. Proposal

This is a full planning application seeking permission to convert the existing two-storey Smallbrook House to form 3 flatted units. The applicant also seeks to provide a first floor addition over an existing utility on the north east elevation (facing New Terrace). This addition would use materials to match the host building. The only other material external alteration to the property comprises the replacement of a window to form a door on the north eastern elevation. As well as there being limited external changes proposed, the sub-division of Smallbrook House requires limited internal alteration.

Each of the three flatted units would have designated parking spaces provided within new garages. An 11.8 m x 5.8 m garage would serve two units and provide 4 car parking spaces. Access to the northern side of the garage would be via the existing private access located close to the junction of Smallbrook Gardens/New Terrace. Following revisions made during the determination period, the southern side of the garage (serving unit 2) would be accessed from the rear. Unit 3 would have a detached garage to the rear.

The existing 1970s built Brookfield House is identified for demolition and would be replaced by a semi-detached building accommodating two 4-bedroomed residential units. The new building would be constructed over the existing footprint of Brookfield House and would have integral garaging that reflects local vernacular. The new building would be constructed from natural rubble stone with reconstituted stone quoins under a slated roof.

To the rear of the site and accessed off Smallbrook Gardens, the applicant also proposes to erect 2 no. two and half storey 5-bedroomed detached dwellings in place of the existing former commercial greenhouse and double height conservatory. The design and detailing of the two units pick up on architectural details found on properties off Smallbrook Gardens. The two detached properties would have facing brick on ground floor level and rendered walling above, timber fenestration, clay plain tiles and wall head dormers. Two 36 square metre detached double garages would serve the two residential units which would be sited to form a cul-de-sac off Smallbrook House.

Under application 04/00436/FUL, the former West Wiltshire District Council granted planning permission for a 3-bed house to the rear of Smallbrook House, with access to be taken off Smallbrook Gardens.

If granted and implemented, the existing HMO occupancy would cease and the associated traffic generation and overspill issues would be resolved through the provision of dedicated parking spaces on site.

In support of the application, the applicant has submitted the following:

A design and access planning statement;

An arboricultural survey and tree protection plan; An archaeological evaluation (following discussions and on-site meetings with the Council's archaeologists); and, An ecological assessment (following discussions with the Council's Ecologists).

6. Planning Policy

Government Guidance

PPS1 - Delivering Sustainable Development

PPS3 - Housing

PPS5 - Planning for the Historic Environment

PPS9 - Biodiversity and Geological Conservation

PPG13 - Transport

West Wiltshire District Plan - 1st Alteration C31a - Design

C32 - Landscaping

C35 - Light Pollution

C38 - Nuisance

C40 - Tree Planting

H1 - Further Housing Development Within Towns

H2 - Affordable Housing Within Towns and Villages

H24 - New Housing Design

U1a - Foul Water Disposal

U2 - Surface Water Disposal

T10 - Car Parking

Supplementary Planning Guidance

Residential Design Guide (adopted November 2005)

7. Consultations

Staverton Parish Council - No objections raised.

Highways Authority - Following submission of revised plans, no objections are raised subject to conditions.

I can confirm that the replacement of the driveway to Plot 3 with a footpath is acceptable, however, the dropped kerbs and highway verge/ footway will need to be re-instated in accordance with details approved by the LPA.

I am also happy that the proposed retaining wall will not cause an obstruction to the sight line when exiting the garages for plot 2.

The re-orientated detached houses (plots 6-7) now have sufficient manoeuvrability space in front of the garages.

Whilst I note that the access off Smallbrook Gardens may not have been officially approved by this Authority previously, the layout of this access is acceptable for its proposed use, offering suitable visibility, access width and surface treatment.

No problems are anticipated with regard to refuse collection. The refuse vehicle would not reverse into the development site. Sufficient space exists on site for service vehicles to access the proposed development easily.

Smallbrook Gardens is a shared surface road and a shared surface road of this standard is capable of dealing with the traffic from 17 dwellings. Shared surface roads do not have footways, as the principle of shared surface allows for pedestrians and vehicles to share the same road space, with neither having the right of way. Along with this, the overall width of the road is designed to cope with this shared provision and the design is as such that vehicles will be travelling at low speeds.

All plots have sufficient manoeuvrability to turn a vehicle within the site, due to this, I would not anticipate vehicles reversing out of the development site from any plot.

Wessex Water - The development is located within a sewered area, with foul and surface water sewers.

According to our records, there is a public foul sewer crossing part of the site. Wessex Water normally requires a minimum three-metre easement width on either side of its apparatus, for the purpose of maintenance and repair. Following the submission of revised plans, it has been confirmed that the sewer diversion is acceptable in principle.

It is recommended that a condition or informative is placed on any grant of planning permission to require the developer to protect the integrity of Wessex systems and agree prior to the commencement of works on site, any arrangements for the protection of infrastructure crossing the site. The developer must agree in writing prior to the commencement of works on site, any arrangements for the protection of our infrastructure crossing the site

The developer has proposed to dispose of surface water to soakaways. It will be necessary, if required, for the developer to agree points of connection onto our systems, for the satisfactory disposal of foul flows and surface water flows generated by the proposal. The connection point can be agreed at the detailed design stage.

With respect to water supply, there are water mains within the vicinity of the proposal. Again, connection can be agreed at the design stage. It is recommended that the developer should agree with Wessex Water, prior to the commencement of any works on site, a point of connection onto Wessex systems.

Natural England - No objection.

Council's Tree and Landscape Officer - No objections. The Arboricultural Method Statement (AMS) is now satisfactory and its implementation should be conditioned along with a detailed landscape scheme.

Council's Archaeologist - The archaeological evaluation completed in January 2011 identified a possible former palaeochannel and ditch, both containing Roman pottery, found at the southern end of the site on a similar alignment to comparable features previously recorded just over 50m to the west of Smallbrook House. In the northern part of the site, an undated east/west aligned ditch was revealed. An undated possible tree-throw pit and a modern pit were also identified.

In the light of these relatively limited findings, and a commensurate lack of opportunity for archaeology to survive beneath this otherwise largely redeveloped site, I do not think it appropriate to recommend any further archaeological mitigation.

I thus have no further comments to make on this application.

Council's Building Control Manager - No comments.

Council's Ecologist - A Bat Search & Assessment report (CTM Wildlife, February 2011) has been submitted with this application, which addresses my previous concerns about bats being potentially affected by the proposals; the survey found no evidence of bats and considered Smallbrook House to hold few opportunities for roosting bats. The report makes recommendations for the installation of bat boxes onto trees, an enhancement measure which is welcomed and is in line with the requirements of PPS9. I'm satisfied that ecological issues at the site have been addressed.

Council's Affordable Housing Officer - Confirmed that as the housing development falls below the policy threshold of 25 houses, there is no AH provision required.

Housing Services - No objections raised to the loss of the licensed HMO.

8. Publicity

The application was advertised by site notices / press notice / neighbour notification.

Expiry date: 8 April 2011

Summary of points raised:

11 letters of representation was received raising the following points:

The plans for Garage Plots 1 & 2 have been modified to avoid vehicle access directly onto Smallbrook Drive, the proposed building will now present an unbroken view of a blank wall facing directly onto the road. Thus, if anything, the changes to the plans have exacerbated the negative visual impact of the building to ourselves and our neighbours. An element of landscaping should be stipulated which would shield this aspect of the building from view.

Over the past two years local residents have put considerable effort and expense into treating the grass verges facing Smallbrook Gardens and planting shrubs in the areas facing onto both Smallbrook Gardens and Marsh Road. Since the submission of the last planning application (and the disruption caused by the survey work associated with it), the current occupants of Smallbrook House have abandoned the car park in the grounds of the house and have taken instead to parking in the road. As a result, delivery and refuse collection vehicles have found their access to the road impeded and have been forced to drive over the grass verges, causing significant damage on a weekly basis. This underlines the potential for damage inherent in this development. The developer should undertake to protect these areas, keep the road clear of vehicles so that unimpeded access is maintained, and make good any damage which does arise from the work.

The revised proposals still allow for parking for four residences to be accessed from the bottom of Smallbrook Gardens. This is an unofficial, unapproved entry to the site. Smallbrook Gardens cannot accommodate additional traffic. Whilst each of these properties appears to have been provided with an associated double garage, the simple fact is that in this day and age garages are seldom used to house cars! Of these four properties, only No.2 has adequate space in its driveway to park cars in front of its garage. As things stand, this leaves properties 3, 6 & 7 fighting for very limited space in a shared access area.

The proposed development could accommodate 36 residents, all of which could own a car. The parking provision is inadequate. Turning spaces are not sufficient to allow vehicles to enter and exit the site in a forward gear.

In all probability, Smallbrook Gardens would again become a de facto overflow car park. There have been a number of 'near misses' recently near the junction with Smallbrook Gardens. Parked cars on this shared surface are not merely a nuisance, but constitute a very real danger. Hence as part of the planning process, it is requested that parking on Smallbrook Gardens should be restricted, both during the period of the development and subsequently when the new properties are occupied. Smallbrook Gardens does not have pavements and pedestrian traffic must use the road.

There are a number of trees beyond the western boundary which are not marked on the site plans. These are extremely close to plots 4 and 5. We are concerned that there could be root damage caused to our trees. A detailed tree survey should be carried out in order for tree root protection zones to be clearly identified and adhered to. Another local resident raises concern about TPO'd trees T32 and T33, both horse chestnuts. There are two diseased trees on site, but the arboricultural report does not cover them, or advise on what action is required. Does the submitted arboricultural report match that submitted with the 2003/4 applications? One letter writer also writes to query the need for replacing mature trees with new hedging.

Existing boundaries should be adequately fenced. At present the majority of the fence/fencing panels are in a state of disrepair and need reinstating.

Concerns are raised about privacy distances between proposed and existing dwellings and impacts on loss of light. The eastern facing first floor windows are not specified as obscure glazing.

The height of the buildings is unacceptable. The 5-bed houses could be internally altered to create a 6th bedroom. Thus, increasing the number of residents and traffic generation.

No covenant has been offered to prevent the proposed dwellings being used as houses in multiple occupation.

One letter writer states that there is a covenant in place stating that any dwelling built behind No's 8 and 9 Smallbrook Gardens, must have obscure windows in upper floor storeys and that such properties should not be multiple occupancy properties.

If permission is granted, the houses should be restricted to single occupancy households.

Where the two 5-bed houses are to be constructed, the land is subject to regular flooding. Additional paved area reducing the amount of grassed area could increase flooding risk. Are sufficient soakaways being proposed?

Concerns are raised about how refuse collections will be undertaken. There is no hard standing area for refuse collection. The access to the site is narrow and refuse vehicles may have difficulty accessing the site. Will emergency vehicles be able to access the site, if required?

Does the applicant propose to create a mini roundabout or some other form of traffic control to enable residents to exit Smallbrook Gardens?

The sewers are at capacity. In 1998, this was raised as a significant concern. One of the properties would be built over the sewer.

9. Planning Considerations

Additional Residential Development within Town Policy Limits

Government advice contained within PPS 3 (as revised in June 2010) states, inter alia, that the outcomes which the planning system and decisions should deliver a mix of housing, both market and affordable, particularly in terms of tenure and price, to support a wide variety of households in all areas and the provision of a sufficient quantity of housing taking into account need and demand and seeking to improve choice.

It is duly acknowledged that PPS3 (as revised) removed the prescriptive minimum housing density requirement and also de-classified residential garden land as "brownfield" or previously developed land.

Whilst having due cognisance of the above, the site is located entirely within the defined town policy limits of Trowbridge and under Policy H1 of the West Wiltshire District Plan, proposals for new housing development in this area may be permitted provided, inter alia, that the siting, layout and design considerations are satisfactory, and that they are in keeping with the character of the surrounding area and that providing such development does not give rise to highway problems or create inappropriate backland or tandem development.

Policy H24 leads on to state that new housing should face onto, with windows and doors overlooking, the street or other public areas. Whilst offering some innovative design opportunities in new developments, the policy also states that details, materials and finishes should complement the local characteristics.

West Wiltshire District Plan Policy C31a states that all new development, residential or otherwise, is required to respect or enhance the townscape features and views, existing patterns of movement, activity and permeability and historic layout and spatial characteristics. Policy C38 further states that new development will not be permitted if neighbouring amenities and privacy values are significantly detrimentally affected.

There is no policy objection raised to the sympathetic conversion of Smallbrook House to form 3 flatted units. Its retention within the overall scheme is welcomed. Although not listed, the two-storey traditionally built property has some architectural value and merits being kept. The proposed alterations and modest extension to this property accord with the aforementioned policies.

The Brookfield House property has however limited architectural quality and the proposed demolition raises no 'in principle' policy objection. The Council's tree and landscape officer and the Council's principal ecologist have both carefully considered the potential impacts of the proposal and as stated above, raise no objection, subject to conditions.

It is recognised that following on from the withdrawal of application w/10/03883/FUL, the applicant/agent has made significant revisions to the scheme. Most notably, the previously proposed four house terrace block has been deleted and replaced by two detached dwellinghouses. The siting and design of the two replacement houses in place of Brookfield House, has also been subject to substantial revision.

Although no longer a national requirement, the proposed development would constitute a site density of 17.9 units per hectare. Such a low housing density was encouraged at the pre-application stages. It would not only respect the local urban character, but it would also ensure that new housing did not compromise the well established and protected trees on site.

The site is considered to be an appropriate 'windfall' site suitable for limited infill residential development. The principle of erecting 4 new houses, demolishing Brookfield House and converting the existing Smallbrook House property into 3 flatted units is considered acceptable.

Design and Detailing

There are no policy objections raised to the proposed conversion, extension and alterations to Smallbrook House to form 3 flatted units. The proposed works accord with established Council policies and would not cause demonstrable harm or nuisance.

The design of the proposed new houses is contemporary and reflective of the local built vernacular. The scale and massing of the two-storey dormer building (accommodating units 4 & 5) is sympathetic to the extensive buildings forming the old vicarage care home facility, located to the immediate west of the site and to Smallbrook House itself. The replacement 2-house block (units 4 and 5) would be respectful of the informal building line and would not harm the appearance of the street scene.

Although the semi-detached building block would be a completely separate entity to Smallbrook House, the applicant's agent has deliberately kept its height lower than it and proposes fenestration detailing and the use of natural materials to reflect and respect the architectural integrity of the immediate neighbouring properties, including the old vicarage.

The proposed pair of dwellings to the rear of Smallbrook House would be consistent with the surrounding residential character and built form. Each unit would have adequate external amenity ground and their own dedicated parking provision.

The new housing would not cause significant loss of light or overshadowing. The two new houses on plots 6 & 7 would be visible from the existing properties along Warren Road, but by virtue of their revised siting and orientation, they would not result in demonstrable harm.

The garaging is acceptable in design terms, subject to the submission of exact building materials. The garages should be subject to a condition restricting their use and to prevent them being converted to domestic accommodation.

The detailing and use of materials throughout the proposed development is considered acceptable and reflective of the local surroundings.

The dwellings have been designed to satisfy Code 3 Energy Efficiency and include solar eaves tiles which would provide hot water. Grey water and rainwater harvesting is intended throughout to accord with the aim of producing robust low emission, adaptable dwellings.

Site Servicing

The Council's Highways Authority has no objections, subject to planning conditions. Following the submission of revised plans and further negotiations with the applicants agent, the views expressed by the Highways Authority above, are fully supported.

The comments of Wessex Water are duly noted and should be attached as informatives to any grant of planning permission. Notwithstanding the local concern raised about the capacity of the public sewer, Wessex Water maintain that subject to agreeing the connection points, the proposed new housing can connect to the sewage infrastructure.

The site is not recorded to be at risk of flooding, and the local objection raised in this regard may relate to the hard standing area located to the rear of Smallbrook House. During heavy rainfall, excess surface water may have created standing water in the past on the area of hard standing. Appropriate surface water drainage treatment (subject to a planning condition) and provision of permeable paviers to the access drives and domestic forecourts should address this matter.

Impact on neighbours and immediate surroundings

It is duly noted that the applicants agent has made every effort where possible, to address local concern and objection. This in no small part is exemplified by the fact that some plans are on their 8th revision.

In response to one allegation made in respect to their being a covenant in place affecting this site, the applicants solicitor (Goughs Solicitors, Trowbridge) has researched the claim and has confirmed that "the title to the property is not burdened by any covenants relating to windows or overview of adjoining land".

Notwithstanding the above, through discussions and negotiation, the proposed new houses (units 4-7) have been sited in such a manner to ensure that they create no demonstrable detriment to neighbouring amenity. No windows are proposed in those gables which would face neighbouring properties. The new buildings are sited to ensure that habitable rooms face and overlook their own grounds, and where habitable room windows face existing properties, there would be adequate and appropriate separation to prevent loss of privacy. To ensure that the privacies of existing and future residential occupiers are protected, a planning condition removing PD rights is considered necessary in terms of further extensions and/or new wall openings.

It is duly noted that several local residents raise concern about the existing HMO use and sporadic parking issues. This development would result in the cessation of the HMO use and it is recommended that a planning condition is imposed restricting the proposed 7 new units to be solely for Use Class C3 - single residential households.

Impact on Trees/landscape (including TPO), Archaeological and Ecological Interests

The Council's Tree and Landscape officer raises no objection to this much revised and re-worked scheme. With appropriate planning conditions, the existing trees identified for retention on site can be adequately protected during both the construction stage and thereafter with the requisite maintenance and on-site management.

The Council's Archaeologist accepts the recommendations made within the respective archaeology survey submitted with the application. The Council's Ecologist fully supports the recommendations cited within CTM Wildlife's bat search and assessment survey in terms of maximising the ecological and biodiversity interests at this site. The survey recommends within paragraph 5.2 (page 8) that "opportunities to enhance the site for bats will need to be maximised (PPS9" and that "the hanging of bat boxes on [retained] trees to the front/north of the [Smallbrook] house would enhance the site for crevice roosting bats". Suitable long-lasting types would be Schwegler boxes facing south west - south east with an unobscured flight line to/from them and not be lit at night. With an appropriately worded planning condition, the ecological interests should not be compromised by this development.

Recommendation: Permission

For the following reason(s):

The proposed development conforms to the Development Plan and there are no objections to it on planning grounds.

Subject to the following condition(s):

- 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 No development shall commence on site until details and samples of the materials to be used for all the external walls and roofs have been submitted to and approved in writing by the Local Planning Authority. Development shall be carried out in accordance with the approved details.

Reason: In the interests of visual amenity and the character and appearance of the area.

Policy: West Wiltshire District Plan - 1st Alteration policies H1 and C31a.

- 3 The development hereby permitted shall not be carried out except in complete accordance with the details shown on the submitted plans:

LOCATION PLAN - drawing no. 2451-08 received 25.02.2011

SITE PLAN - drawing no. 2451-01 Rev H received 09.05.2011

EXISTING FLOOR PLANS - drawing no. 2451-02 received 25.02.2011

EXISTING ELEVATIONS - drawing no. 2451-03 received 25.02.2011

PROPOSED FLOOR PLANS - drawing no. 2451-04 Rev A received 25.02.2011

PROPOSED ELEVATIONS - drawing no. 2451-05 received 25.02.2011

PLANS FOR PLOTS 6 & 7 - drawing no. 2451-07 received 25.02.2011

GARAGING PLOTS 1 & 2 - drawing no. 2451-10 Rev A received 17.03.2011

GARAGING PLOTS 3, 6 & 7 - drawing no 2451-11 received 25.02.2011

Reason: To ensure that the development is carried out in accordance with the approved plans that have been judged to be acceptable by the Local Planning Authority.

- 4 The dwellings and flatted units hereby approved shall only be occupied as single private residential units and shall not be occupied as an HMO (House in Multiple Occupation).

Reason: In the interests of highway safety and in order to define the terms of this permission.

- 5 Notwithstanding the provisions of the Town and Country Planning (General Permitted Development) Order 1995, or any Order revoking and re-enacting that Order with or without modification, no development falling within Schedule 2, Part 1 Classes A-E of the Order, shall be carried out without the express planning permission of the Local Planning Authority.

Reason: In order to define the terms of this permission and to ensure that the Local Planning Authority has control over future extensions on this site.

- 6 Notwithstanding the provisions of the Town and Country Planning (General Permitted Development) Order 1995, or any Order revoking and re-enacting that Order with or without modification, no windows or door openings, other than those hereby approved, shall be added to any of the gables forming plots 4,5,6 and 7 without the express planning permission of the Local Planning Authority.

Reason: In order to define the terms of this permission and in the interests of protecting residential amenity and privacy.

- 7 The development hereby permitted shall not be brought into use until the recommendations cited within paragraph 5.2 of the submitted bat search and assessment survey (produced by CTM Wildlife dated February 2011) have been implemented on site and that the bat enhancement measures are maintained on site unless otherwise agreed in writing by the Local Planning Authority.

Reason: In the interests of maximising ecological and biodiversity interests.

Policy: PPS9: Biodiversity and Geological Conservation.

- 8 The garages hereby approved shall be used solely for the purpose of housing private motor vehicles or other uses incidental to the enjoyment of the dwellings/flatted units and that the garages shall not be converted to habitable accommodation and that no trade or business shall be carried out in or from the garage buildings.

Reason: In order to define the terms of the permission and in the interests of highway safety and local amenity.

Policy: West Wiltshire District Plan - 1st Alteration policy C38.

- 9 Details of any external lighting shall be submitted to and approved in writing by the local planning authority before the dwelling houses hereby approved have been brought into use. Development shall be carried out in accordance with the approved details.

Reason: In the interests of preventing light pollution and nuisance

Policy: West Wiltshire District Plan - 1st Alteration policies C35 and C38.

- 10 No development shall commence on site until a scheme of hard and soft landscaping has been submitted to and approved in writing by the Local Planning Authority, the details of which shall include :-

- indications of all existing trees and hedgerows on the land;
- details of any to be retained, together with measures for their protection in the course of development;
- all species, planting sizes and planting densities, spread of all trees and hedgerows within or overhanging the site, in relation to the proposed buildings, roads, and other works;
- finished levels and contours;
- means of enclosure;
- car parking layouts;
- other vehicle and pedestrian access and circulation areas;
- hard surfacing materials;
- minor artefacts and structures (e.g. furniture, play equipment, refuse and other storage units, signs, lighting etc);
- proposed and existing functional services above and below ground (e.g. drainage, power, communications, cables, pipelines etc indicating lines, manholes, supports etc);

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

- 11 All soft landscaping comprised in the approved details of landscaping shall be carried out in the first planting and seeding season following the first occupation of the building(s) or the completion of the development whichever is the sooner; All shrubs, trees and hedge planting shall be maintained free from weeds and shall be protected from damage by vermin and stock. Any trees or plants which, within a period of five years, die, are removed, or become seriously damaged or diseased shall be replaced in the next planting season with others of a similar size and species, unless otherwise agreed in writing by the local planning authority. All hard landscaping shall also be carried out in accordance with the approved details prior to the 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 The development shall be carried out as specified in the approved Arboricultural Method Statement (AMS) prepared by Phil Goldsmith and shall be supervised by an arboricultural consultant.

Reason: To prevent trees on site from being damaged during construction works.

- 13 No part of the development hereby permitted shall be occupied until the access and parking spaces have been completed in accordance with the details shown on the approved plans. The areas shall be maintained for those purposes at all times thereafter.

Reason: In the interests of highway safety.

- 14 No development shall commence on site until a scheme for the discharge of surface water from the site (including surface water from the access), incorporating sustainable drainage details, has been submitted to and approved in writing by the Local Planning Authority. The development shall not be occupied until surface water drainage has been constructed in accordance with the approved scheme.

Reason: To ensure that the development can be adequately drained.

Policy: West Wiltshire District Plan - 1st Alteration policy U2.

- 15 No development shall commence on site until details of the proposed ground floor slab levels have been submitted to and approved in writing by the Local Planning Authority. The development shall be carried out in accordance with the approved levels details.

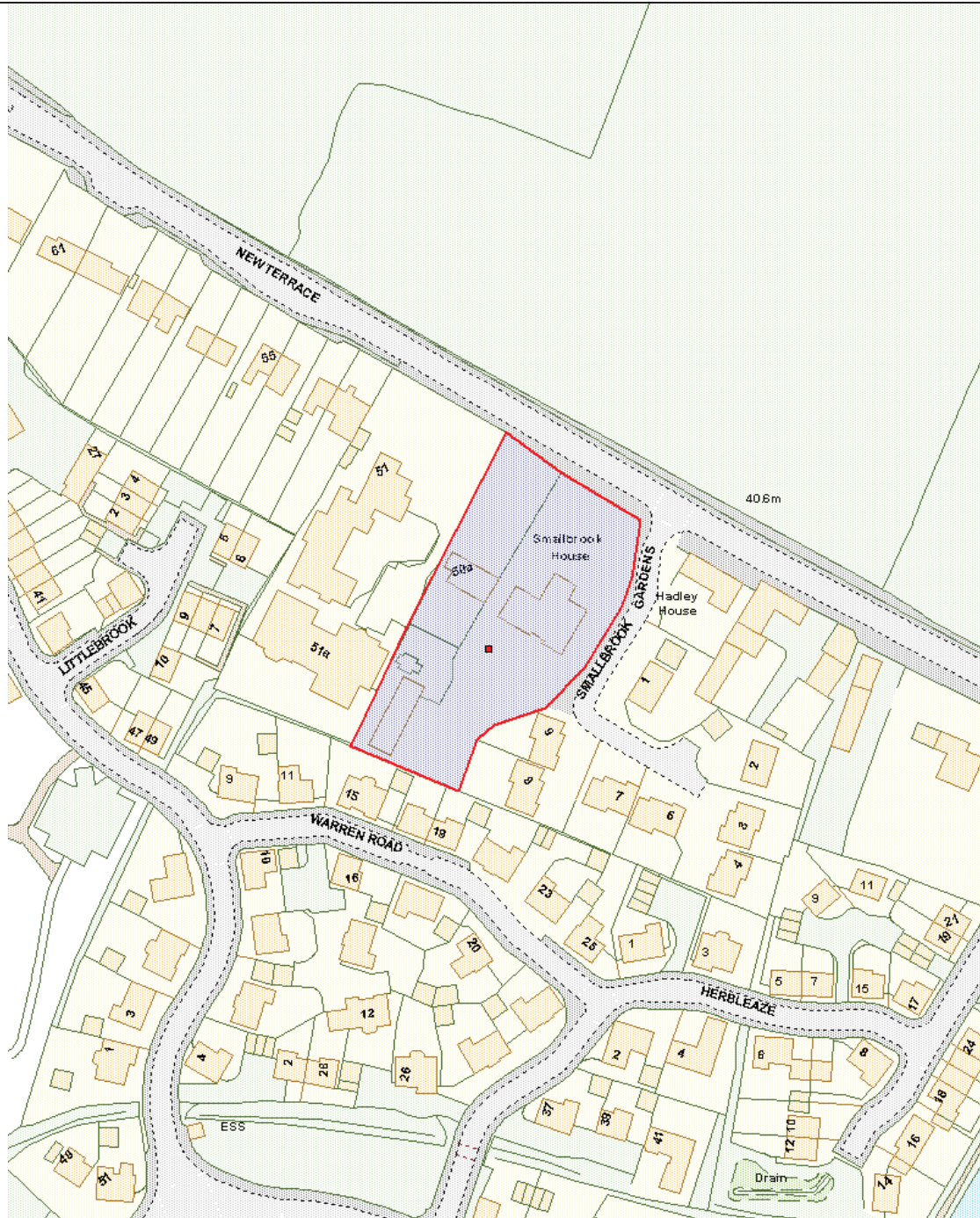
REASON: In the interests of visual amenity.

West Wiltshire District Plan 1st Alteration 2004 - POLICY: C31a and C38

Informative(s):

- 1 The attention of the applicant is drawn to the contents of the attached letter from Wessex Water 8 March 2011.

| | |
|---|--|
| Appendices: | |
| Background Documents Used in the Preparation of this Report: | |



Reproduced from the Ordnance Survey mapping with the permission of the Controller of Her Majesty's Stationery Office © Crown Copyright. Unauthorised reproduction infringes Crown Copyright and may lead to prosecution or civil proceedings. Tel: 01225 770344 Fax: 01225 770314 Development Control West Wiltshire Council Bradley Road Trowbridge Wiltshire BA14 0RD www.wiltshire.gov.uk

MSA: 100022961

This page is intentionally left blank