

AGENDA

Meeting: NORTHERN AREA PLANNING COMMITTEE
Place: Council Chamber, Wiltshire Council Offices, Monkton Park,
Chippenham
Date: Wednesday 28 April 2010
Time: 6.00 pm

Please direct any enquiries on this Agenda to Roger Bishton, of Democratic and Members' Services, County Hall, Bythesea Road, Trowbridge, direct line (01225) 713035 or email roger.bishton@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 Peter Colmer
Cllr Christine Crisp
Cllr Peter Davis
Cllr Bill Douglas
Cllr Peter Doyle

Cllr Alan Hill
Cllr Peter Hutton
Cllr Howard Marshall
Cllr Toby Sturgis
Cllr Anthony Trotman

Substitutes:

Cllr Chuck Berry
Cllr Paul Darby
Cllr Mollie Groom

Cllr Simon Killane
Cllr Mark Packard
Cllr Bill Roberts

PART I

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

1. **Apologies for Absence**

2. **Minutes**

To approve and sign as a correct record the minutes of the meeting held on 7 April 2010. (copy herewith).

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 for Members of Wiltshire Council available on request.

6. **Proposed Diversion of Part of Latton Bridleway 17**

A report by the Service Director, Neighbourhood Services is attached.

7. **Proposed Diversion of Public Bridleways - Wootton Bassett No 26, Broad Town No 22 & Lydiard Tregoze No 46**

A report by the Service Director Neighbourhood Services is attached.

8. **Planning Appeals**

An appeals update report is attached for information.

9. **Planning Applications**

To consider and determine the following planning applications:-

- ‡ **N/09/01791/FUL - Long Barrow Road, Calne - Residential Development comprising 29 Units - Electoral Division Calne**
- ‡ **N/09/00912/FUL & N/10/01204/FUL - Land adjacent to Calcutt Farm, Calcutt, Cricklade - Change of Use to include the Stationing of Caravans for 14 Residential Gypsy Pitches with Utility/Day Room Buildings & Hard Standing - Electoral Division Cricklade & Latton**
- ‡ **N/09/02107/FUL - 21 The Maltings, Malmesbury - Single Storey Rear Extension, Loft Conversion including Two Roof Lights & Roof Extension - Electoral Division Malmesbury**
- ‡ **N/10/00001/FUL - 52 North Street, Calne - Single Storey Extensions - Electoral Division Calne Chilchester & Abberd**
- ‡ **N/00340/FUL - Land at the end of Tern Close, Calne - Proposed Detached House, Detached Garage, Access & Fencing - Electoral Division Calne Central**
- ‡ **N/00589/S73A - Lower Lodge, 35 Bowden Hill, Lacock - Single Storey Extension to Side/Rear of Property - Electoral Division Corsham Without & Box Hill**

10. **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

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NORTHERN AREA PLANNING COMMITTEE

MINUTES OF THE NORTHERN AREA PLANNING COMMITTEE MEETING HELD ON 7 APRIL 2010 AT COUNCIL CHAMBER, WILTSHIRE COUNCIL OFFICES, MONKTON PARK, CHIPPENHAM.

Present:

Cllr Tony Trotman (Chairman), Cllr Peter Colmer, Cllr Christine Crisp, Cllr Peter Davis, Cllr Bill Douglas, Cllr Alan Hill, Cllr Peter Hutton, Cllr Howard Marshall and Cllr Toby Sturgis.

Also Present:

Cllr Alan Macrae

33. Apologies for Absence

An apology for absence was received from Cllr Peter Doyle.

34. Minutes

Resolved:

To confirm and sign the minutes of the Committee meeting held on 17 March 2010.

35. Declarations of Interest

There were no declarations of interest.

36. Chairman's Announcements

There were no Chairman's announcements.

37. **Public Participation**

Members of the public addressed the Committee as set out in Minute No 39 below.

38. **Planning Appeals**

The Committee received a report setting out a schedule of:-

- (i) forthcoming hearings and public inquiries scheduled to heard in May and June 2010, and
- (ii) planning appeal decisions decided between 17 and 25 March 2010.

Resolved:

To note the contents of the report.

39. **Planning Applications**

- (1) **N/10/00310/FUL – Unit 5 Pickwick Park, Corsham – Change of Use from B1 (Business) to D1 (Osteopathy Clinic) – Electoral Division Corsham Pickwick and Rudloe**

Public Participation

Mr Paul Oakley, the agent, spoke in favour of the application.

On considering:-

- (i) a report by the Case Officer
- (ii) late representations received from a local resident objecting to the proposal
- (iii) the views of Cllr Alan Macrae, the local Member

Resolved:

To grant planning permission subject to the following conditions:-

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

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

- (2) The site shall be used for an Osteopath Clinic and for no other purpose (including any other purpose in Class D1 of the Schedule to the Town and Country Planning (Use Classes) Order 1987 (as amended by the Town and Country Planning (Use Classes) (Amendment) (England) Order 2005, (or in any provisions equivalent to that class in any statutory instrument revoking or re-enacting that Order with or without modification).

Reason: The proposed use is acceptable but the Local Planning Authority wish to consider any future proposal for a change of use having regard to the circumstances of the case.

Informatives:

1. This decision relates to documents/plans submitted with the application, listed below. No variation from the approved documents should be made without the prior approval of this Council. Amendments may require the submission of a further application. Failure to comply with this advice may lead to enforcement action which may require alterations and/or demolition of any unauthorised buildings or structures and may also lead to prosecution.

Plan Ref: site plan, drwg 02.699A15/6(0)02 dated 28th January 2010.

REASON

It is not considered that the proposal would add to the car parking problems of the area and the change of use would comply with policy C3 of the North Wiltshire Local Plan 2011.

40. **Urgent Items**

There were no urgent items.

(Duration of meeting: 6.00pm – 6.25pm)

The Officer who has produced these minutes is Roger Bishton, of Democratic & Members' Services, direct line (01225) 713035, e-mail roger.bishton@wiltshire.gov.uk

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

WILTSHIRE COUNCIL

NORTHERN AREA PLANNING COMMITTEE 28 APRIL 2010

PROPOSED DIVERSION OF PART OF LATTON BRIDLEWAY 17

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 Latton Bridleway 17.
 - (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**.
An overview plan showing the surrounding roads and rights of way is attached at **Appendix B**.

Background

2. Latton Bridleway 17 forms part of the ancient highway Golden Rose Lane (a bridle road) linking Seven Bridges Gate with Highworth. The route was recorded as a public footpath in the definitive map and statement in 1958 but was upgraded to bridleway by Order in August 2009 on the strength of historical evidence that higher rights subsisted. No objections were received to the definitive map modification order that effected this change.
3. In the 18th and 19th centuries Seven Bridges Gate was a toll gate allowing paying travellers access to or from the Turnpike Road that was formally the Roman road Ermine Street and is now part of the A419 Trunk road. Latton 17 joins a C class road (the C.114 Castle Eaton road) approximately 30 metres north-east of the A419.
4. Although it is likely that during the time the A419 was a turnpike road the bridle road Latton 17 was well used by travellers (as it was free from toll). After the A419 became a main road (after 1878) the bridle road fell into disuse. The owner of Seven Bridges Farm can not recall any use of the route by horses since before the Second World War.
5. Although it is likely that in the 18th and 19th century having a bridle road emerge so close to a major route did not give rise to problems for users (and besides, the turnpike road was gated at this point) the re-opening of the way for cyclists and equestrians in 2009 did raise safety concerns. During the definitive map modification process the fact that the A419 was such a busy road with a poor accident record was raised to Wiltshire Council by both the landowner and the Highways Agency, the highway authority for the A419.
6. Issues relating to desirability and safety may not be taken into account when determining whether higher rights exist on rights of way. It is Wiltshire Council's duty under Section 53(2) of the Wildlife and Countryside Act 1981 to modify the definitive map by order as soon as is reasonably practicable after such time as the Council becomes aware of the supporting evidence.

7. Although the Council has a duty to record the higher rights on the route on which they exist, it also has a power to divert the route, or part of the route under the Highways Act 1980 s.119.
8. In September 2009 officers consulted widely on a proposed diversion of part of Latton bridleway 17 at Seven Bridges Farm (as shown in **Appendix A**). The consultation was sent to landowners, Latton Parish Council, neighbouring properties, statutory undertakers, the Highways Agency 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.
9. Responses were received from the landowner, the Highways Agency, various statutory undertakers and one local horse rider, all of whom raised no objection to the proposed diversion.
10. There being no objections to the proposal, an Order was made to divert part of Latton 17 in the interests of the public on 19 November 2009.
11. The diverted route leaves a stoned track at point B (see **Appendix A**) through a gate and leads across two fields to join the C.114 at point C. The diverted route has a width of five metres and the three gates on it are specified to be to British Standard 5709:2006. The new route is approximately 590 metres long.
12. The route to be extinguished has a width of five metres, has four gates on it (three in the statement and one authorised for stock control) which are not to a specified standard and is approximately 750 metres long.
13. One objection to the making of the Order was received from Mr Ken Stimson of the Ramblers' Association. Mr Stimson stated in an e-mail dated 12 December 2009:

“At our recent committee meeting the Ramblers decided to object to the proposal primarily on safety grounds. The proposed diverted route from A to B via C involves approximately 550 metres of walking along a narrow road which poses a serious safety issue to walkers. We note that the Rights of Way Improvement Plan states the intention to improve/maintain roadside verges. However, the safety considerations for walkers will apply until the intention is properly implemented. We note that the diverted route is approximately 350 metres longer than the current route. The footpath network in the vicinity of Kingshill Farm on the other side of the A419 links with Latton 17 by a short stretch of roadside verge and careful crossing of the A419 and forms part of a published circular walk starting at Cricklade”

14. One representation was received from the Highways Agency. In a letter dated 22 December 2009 Mr Kevin Phillips states:

“As highway authority for the A419, the Highways Agency's concern is bridleway users entering or exiting the original footpath near Seven Bridges Farm. At this point the C114 is narrow with no verge and lies only 36 metres from the A419/C114 junction. Drivers entering the C114 will be manoeuvring and therefore may not notice a horse and rider. As a consequence the original footpath access point is considered inappropriate for bridleway users. The diverted route removed our concerns because the exit was sited well away from the A419 junction”.

Main Considerations for the Council

15. Wiltshire Council has the power to make Orders to divert public paths under Section 119 of the Highways Act 1980. The Order may be made in the interest of the public and 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.
16. 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.
17. 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”.

18. 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”.*

19. 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.*
20. The Council has to have regard to The Disabilities Discrimination Act 1995 (DDA95). Section 21 of this Act states:
- (1) *Where a provider of services has a practice, policy or procedure which makes it impossible or unreasonably difficult for disabled persons to make use of a service which he provides, or is prepared to provide, to other members of the public, it is his duty to take such steps as it is reasonable, in all the circumstances of the case, for him to have to take in order to change that practice, policy or procedure so that it no longer has that effect.*
- (2) *Where a physical feature (for example, one arising from the design or construction of a building or the approach or access to premises) makes it impossible or unreasonably difficult for disabled persons to make use of such a service, it is the duty of the provider of that service to take such steps as it is reasonable, in all the circumstances of the case, for him to have to take in order to:*
- (a) *remove the feature;*
- (b) *alter it so that it no longer has that effect;*
- (c) *provide a reasonable means of avoiding the feature; or*
- (d) *provide a reasonable alternative method of making the service in question available to disabled persons.*
21. The Council has to also have regard to the Wiltshire Council Rights of Way Improvement Plan (ROWIP). The ROWIP recognises the Council's duty to have regard to DDA95 and to consider the least restrictive option.
22. The ROWIP also has as its aims:
- The promotion and development of the public rights of way network, enabling pedestrians, cyclists and horse riders to avoid heavy or intrusive traffic. (p.46.3)*
- Establishment of margins on highway verges to allow safe passage for horse riders, cyclists and pedestrians (p.47.5)*
23. The Council must also have regard to the needs of agriculture and forestry.

Comments on the Objection

24. Officers have investigated accident statistics for both the stretch of the C.114 that the Ramblers' consider unsafe and the A419 junction. The Area Highway Engineer states in an e-mail dated 4 January 2010 referring to the C.114;
- I have little knowledge of this road and have not received any concerns via the Parish Council since being in my role as Area Highway Engineer for area 1 so am unable to comment. I will say foremost is I understand the Ramblers' concerns as they are exposed to traffic along this section of road. Having said this I can see that horses could potentially be cause for concern nearer the junction than further along the straight section of the Castle Eaton road."*

25. In the past five years there have been three reported accidents at the A419 junction and a further 12 on the A419 within 750 metres. There have been no reported accidents on the C.114 within 750 metres of the junction. A reported accident is one that is attended by the police. A Principal Highway Engineer in Highway Network Improvements at Wiltshire Council states that “as a rule of thumb we traditionally go on the belief that for every recorded accident, approximately 12 go unrecorded (i.e. the police were not called).” **(Appendix C)**
26. Of the three accidents at the junction, one involved a vehicle going too fast and crashing on the turn and another involved a vehicle having missed the turning, reversing back to it and colliding with another vehicle. The third accident involved a vehicle turning into the C.114 and the driver losing control of the vehicle.
27. Officers specifically asked local cycling and horse riding groups to comment on whether they considered that their enjoyment of the route would be affected by the diversion. In an e-mail dated 5 March 2010 Mr A Clarke of the Cyclists Touring Club stated:
- “We have no problem with the proposed diversion of LATT17 as indicated in your letter dated 3 March 2010 ref SM/PC139. For the reasons you point out it is preferable for us; one less gate and over better drained land. Our minimum speed is no less than 20 kph on a C class road so an extra distance of 500 metres or so takes us around one a half minutes maximum. This is not significant and is compensated for by the one less gate and easier cycling over better drained land. When cycling in a group coming from CRIC11 or CRIC15 it is quite clear for the leader to make sure the members know to take the C.114 and then regroup if necessary some way along it before taking the diverted LATT17. This is preferable to regrouping near the junction with the A419 where you have recorded a number of accidents. It is not unknown for the group leader to be passed by keen member cyclists who then wait when they are unclear which way to go next!”*
28. The diversion of Latton 17 only results in a longer journey if users are linking Latton 17 with the A419. If they are linking Latton 17 with the C.114 and travelling north towards the Thames Path National trail then the journey is shorter. Although Latton 18 is a nearby alternative to the north, this suffers from flooding problems and it is not uncommon in wet weather for the gateway at the C114 junction to have a depth of water of over six inches. Hence, walkers coming from the Thames Path may chose to use the drier route of Latton 17.
29. Although the Ramblers’ Association refer to Latton 17 being part of a featured walk that involves walking alongside and crossing the A419, because of the intrinsic dangers of the A419 officers consider it to be unlikely that the feature walk would ever be promoted nationally or developed as a National Trail or promoted as an equestrian or cycling route.
30. Turning to Section 119 (2) of the 1980 Act the route must be diverted to a point on a highway which is substantially as convenient to the public. Officers consider that moving the start/end of Latton 17 to a point approximately 550 metres north on the C.114 is more convenient for the public in that they are removed from the busy A419 junction and a kinked section of C.114 and are closer to the Thames Path from the north. The objector considers it less convenient if approaching from the A419 as users have to travel for 550 metres along the C.114. Although this is true, officers note that this section of road is straight, wide and has margins, unlike the section near the existing junction. There is no record of accidents in the last five years on this stretch of road.

31. Turning to Section 119 (6) of the 1980 Act the Order may not be confirmed unless Section 119 (2) above is satisfied and that it is expedient and 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.
32. It is considered that the potentially safer junction of Latton 17 with the C.114 will have an enhanced effect on the public enjoyment of the way as a whole and that the addition of BS5709:2006 gates to the route will also enhance the enjoyment for all users and will offer easier access for all (including the disabled). The land over which the diverted route runs is better drained than the section near Seven Bridges Gate, which floods.
33. The diverted route is approximately 160 metres shorter than the existing route. The path or way as a whole measures 1.3km to the Swindon Borough Boundary (bridleway Blunsden St Andrew 12) and approximately 1.6 km to the nearest road; this difference of approximately 10% is not considered significant.
34. The Order has no effect on other land served by the existing right of way.
35. The new route has the approval of the landowner who has expressed concerns over the safety of users at the existing junction of Latton 17 with the C.114. The landowner's own house access is nearby and they have experience of exiting and entering their property so close to the A419 and on this kinked section of C.114.
36. Moving the junction of Latton 17 with the C.114 away from the A419 also lessens the risk of escaping stock or loose and startled horses getting onto the A419.

Environmental Impact of the Recommendation

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

Risk Assessment

38. Risks associated with use of the A419 and C.114 are represented in **Appendix C**.

Financial Implications

39. 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.
40. 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

41. 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

42. The proposed diversion meets the test contained in Section 119 of the Highways Act 1980.

Recommendation

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

MARK SMITH

Service Director for Neighbourhood Services

Report Author
SALLY MADGWICK
Rights of Way Officer



The following unpublished documents have been relied on in the preparation of this Report:

None

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Latton 17 (part) Diversion

APPENDIX A

Public path to be extinguished A  B
Public path to be created B  C

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George Batten BSc (Hons), C.Eng, FICE FIHT, Director of Transport, Environment and Leisure, Wiltshire Council*

Prepared by SAM Date Nov 17th 2009 Scale 1:2500 Grid Ref. A SU1215 9252



Wiltshire Council
Where everybody matters

Gate compliant with BS5709:2006

81m

C.114

Gate compliant with BS5709:2006

82m

Seven Bridges Cottages

Gate compliant with BS5709:2006

Track

Track

Gating point (statement)

Gating point (statement)

Seven Bridges Farm

Authorised field gate

Gating point (statement)

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Proposed diversion of Latton 17 (part) at Seven Bridges Farm
Location Plan

APPENDIX B

Area covered by APPENDIX A



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George Batten BSc (Hons), C.Eng, FICE FIHT, Director of Transport, Environment and Leisure, Wiltshire Council*

Prepared by SAM Date September 2009 Scale 1:50000 Grid Ref. A SU1215 9252

N



Wiltshire Council
Where everybody matters

River Thames and Thames Path

Water Eaton Ho

Latton 18

C.114 Road

A419 Trunk Road

ICKLADE

Page 15

Kingshill Fm

Ox House Fm

Seven Bridges Fm

Latton 17

Headlands Fm

Farfield Fm

ROMAN ERMIN RD

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Reported accidents in the region of the A419/C.114 Castle Eaton Road junction December 2004 to December 2009

APPENDIX C

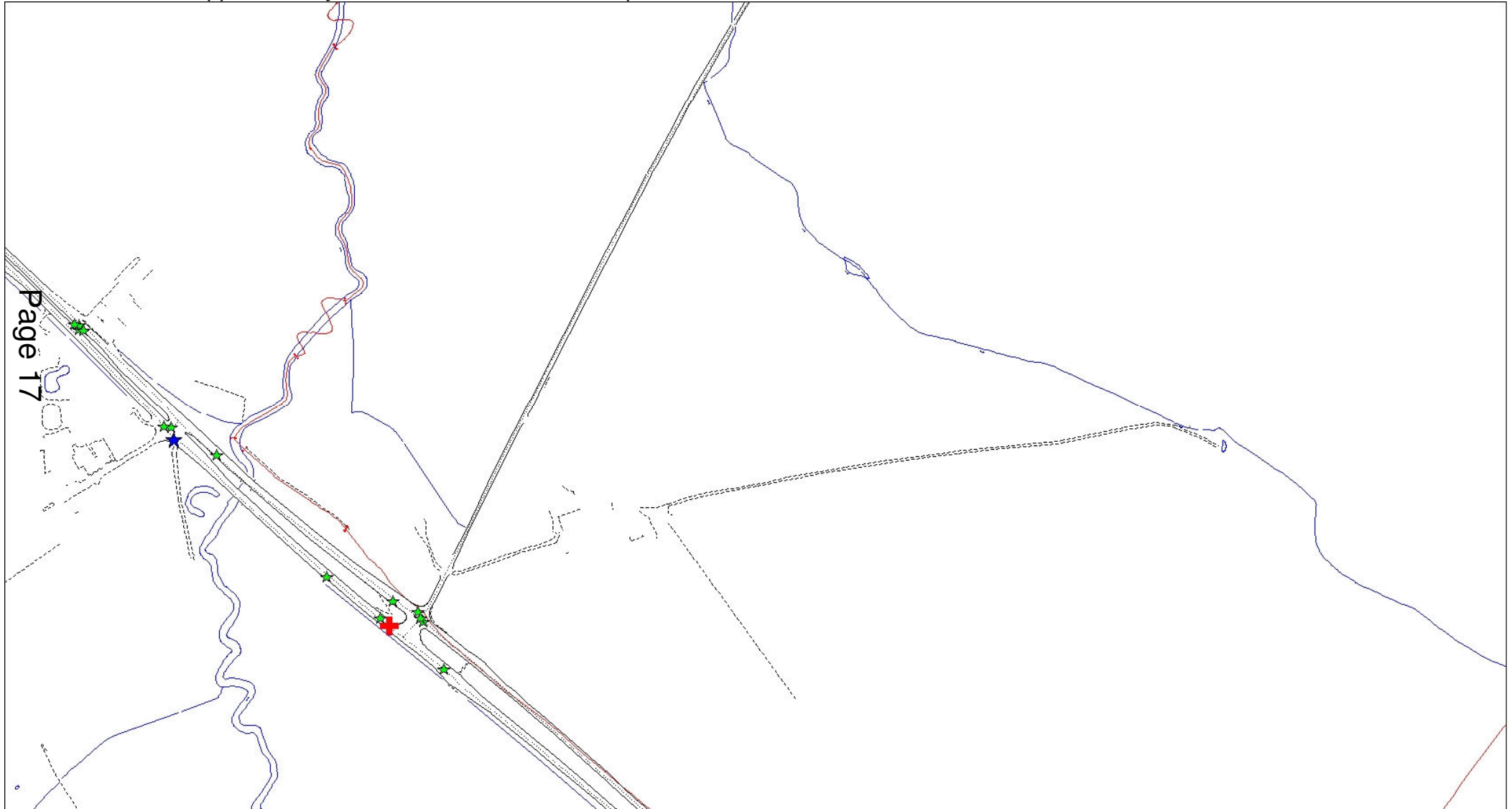
Data shown approx 750 metres of C.114 north of A419 and approx 750 metres A419 in the vicinity of the junction.

Reported accidents A419 = 15

Reported accidents C.114 = 0

Reported accidents at A419/C.114 junction

NB a reported accident is one where the police attend and record on their STATS 19 system. General rule of thumb is that for every one reported accident there are approximately 12 times more that are unreported.



Star symbols represent reported accidents in view area. Data sourced from Wiltshire Constabulary STATS 19 and Wiltshire Council Accsmap 2010

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WILTSHIRE COUNCIL

NORTHERN AREA PLANNING COMMITTEE 28 APRIL 2010

PROPOSED DIVERSION OF PUBLIC BRIDLEWAYS WOOTTON BASSETT No.26, BROAD TOWN No.22 AND LYDIARD TREGOZE No.46

Purpose of Report

1. To:
 - (i) Consider and comment on the objection received to Orders, made under Section 119 of the Highways Act 1980, proposing to divert sections of Public Bridleways Wootton Bassett No.26, and Broad Town No.22 and Lydiard Tregoze No.46.
 - (ii) Recommend that the Order be forwarded to the Secretary of State for the Environment, Food and Rural Affairs, with the recommendation that it be confirmed.

Background

2. A Definitive Map Modification Order was confirmed in January 2003 in respect of Wootton Bassett Bridleway 26, to correctly record its route. The Modification Order process does not allow for anything other than the correct recording of the route and status of a public right of way to be taken into account. The result of the confirmed Order was to establish its legal route through Vowley Farm, but it created a new problem because there were already a number of substantial obstructions already in existence which prevented the bridleway from being used. It passes across the fenced garden, through part of the house, and through the centre of the farm buildings and roofed enclosures in which animals are kept and where it is obstructed by gates and walls. Its route is shown on the map at **Appendix A**.
3. Reinstatement of the legal line of the bridleway is a possible option, but it would make farming operations extremely difficult and provide a very poor route for users of the bridleway.
4. Bridleway users currently follow an unofficial diversion of the bridleway along a farm access road which leads around the north side of the main farm buildings, but this causes them to enter the neighbouring property, Vowley Farmhouse, directly in front of the house where their presence interferes with the owner's use and enjoyment of the property. This route is shown on the plan at **Appendix B**.
5. Officers of Wiltshire County Council, and now Wiltshire Council, have been attempting to negotiate a formal diversion of the bridleway that will be acceptable to all parties, ever since the modification order was confirmed in 2003. However, on each of the previous occasions when a Diversion Order has been either proposed or made, valid objections have been received which have prevented any further progress being made.

6. In November 2007 Wiltshire County Council confirmed a Public Path Diversion Order under Section 119 of the Highways Act 1980 to divert part of Broad Town Bridleway 22 to the northern boundary of the field which lies immediately south of Vowley Farm. The diverted route of Broad Town Bridleway 22 and the current route of Wootton Bassett bridleway 26, are shown on the plan at **Appendix C**.
7. That diversion has provided a new opportunity to resolve the problems at Vowley Farm, by providing short lengths of new bridleway between bridleways Broad Town 22 and Wootton Bassett 26 to the west and east of the farm. They would allow bridleway users to bypass the farm, so that the section of Wootton Bassett Bridleway 26 that passes through the farm can be extinguished. The land over which Broad Town Bridleway 22 passes is in different ownership, but the owner has agreed to the links being made on condition that the remainder of Bridleway 22 to the east, and its continuation through to Bincknoll Lane as Lydiard Tregoze Bridleway 46 are extinguished, so that bridleway users have a single route through to the lane via Wootton Bassett Bridleway 26. If this can be achieved, the bridleways in the vicinity of Vowley Farm will follow the routes shown on the plan at **Appendix D**.
8. The legal Orders required to achieve these changes were made on 2 July 2009 and advertised in the Wiltshire Gazette and Herald on 9 July 2009.

Main Considerations for the Council

9. Wiltshire Council has the power to make Orders to divert public paths under Section 119 of the Highways Act 1980. The Order may be made in the interest 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. The Orders under consideration here are considered by the Rights of Way Officers to be in the interests of the landowners and of the public.
10. The Council has received two objections to the proposed Orders. Members have to decide whether they still wish to support the Orders or to formally resolve not to proceed with them.
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”.*

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 has to have regard to The Disabilities Discrimination Act 1995. Section 21 of this Act states:

(1) Where a provider of services has a practice, policy or procedure which makes it impossible or unreasonably difficult for disabled persons to make use of a service which he provides, or is prepared to provide, to other members of the public, it is his duty to take such steps as it is reasonable, in all the circumstances of the case, for him to have to take in order to change that practice, policy or procedure so that it no longer has that effect.

(2) Where a physical feature (for example, one arising from the design or construction of a building or the approach or access to premises) makes it impossible or unreasonably difficult for disabled persons to make use of such a service, it is the duty of the provider of that service to take such steps as it is reasonable, in all the circumstances of the case, for him to have to take in order to:

- (a) remove the feature;*
- (b) alter it so that it no longer has that effect;*
- (c) provide a reasonable means of avoiding the feature; or*
- (d) provide a reasonable alternative method of making the service in question available to disabled persons.*

15. Two bridle gates will need to be installed on the new sections of bridleway, in order to control the movement of animals and as an additional safeguard in the interests of bio-security. An objection has been received from the representative of the Byways and Bridleways Trust, on the grounds that the Order does not specify that the gates are to be provided to meet the current British Standard, which will ensure that they are suitable for use by people of limited mobility. Additionally the representative has objected to the inclusion of the two bridges to be installed as limitations as to use, because he does not consider bridges to be limitations despite that their useable width will be narrower than the rest of the routes. However, he has agreed to withdraw his objection if the Council requests the Secretary of State to amend the orders to state that the gates will meet the British Standard and to remove the bridges from the limitations, instead including them within the written description of the routes. These amendments are within the powers of the Secretary of State to make, and it has been agreed with the objector that if the Orders are referred to him, he will be asked to make them.

16. Wiltshire Council's Rights of Way improvement Plan, at Section 2.12.2 Access to the Countryside, states:

“The application of this statement (2.12.1, above) means that the maintenance of the public rights of way and areas of Access Land must have regard to the following points:

Identification of users with access difficulties and plan for them in the maintenance of routes where applicable...”

The diversion has planned for users with access difficulties by the proposed installation of furniture compliant with the Disability Discrimination Act and by providing a safe, flat and wide route with easy access.

17. The Rights of Way Officers consider that the diversion routes provide a more easily accessible path than the present bridleway, which passes through the garden and farm buildings at Vowley Farm where farm gates will have to be negotiated.

18. The occupiers of Vowley Farm, Mr and Mrs Stanton, have objected to the Orders on the grounds of reduced privacy of their house and the loss of agricultural subsidies for the reduction in grazing land that will be required to provide the new section of bridleway to the east of the farm (an area of approximately 100 square metres).

19. An opinion obtained by Wiltshire County Council in 2004 from a commercial Chartered Surveyor and Property Consultant included the observation that, “whilst the diversion of the right of way ... would result in a very small loss of land in the field adjoining the Stanton's house, by removing the right of way near the house and through the buildings the Stantons are relieved of a potential liability to reinstate their house value would be enhanced more than it would be reduced by any perceived detraction with a revised right of way in the field to the south of the house”. There is no reason to suggest that these considerations, with which the Rights of Way Officers are in full agreement, will have changed in the time since they were expressed.

20. Section 130(i) of the Highways Act 1980 places the Highway Authority under a duty to protect and assess the rights of the public to the use and enjoyment of any highway for which they are the Highway Authority, including any waste that forms part of it. Section 130(3) of the same act states, “.... It is the duty of a Council who are a Highway Authority to prevent as far as possible, the stopping-up or obstruction of.... (a) the highway for which they are the Highway Authority...”. Section 143 of the same Act gives the Highway Authority the power to remove structure from highways by serving notice upon the person responsible for the obstruction to remove it within such time as may be specified in the notice. If the structure is not removed within the

specified time, the authority may remove the obstruction itself and recover the expenses reasonably incurred in doing so from the person having control or possession of the structure.

21. Should the Committee decide that the Orders are not to be referred to the Secretary of State for determination, there are no remaining options for diverting Brideway 26. The only way of making the bridleway available on a legally authorised route will be to re-instate it on the present definitive line through the garden and the farm buildings. It appears to the Rights of Way Officers that Mr and Mrs Stanton do not believe that the Council will be prepared to enforce the present route of the bridleway even if the Orders are not pursued by the Council beyond the present stage, or are not confirmed by the Secretary of State, because of the disruption it will cause to the farm and the extremely poor route that it will provide for bridleway users. It seems that this is the reason why they feel that it is in their interests to maintain their objection. However, the Council cannot continue to condone the illegal obstructions to the bridleway or to turn a blind eye to the use of an alternative route that inconveniences a neighbouring landowner and will have no option but to require that the present definitive route is made available. Should Mr and Mrs Stanton not of their own volition make the bridleway available, the Council will have no option but to take legal action which could include prosecution.

Environmental Impact of the Recommendation

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

Risk Assessment

23. There are no risks arising from the recommendation set out within this report.

Financial Implications

24. The making of a public path diversion Order is a discretionary duty for the Highway Authority rather than a statutory duty. Provision has been made within existing budgets for the costs involved in processing the application, including advertising costs.
25. The proposed new path will require fencing to separate it from the surrounding fields and to prevent farm animals from one land holding entering onto another. In addition, two new bridleway bridges will need to be constructed. These costs will need to be borne by the Council, because it is not considered appropriate to require the landowners to bear the cost of works that are required as a consequence of a Definitive Map Modification Order made by the Council to correct a mapping error. Provision has been made within existing budgets.
26. Under Sections 28 and 121(2) of the Highways Act 1980, if it is shown that the interest of any person who considers that the value of their interest in land affected by the coming into operation of a public path order is depreciated, the authority by whom the Order was made shall pay to that person compensation equal to the amount of the depreciation or damage. For the reasons stated at paragraph 19 above the Rights of Way Officers do not expect that any claim for compensation would be successful.

27. If the Committee decides 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 Considered

28. The following options have been considered:
- (i) Not to continue with the Order.
 - (ii) The Order be referred to the Secretary of State for determination with the recommendation that it be confirmed, subject to the amendments that the gates are provided and installed to the current British Standard and that the reference to the bridges is removed from the limitations and conditions and included instead in the description of the new paths.

Reasons for Recommendation

29. The proposed diversion meets the test contained in Section 119 of the Highways Act 1980.

Recommendation

30. The Orders be referred to the Secretary of State for determination with the recommendation that it be confirmed subject to the conditions set out in paragraph 15.

MARK SMITH

Service Director for Neighbourhood Services

Report Author

Richard Broadhead

Public Rights of Way Manager

The following unpublished documents have been relied on in the preparation of this Report:

None.

Wootton Bassett Bridleway 26

Key

Length of Bridleway 1-1-1-1-1-1-1-1

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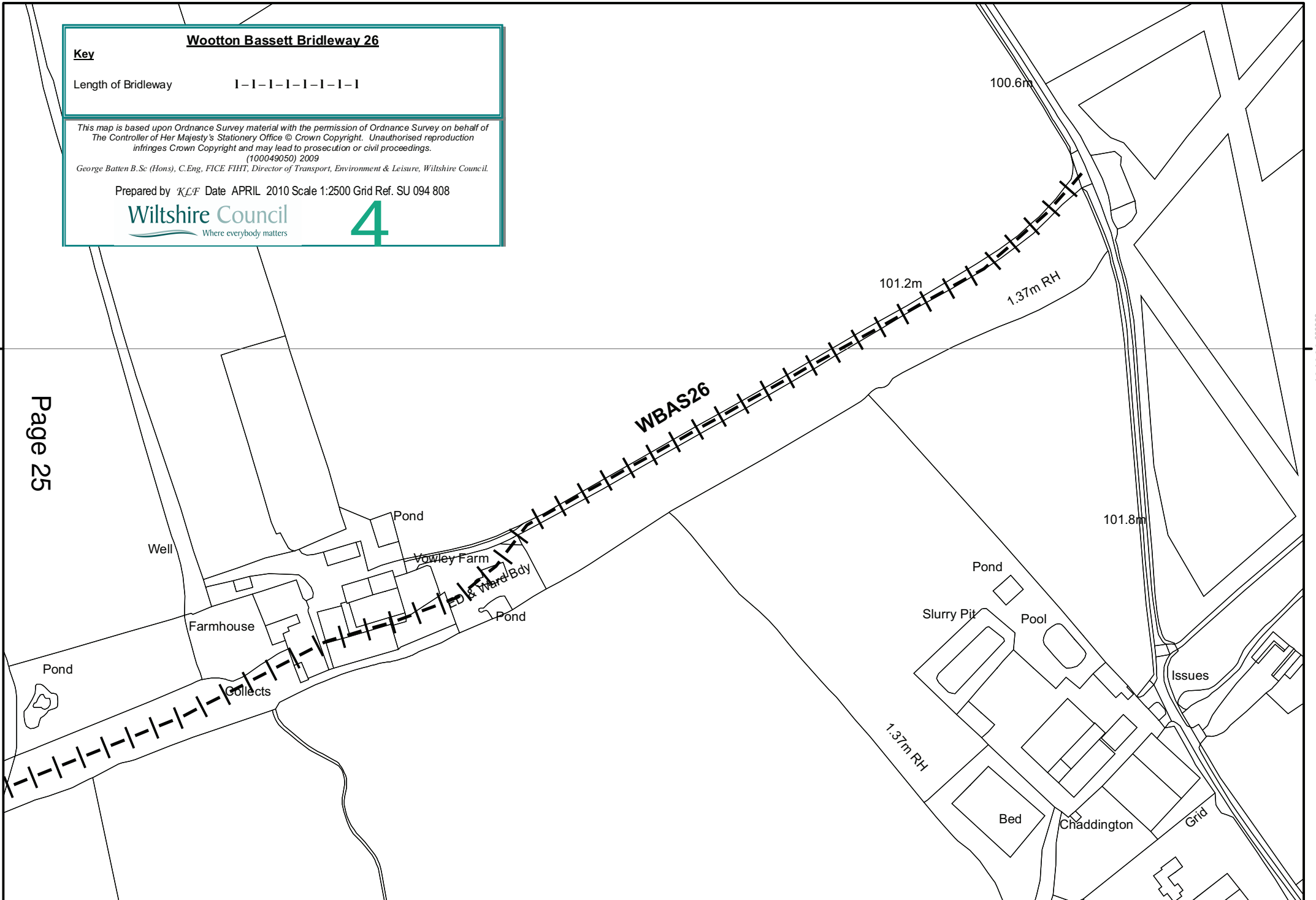
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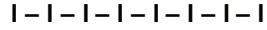


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Unofficial route that the public currently use

Key

Length of legal bridleway



Length of unofficial route



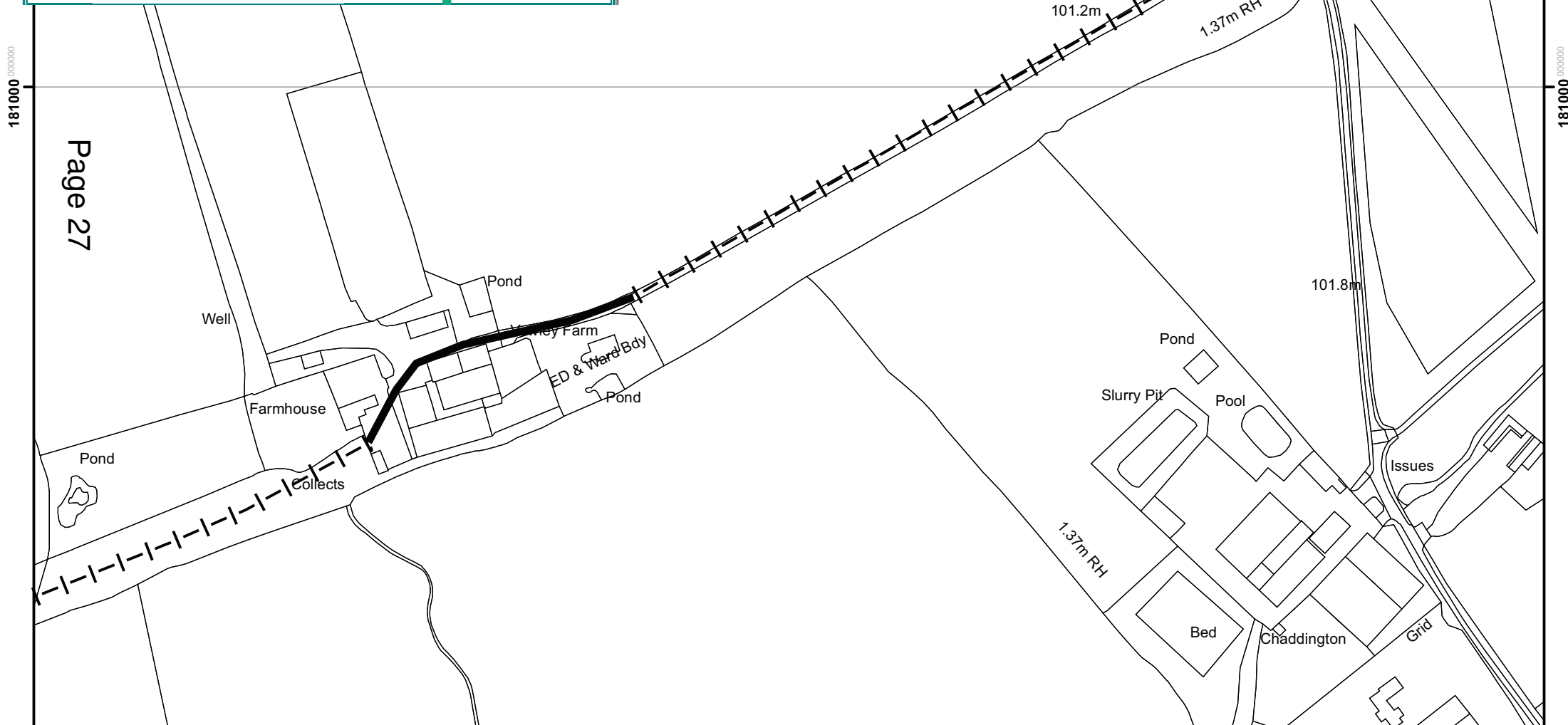
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Existing public rights of way	
Key	
Length of bridleways	- - - - - -
Connecting paths	- - - - -

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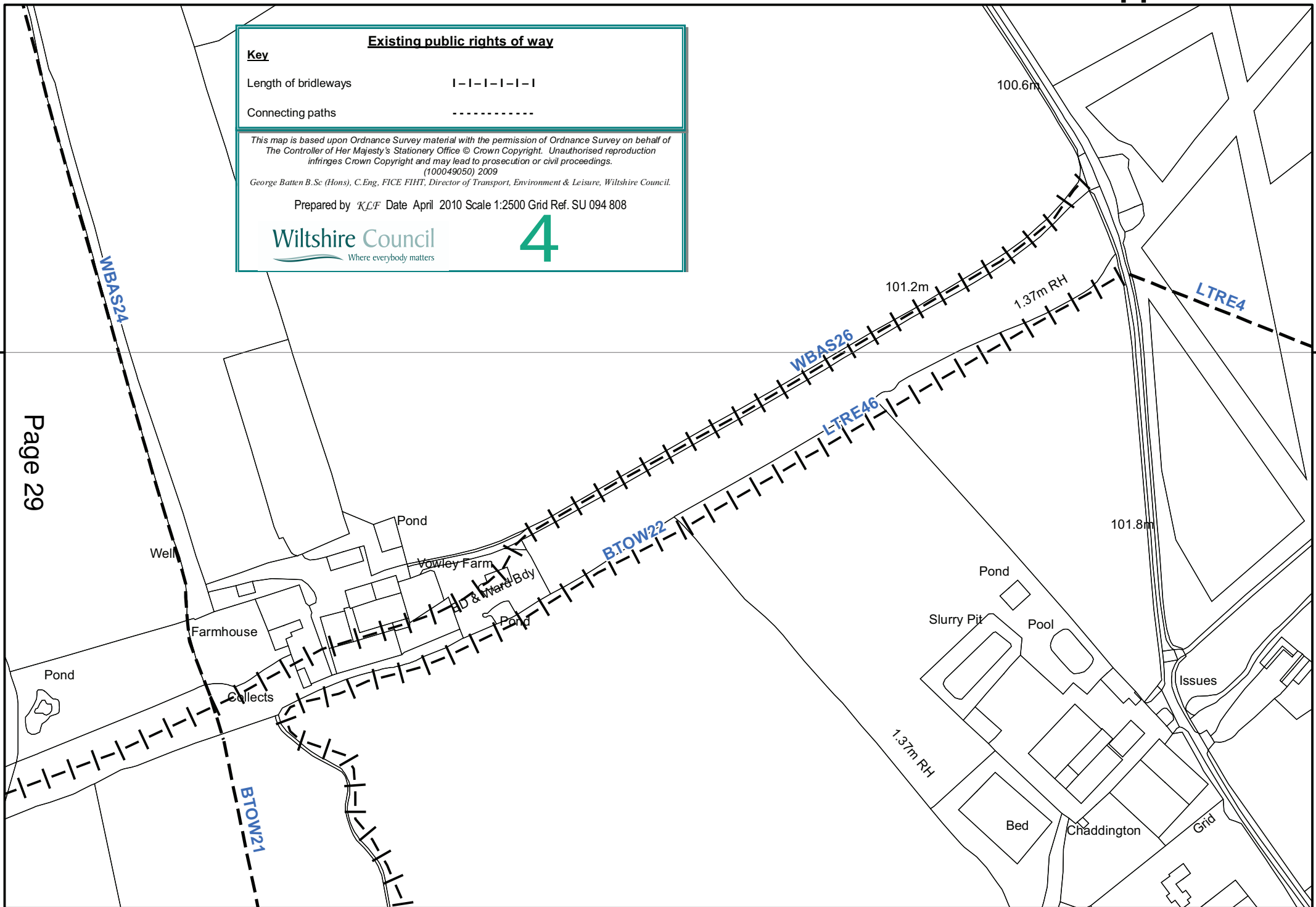
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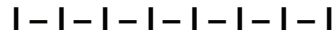
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Proposed Diversion of Public Rights of Way at Vowley Farm

Key

Length of Bridleways



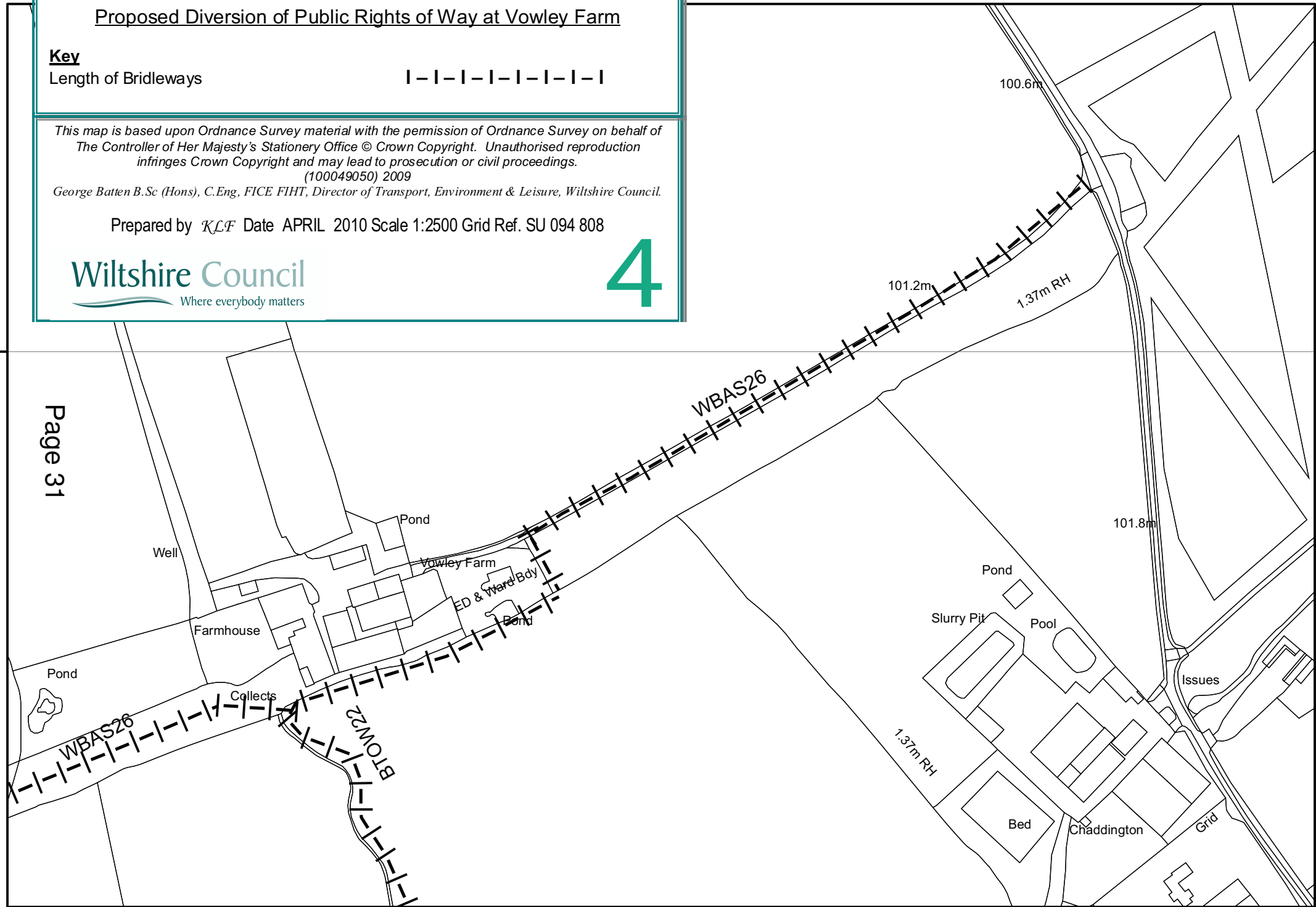
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**Wiltshire Council – Area North
Planning Committee
28th April 2010**

Appeals Update Report

Forthcoming Hearings and Public Inquiries between 28/04/2010 and 31/12/2010

Application No	Location	Parish	Proposal	Appeal Type	Date
09/00243/FUL	Land Adjacent Fiddle Farmhouse, The Fiddle, Cricklade, Wiltshire, SN6 6HN	Cricklade	Construction of 13 Social Housing Units with Parking; Gardens and Access Road	Informal Hearing	13/05/2010
09/00593/FUL	Land Adjacent The Golf Academy, Yatton Keynell, Chippenham, Wiltshire, SN14 7BY	Chippenham Without	Change of Use of Land to 18 Hole Par 3 Golf Course and Associated Works	Public Inquiry	02/06/2010
09/01033/S73A	Land Adjacent Framptons Farm, Sutton Benger, Wiltshire, SN15 4RL	Sutton Benger	Removal of Condition 1 Attached to Permission 08/02114/FUL to Allow Permanent Use as One Gypsy Pitch	Public Inquiry	27/07/2010
09/01934/FUL	Rose Field Caravan Site, Hullavington, Malmesbury, Wiltshire, SN16 0HW	Hullavington/St Paul Without	Gypsy Site for Irish Families Comprising Six Mobiles and Six Touring Caravans (Partially Retrospective) Resubmission of 09/00683/FUL	Informal Hearing	15/06/2010

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Planning Appeals Decided between 25/03/2010 and 14/04/2010

Application No	Location	Parish	Proposal	DEL or COM	Officer Recommendation	Appeal Type	Appeal Decision
09/00870/FUL	Land at Brynards Hill, Wootton Bassett, Wiltshire	Wootton Bassett	Change of Use to a Country Park	DEL	Delegated to Area Development Manager	Public Inquiry	Allowed with Conditions
09/00871/OUT	Land at Brynards Hill, Wootton Bassett, Wiltshire	Wootton Bassett	Mixed Use Development for up to 100 Dwellings and 4.9 Hectare Extension of Interface Business Park, Access, Landscaping and Associated Works - Outline	DEL	Refusal	Public Inquiry	Allowed with Conditions

Agenda Item 8

Application No	Location	Parish	Proposal	DEL or COM	Officer Recommendation	Appeal Procedure
09/00912/FUL	Land Adj Calcutt Farm, Calcutt, Cricklade, Wiltshire, SN6 6JT	Cricklade	Change of Use to Include the Stationing of Caravans for 14 Residential Gypsy Pitches with Utility/Day Room Buildings and Hard Standing Ancillary to that use	DEL	Informal Hearing	Delegated to Implementation Team Leader

Agenda Item 9

INDEX OF APPLICATIONS ON 28/04/2010

	APPLICATION NO.	SITE LOCATION	DEVELOPMENT	RECOMMENDATION
01	09/01791/FUL	Long Barrow Road, Calne, Wiltshire SN11 OHE	Residential Development comprising 29 Units including 2 Storey Houses and Flats and Single Storey Bungalows. Provision of Pedestrian & Vehicular Access & Parking & Public Open Space, Tree Protection Measures and Oil Pipeline Easement	Delegated to Area Team Manager
02	09/00912/FUL	Land Adj Calcutt Farm, Calcutt, Cricklade, Wiltshire, SN6 6JT	Change of Use to Include the Stationing of Caravans for 14 Residential Gypsy Pitches with Utility/Day Room Buildings and Hard Standing Ancillary to that use	Delegated to Area Team Manager
03	10/01204/FUL	Land adjacent Calcutt Farm, Calcutt, Cricklade, Wiltshire, SN6 6JT	Change of Use to Include the Stationing of Caravans for 14 Residential Gypsy Pitches with Utility/Day Room Buildings and Hard Standing Ancillary to that Use (Resubmission of 09.00912.FUL)	Delegated to Area Team Manager
04	09/02107/FUL	21 The Maltings, Malmesbury, Wiltshire, SN16 0RN	Single Storey Rear Extension, Loft Conversion including 2 Roof Lights + Roof Extension	Permission
05	10/00001/FUL	52 North Street, Calne, Wiltshire, SN11 0HJ	Single Storey Extensions	Permission
06	10/00340/FUL	Land at the end of Tern Close, Calne, Wiltshire	Proposed Detached House, Detached Garage, Access & Fencing.	Delegated to Area Team Manager
07	10/00589/S73A	Lower Lodge, 35 Bowden Hill, Lacock, Wiltshire, SN15 2PP	Single Storey Extension to Side/Rear of Property (Part Retrospective)	Refusal

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REPORT TO THE NORTHERN AREA PLANNING COMMITTEE

Date of Meeting	28th April 2010		
Application Number	09/01791/FUL		
Site Address	Longbarrow Road, Calne, SN11 0HE		
Proposal	Residential development comprising 29 units including 2 storey houses and flats and single storey bungalows. Provision of pedestrian and vehicular access and parking and public open space, tree protection measures and oil pipeline easement.		
Applicant	Westlea Housing Association		
Town/Parish Council	Calne		
Electoral Division	Calne	Unitary Member	Councillor Howard Marshall
Grid Ref	399037 171086		
Type of application	Full		
Case Officer	S T Smith	01249 704633	Simon.smith@wiltshire.gov.uk

Reason for the application being considered by Committee

Councillor Marshall has requested it be called to committee to consider the visual effect of development, its relationship with adjoining properties, the design of development, its highway impact and level of car parking.

Purpose of Report

To consider the above application and to recommend that planning permission be GRANTED subject to all parties entering into a legal agreement and the imposition of planning conditions.

Main Issues

The application is for residential development within the settlement framework boundary of Calne. The site has previously been granted planning permission for residential development. The key points to consider are as follows:

- Implications on DC Core Policy C3 and Housing Policies H3 and H5
- Principle of development
- Affordable housing and mixed, inclusive communities
- Density, layout and design of development
- Effect upon residential amenity of existing properties
- Access and highway safety

Site Description

The application relates to a 0.89Ha site accessed from Longbarrow Road, part of the Curzon Park estate on the western side of Calne. The site remains undeveloped and unallocated for development although long being considered to be the final phase of the Curzon Park housing estate and benefiting from a 1988 planning permission.

The application site is entirely within the Settlement Framework Boundary of Calne. To the north and east the site is bounded by other residential properties. The southern and western boundaries form the outermost extent of the Settlement Framework Boundary, with open countryside beyond. Public footpaths follow the southern and western boundaries.

<u>Relevant Planning History</u>		
Application Number	Proposal	Decision
88/0/FUL	Erection of 26 bungalows	Approved August 1988

Proposal

This proposal is for the creation of 29 dwellings – split as 9 bungalows, 4 flats and 16 houses. The application is formally submitted on the basis that at least 30% of total number of units would be affordable housing (as is required by adopted planning policy), although it is widely understood by both the Council and the local community that the applicant, as a Housing Association, intends for the entire development to be built and occupied as affordable housing.

Access to the site is to be via an existing road spur leading from Longbarrow Road, which in turn follows existing estate road network leading to A4 Curzon Street.

Consultations

The Town Council (initial comments repeated in full)

“Members objected strongly to this application. The application is a direct contravention of the following planning guidelines: Core Policies C3(i), (iii), (iv), (vii) and (viii). Irrespective of whether Long Barrow Road, Curzon Park is considered to be an “urban” or “rural” area, H5 or H6 would also apply.”

The TC comment that all subsequent additional/revised information received would not alter their fundamental objection to the application.

Housing Enabling Officer (comments repeated in full)

“I write in response to the above planning application. This response replaces all previous responses that may have been made by Housing Services.

The application proposes 29 residential units. Policy H5 states that; the council will seek to negotiate an element of affordable housing to meet local needs on all housing developments of either 15 or more dwellings or 0.5 hectares or more in size....will be on the basis of about 30% of the dwellings permitted being subsidised, with an additional proportion being low cost housing subject to meet local need...,

The land fits with the above criteria, therefore, when applying NWDC Local Plan Policy H5 the affordable housing contribution should be as follows; 30% of all residential dwellings to be affordable with 100% to be social rent to reflect North Wiltshire Revised Affordable Housing Supplementary Planning Document (SPD) April 2008.

There is a demonstrated housing need within Calne. As at 01/12/07 there were 199 applicants with general needs on the Housing Needs Register for North Wiltshire, who had listed Calne as their 1st choice. This figure has increased to 367 applicants as of 17/02/2010. The 2005 District Wide

Housing Needs survey identified a shortfall of 128 affordable dwellings per annum in the Calne sub-area, with 100% of this need for rented accommodation.

Housing Services seek the following mix:

*1 bed flat 20%
2 bed house 50%
3 bed house 20%
4+ bed 10%*

Please note this is an indicative mix only.

The required standards are set out in the NWDC revised affordable housing SPD 2008. All homes to be built to Code for Sustainable Homes Level 3 and comply with Homes and Communities Agency Design and Quality Standards and charge target rents which are regulated by the Homes and Communities Agency. All units will be secured in perpetuity through a Section 106 Agreement. The development must be tenure blind with clusters of no more than 15 affordable housing units in one location spread throughout the development to ensure a mixed and sustainable community. The applicant Greensquare is a Registered Social Landlord who is regulated by the Homes and Communities Agency. All affordable housing units will be owned and managed by Greensquare.

Summary

New Housing Team are in full support of the application should permission be granted and ask that the Section 106 reflects the above requirements.”

Wiltshire County Council Highways

Final comments awaited.

Environment Agency

No comments to make.

County Archaeologist

Proposed site lay 200m east of area identified as containing earthworks belonging to Medieval Settlement of Berhill Farm. Recommend that planning conditions be imposed if planning permission granted.

Pipelines Agency

Government Pipeline and Storage System (GPSS) crosses the site and a 6.0m wayleave bestriding the pipeline should be incorporated into the scheme.

Education Officer

Current forecasts predict that there will be a shortfall at primary and secondary school level. A financial contribution towards such provision is warranted by this application. (Note: agreement has been reached with the applicant for a suitable financial contribution).

Public Open Space Officer

A contribution towards public open space is warranted as a result of this development. Advises that any Off site POS contribution required for this development site should be targeted at improving the quality of the following existing 'nearby' POS facilities: Anchor Road Community Park – (CP 03) – For the purpose of upgrading an existing Community Park into a District Park facility to meet POS needs arising from incremental population growth. Castlefields Skate Park (PA 47) – For the purpose of completely refurbishing this existing 'poor quality' play facility for

older children. (Note: agreement has been reached with the applicant for a suitable financial contribution).

District Ecologist

The site supports a low population of Slow Worms and no suitable habitat would be retained in the proposed development. Hedgerows along western and southern boundaries are important and should be protected during construction and enhanced and retained. Therefore suitable planning conditions should be imposed in the event of planning permission being granted. (Note: given the likelihood of the need for additional land outside of the applicant's control, it is considered necessary to incorporate the required Slow Worm mitigation scheme into a legal agreement under s106 of The Act).

Publicity

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

127 letters of objection received, including representations from the Curzon Park Residents Association and the CPRE. Summary of key relevant points raised:

- Appearance, design and materials of new dwellings is poor and does not reflect existing surrounding development
- Layout of development unlike remainder of Curzon Park
- Curzon Park is characterised and defined by bungalows – flats and houses proposed are not appropriate
- Provision of 100% affordable housing on this site (which would include single people, facilities with young children etc.) will be out of character with the surrounding Curzon Park housing estate, which is generally characterised by bungalows with a high proportion of older/retired residents.
- Calne already provides for its own quota of affordable housing
- Development will attract children as there are no facilities to cope
- Very little space between properties and neighbours – too high density of development
- Overlooking / oppressiveness of new dwellings upon existing
- Noise and disturbance from new residents
- Open space proposed is inadequate
- Lack of parking provision/lack of any garage provision
- Lack of 20mph speed limit
- Highway safety – ability of junction with A4 to cope with additional traffic
- Additional information/revisions received do not alter fundamental objections to the scheme
- Confusion over extent of additional information received and ability to comment upon it
- Westlea Housing have not taken account of local representation made to them prior to and during the application process

Planning Considerations

Principle of development

The site lies inside the defined settlement framework of Calne. It is not allocated for development, but the principle of new residential is established as acceptable by Policy H3 of the adopted North Wiltshire Local Plan 2011. The site has long been regarded as the final phase of the surrounding Curzon Park development. It is understood that the 1988 permission has, in part, been implemented, although it is unclear whether planning conditions attached to that consent were first discharged.

The final acceptability of proposed development will need to be assessed in detail against other policies within the adopted Local Plan, together with supporting national planning guidance.

Affordable housing and mixed inclusive communities

Policy H5 of the adopted North Wilshire Local Plan 2011 requires at least 30% of new residential development in urban areas to be retained as affordable housing. This is well established principle and is normally the subject of a suitably worded legal agreement under s106 of The Act. Such legal agreements set minimum % for affordable housing but do not typically set a maximum – therefore allowing developers to freely exceed that 30% without any further consent being necessary.

In this particular instance, the application under consideration specifies that, as would be expected by this Council, 30% of units created would be affordable housing. Whilst the application is silent as to whether more than 30% of the units would be affordable, it is widely understood by the Council and the local community that all of the 29 units created would be affordable housing.

Criterion (ii) to Policy H5, and again within its supporting text, does state that affordable housing should be created in clusters of no more than 15 dwellings (clearly, the 29 units of affordable housing proposed would exceed this threshold). However, in this respect, Policy H5 has a very specific applicability to situations where developments of large numbers of new dwellings should not have pockets within them of more than 15 dwellings (ie. so as to avoid an area of affordable housing within new development that is very obviously separate from the remainder market housing – whereas the preferred approach is to disperse affordable housing through the development to aid integration). This is slightly different situation to that now proposed, whereby the entire new development would be affordable, not just a part of it.

Nevertheless, to simply disregard the provisions of Policy H5 (because of the slightly different situation it seeks to control), would be to ignore the central reason for its existence: to create mixed, balanced and inclusive communities. Indeed, such a concept is embedded in the guidance set out for new housing development within PPS3: Housing. The question therefore remains (which in many ways is connected to much of the more fundamental objections received from the local community): would the provision of 29 affordable units allow for successful integration into the surrounding character of Curzon Park as predominantly owner-occupation and older/retired demographic.

In order to conclude upon this central question, the Housing Enabling Officer, who would provide an authoritative and impartial opinion on the matter, has provided the following advice (in bullet points):

- The proposal is for 24 social rented and 5 intermediate rented properties - a mixed tenure scheme - the tenures are dispersed throughout the development so as to contribute towards creating a mixed and sustainable community.
- There is a high housing need in Calne, providing a mix of units and a range of tenures will enable a variety of people the choice to live in home appropriate for their circumstances. The properties range from bungalows, 2 and 3 bed houses and flats providing a mix of housing to people in greatest housing need.
- The bungalows will be offered to applicants and transfers of an older age group or with mobility issues, which allows people to downsize from larger social rented properties, freeing up larger properties to allow a family in housing need to occupy them. Some of the bungalows will enable clients who have a disability to live independently, which promotes choice and independence. The scheme is situated in an area of predominately open market housing, with good links to shops and buses, contributing towards a mixed and inclusive community.

- Since these discussions/consultation with local residents and other stakeholders, Greensquare have submitted a local lettings policy document (note: this document as been the subject of local publicity and comment). The objectives of the Local Lettings Policy are to:

To create a safe and sustainable community.

To ensure the new homes at Curzon Park integrate well with the existing homes to form a cohesive community recognising that current child densities are extremely low.

Give customers more choice about the finish to their homes

Improve the level of satisfaction that residents have with their homes and neighbourhood.

Minimise turnover and reduce voids

To ensure the needs of the local and wider community are reflected within the development. (ie. to increase affordable housing, reduce homelessness, address the needs of BME applicants)

- The Local Lettings Plan will set targets on the overall levels of economically active households to create a balance and prevent a concentration of residents wholly dependent on benefits. The number of children on the estate is appropriate by under occupying some of the properties. To help reduce the problems of antisocial behaviour reported by excluding applications who have a recent record of anti-social behaviour, including drug related crime.
- It will be reviewed after a year to ensure consistency and to make sure we are achieving our objectives.

It is clear that the Council's Housing Enabling Officer is fully supportive of the 100% affordable housing scheme in this location, with the submitted Local Lettings Plan and associated Community Management Plan, provides a degree of structure to the way in which the site would be managed and occupied. In view of the single management structure (ie. all properties would be retained by Westlea), there would be an increased ability to ensure the site is effectively run, managed and maintained in the future.

Density, layout and design

The development of 29 units on a site of 0.89Ha in area results in a density of approximately 32 dwellings p/Ha. This figure continues to sit comfortably above the national indicative minimum specified by PPS3. Although beyond the density of the surrounding Curzon Park estate, because of its discrete positioning as, in effect, the last phase of the estate, this is not thought to result in a development that would be wholly incongruous.

Split as 9 bungalows, 4 flats and 16 houses with a mix of 2 and 3 bedroom accommodation, the layout of development does allow for the creation of 2 storey units. Clearly defined by single storey bungalows, the height of development would represent a departure, but one that is treated as a gradation, as an abrupt change in character and style, from proposed bungalows at the edge of the site adjoining existing bungalows, through to the centre and south-western corner of the site where the houses and flats are proposed to be sited.

In paragraphs 45 to 51, PPS3 advises that account should be taken of the context within which new development would sit. Para. 50 in particular, however, does suggest that the density of existing development should not necessarily dictate that of new housing by stifling change or requiring replication of existing style and form.

The physical layout of the scheme is to large extent shaped by the government oil pipeline running through the western third of the site. This effectively sterilises a 6.0m strip of land, but does allow for the creation of a substantial area of open space in the southern corner. Existing trees on the southern and western boundaries are to be protected and enhanced with additional planting (se

ecologist comment). Parking is set out in a series of parking courts rather than dedicated on-plot parking for each unit.

The dwellings proposed are generally of neutral appearance. However, in their neutrality, they do not necessarily replicate the rather more distinctive appearance of properties in Curzon Park – shallow pitch roofs, random rubble stone, dominant chimney form etc. To this extent the proposal is considered to be an opportunity lost and one which, to some extent if grasped, would have further ameliorated the divergence from a solely bungalow style development. Nevertheless, a choice of render and reconstituted stone, and the introduction of some chimneys (albeit few in number and not entirely reflective of the existing type) does at least allow for an acceptable form of development on a site that is relatively discreet from the wider Curzon Park estate.

Impact upon residential amenity

The proposal allows for a gradation of building height, with bungalows positioned closest to the northern and eastern boundaries with existing properties (particularly those properties fronting Longbarrow Road, Druids Close and Keevil Avenue). The absence of windows at first floor level would do much to eliminate any unacceptable levels of overlooking into existing properties/gardens. A mix of existing walls and close boarded fencing would define those boundaries.

Although in places, the distance between existing and proposed units would be limited (for example a little over 6.0m to Nos.15 and 16 Keevil Avenue), the actual impact would be largely limited to a change in view (albeit an abrupt one from open field to the roof of a bungalow and housing development beyond – and to this extent the concerns of the neighbours are understood). However, a change to an existing outlook is simply that, and does not necessarily result in an unacceptably oppressive form of development or a reason to refuse planning permission.

In particular, because of their positioning hard against the application site, nos. 23 and 25 Longbarrow Road, together with no.4 Druids Close and No.10 Keevil Avenue have been provided with additional land from the site, so as allow them to retain rear access to their properties and garages.

Access and highway safety

Amended layout plans have been received at the time of writing, demonstrating *inter alia* a revised turning space, footpath widths, revised parking layout and rear access to several units. Although not altering the fundamental layout of the scheme this plan has not yet been the subject of public consultation and therefore a decision should be delayed until this has been completed.

WC Highways have yet to provide final comments upon the revised scheme. This will be reported as part of late observations.

In the context of previous consents granted for residential development on this site, the suitability and safety of the existing Curzon Park/Curzon Street (A4) junction could not reasonably be used as a reason to refuse planning permission.

9. Conclusion

The design and appearance of the proposed dwellings are considered to represent an opportunity lost in providing an architectural “nod” to the distinctive styling of Curzon Park. Nevertheless, this is not considered to warrant a reason for refusal alone in the context of a site that could be perceived as a discreet and final addition/phase to the wider housing estate. For the same reason, the introduction of two storey houses into the scheme is considered to be acceptable in light of the gradation of increasing building height across the site away from the sites boundaries.

The Council's Housing Enabling Housing Officer does not regard the possibility of 100% affordable housing on this site as being prejudicial to the creation of mixed inclusive community. In light of Local Lettings Plan and Community Management Plan as well as the likely single management of the site, there appears to be no reason to diverge from this view and therefore no reason to artificially impose a maximum % of affordable housing.

10. Recommendation

- Subject to no new and substantive issues being raised by consultation and publicity of the revised site layout plan

AND

- Subject to a legal agreement under s106 of The Act being entered into in respect of the provisions of affordable housing and education contribution and the submission, approval of and implementation of a suitable reptile mitigation strategy

THEN

Planning Permission be GRANTED for the following reason:

The application represents a new housing development that is considered to be acceptable in the context of its position as a discreet and final phase of an established housing estate. Any divergence from prevailing character and appearance is considered to be acceptable for the same reason. As such the proposal complies with the provisions of Policies C3, H3 and H5 of the adopted North Wiltshire Local Plan 2011, as well as guidance contained within PPS3: Housing.

And subject to the following conditions:

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

Reason: To comply with Section 91 of the Town and Country Planning Act 1990.

2. Prior to the commencement of the development hereby permitted, details of the proposed and existing levels across the site (including details of the finished floor levels of all buildings hereby permitted) shall be submitted to, and approved in writing by, the local planning authority. The development shall be carried out in accordance with the details so approved.

Reason: To ensure a satisfactory layout in the interests of the amenity of the area.

3. The development hereby permitted shall not be commenced until details of the landscaping of the site, including wherever appropriate the retention of existing trees, have been submitted to, and approved in writing by, the local planning authority. Such a scheme shall include further biodiversity enhancements in line with PPS9, taking the form of enhancing and buffering existing hedgerows to the south and west of the site.

The approved landscaping scheme shall be implemented within one year of either the first occupation or use of the development, whether in whole or in part, or its substantial completion, whichever is the sooner, and shall be maintained thereafter for a period of not less than five years. The maintenance shall include the replacement of any tree or shrub which is removed, destroyed or dies by a tree or shrub of the same size and species as that which it replaces, unless otherwise agreed in writing by the local planning authority.

Reason: In the interests of amenity and securing a scheme that includes the necessary ecological mitigation and enhancement measures.

4. Prior to the commencement of the development hereby permitted and before any equipment, machinery or materials are brought onto the site for the purposes of the development, details of fencing to be erected for the protection of retained trees/hedges/shrubs shall be submitted to and approved in writing by the local planning authority.

Fencing for the protection of retained trees/hedges/shrubs shall be erected in accordance with the approved details before any equipment, machinery or materials are brought onto the site for the purposes of the development and shall be maintained until all equipment, machinery and surplus materials have been removed from the site. Nothing shall be stored or placed in any area fenced in accordance with this condition and the ground levels within those areas shall not be altered, nor shall any excavation be made, without the written consent of the local planning authority.

Reason: In the interests of protecting the existing trees/hedges/shrubs on the site.

5. Prior to the commencement of the development hereby permitted, details of materials to be used externally shall be submitted to, and approved in writing by, the local planning authority. The development shall be built in the materials approved.

Reason: In the interests of visual amenity.

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) there shall be no extension or external alteration to any building forming part of the development hereby permitted.

Reason: In order to safeguard the amenity of the area by enabling the local planning authority to consider individually whether planning permission should be granted for extensions and external alterations.

7. Other than those garden structures detailed within the plans hereby approved, 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 garages, sheds or other ancillary domestic outbuildings shall be erected anywhere on the site edged in red on the approved plans.

Reason: In the interests of the amenity of the area.

8. Other than those means of enclosure shown on the submitted plans and 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 gates, fences, walls or other means of enclosure (other than those shown on the approved plans) shall be placed or erected forward of any wall of a building (including a rear or side wall) which fronts onto a highway, carriageway or footpath.

Reason: In the interests of the open plan layout of the area.

9. Unless otherwise agreed in writing prior to the commencement of development, all development and all necessary survey work shall be carried out in complete accordance with the conclusions and recommendations contained within the ecological assessment carried out by Chalkhill Environmental Consultants dated July 2009.

Reason: In the interests of nearby areas of ecological importance.

10. Prior to the commencement of development a scheme for the provision and implementation of biodiversity mitigation and enhancements across the site shall have been submitted to and approved in writing by the Local Planning Authority. Such a scheme shall include suitable enhanced planting along the southern and western boundaries, the appropriate fencing of existing hedgerows during construction to prevent damage, and the introduction of bat-brick type features

to the proposed dwellings, where appropriate. Development shall be implemented in complete accordance with such a scheme so approved by the Local Planning Authority.

Reason: In the interests of securing suitable ecological mitigation and enhancement.

11. Prior to the commencement of development, details of all means of enclosure and boundary treatments shown on the approved plans shall have been submitted to and approved in writing by the Local Planning Authority. Development shall be carried out in accordance with those details approved.

Reason: In the interests of visual amenity

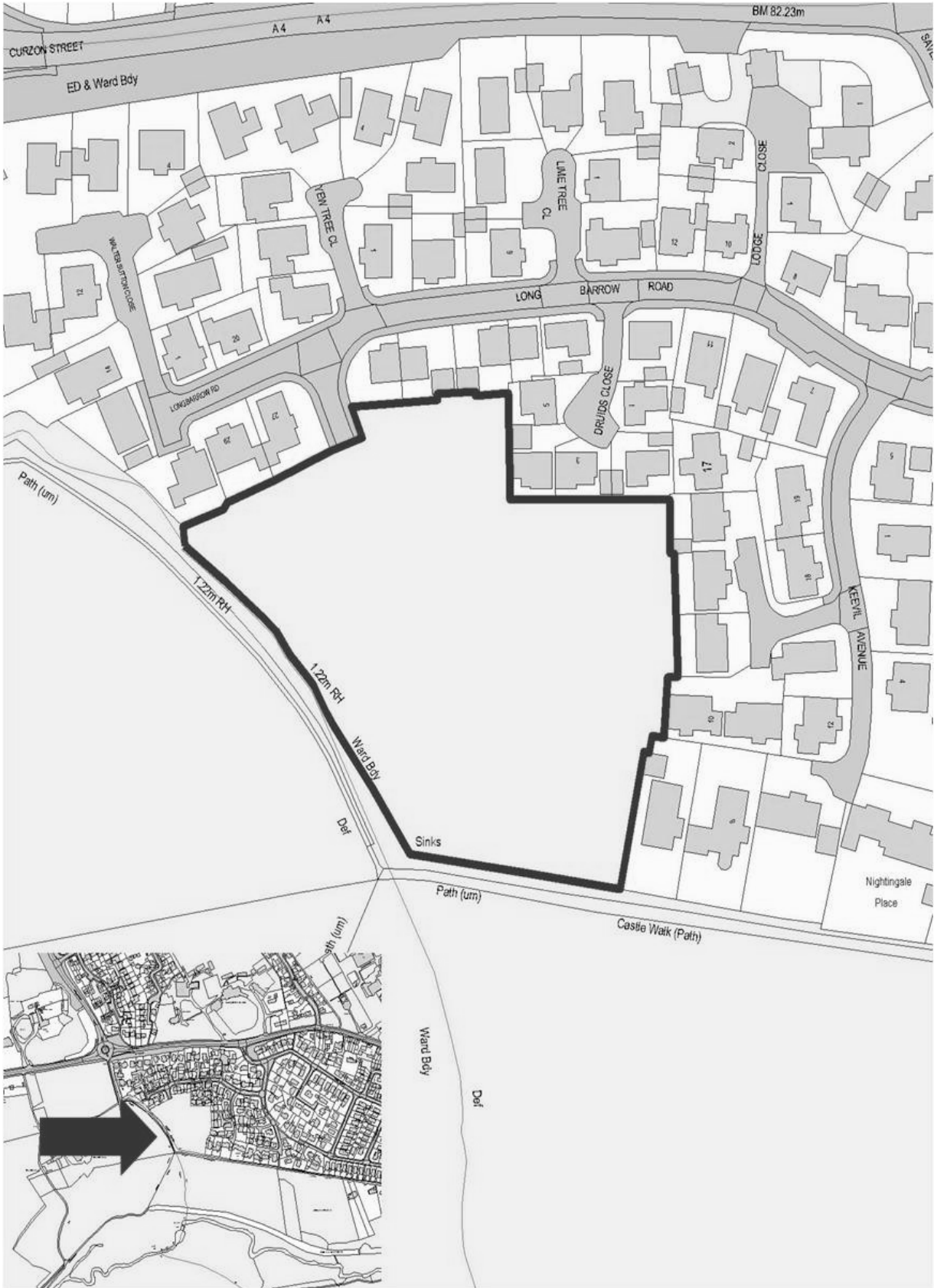
12. The development shall be implemented and managed in complete accordance with the submitted Curzon Park Community Management Plan and Local Lettings Plan received 17th February 2010.

Reason: In the interests of residential amenity and to achieve a suitably mixed and inclusive community.

13. No development shall take place upon the site until: (a) a written programme of archaeological investigation, which should include on-site work and off-site work such as the analysis, publishing and achieving of the results, has been submitted to and approved in writing by the Local Planning Authority; and (b) the approved programme or archaeological work has been carried out in accordance with the approved details.

Reason: To enable the recording of any matters of archaeological interest.

Appendices:	None.
Background Documents Used in the Preparation of this Report:	1.20; 2.02; 4.04; 4.02; 5.01



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REPORT TO THE NORTHERN AREA PLANNING COMMITTEE

Date of Meeting	24 February 2010		
Application Number	09/00912/S73A and 10/01204/S73A		
Site Address	Land adjacent Calcutt Farm, Calcutt, Cricklade, Wilts. SN6 6JT		
Proposal	Change of Use to Include the Stationing of Caravans for 14 Residential Gypsy Pitches with Utility/Day Room Buildings and hard Standing Ancillary to That Use		
Applicant	Mr H Atwell		
Town/Parish Council	Cricklade		
Electoral Division	Cricklade and Latton	Unitary Member	Cllr Peter Colmer
Grid Ref	411273 193275		
Type of application	Full		
Case Officer	Tracy Smith	01249 706642	tracy.smith@wiltshire.gov.uk

Reason for the application being considered by Committee

At the request of Cllr Peter Colmer on the following grounds:

- 1) The development is outside the framework boundary
- 2) There are implications regarding flooding as the proposal borders the flood plain area
- 3) The development is out of character with adjoining listed building
- 4) Has the County Archaeologist been informed, as this proposal is in close proximity to Ermin Street - when the A419 was upgraded, that development was subject to an archaeological survey.

The applicant has submitted an appeal in respect of application 09/00912FUL on the grounds of non-determination. As a consequence no formal decision can be made in respect of this application, however, in order to progress with the appeal and in light of the call-in request, the officer seeks the view of the Committee in respect of the application had they been in a position to determine it.

A duplicate application has also been submitted by the agent on behalf of the applicant given that key issues relating to this site have been resolved with the Environment Agency. It is also considered appropriate that that application be determined at the same time, notwithstanding that the consultation process will still be on-going at the time of the Committee.

1. Purpose of Report

To consider the above application and to recommend in relation to 09/00912/S73A had it been possible to determine the proposals, the recommendation would have been that planning permission be GRANTED.

Whilst in relation to 10/01204/S73A, recommend that planning permission be DELEGATED to the Area Manager for APPROVAL upon expiry of the public consultation period subject to no substantive new issues arising from the public consultation and subject to conditions.

2. Main Issues

The proposal needs to be assessed against Policies C3, NE13, NE15, HE6 and H9 of the North Wiltshire Local Plan 2011, Policy DP15 of the Wiltshire and Swindon Structure Plan 2016 and government guidance in Circular 01/2006 “Planning for Gypsy and Traveller Caravan Sites” and in particular issues relating to:

- Need
- Impact of the character and appearance of the area
- Amenities of nearby residents
- Sustainability
- Highways impact
- Drainage
- Flooding
- Archaeology
- Human Rights Act

3. Site Description

The site is roughly rectangular and is a flat field between the A419 and the access road to the properties on the east side of the A419 to the roundabout leading to Cricklade and the A419. An area of the land to the east of the access road is also included. The site is flat and has hedgerows on two sides. The derelict remains of an agricultural building close to the A419 are the only buildings. To the immediate south are the former farm buildings in a variety of employment uses and beyond those is Calcutt Farmhouse, a listed building. To the north is Calcutt Manor and associated outbuildings, also a listed building.

4. Relevant Planning History		
Application Number	Proposal	Decision
07/00533/FUL	Erection of Three Stables, Hay Store and Tack Room and Change of Use of Land to Equestrian	Permission

5. Proposal

This is a retrospective application. The caravans etc were moved onto the site in May 2009 and the associated works included in this proposal are now substantially completed but the site not fully occupied.

The proposal is for 14 plots arranged off a central access (plot 1 will have a separate access) each having a mobile home, touring caravan and day room and refuse store. These are the basic requirements for such sites.

Vehicle turning spaces are proposed at each end of the site and a package sewerage treatment plant in the field at the other side of the access road.

In order to screen the site visually and aurally from the road, a landscaping is proposed forward of a bund with close boarded fence atop (total height 3.8 metres) along the frontage with the A419.

6. Consultations

In relation to 09/00912FUL:

Cricklade Town Council made the following comments:

Cricklade Town Council objects to this application on the grounds that it is contrary to policy H9 (ii) on the following grounds:

- 1) The site is on the edge of the flood plain and a flood risk assessment should be required to determine, what impact, if any, the development is likely to have on flooding in the vicinity.
- 2) The development is adjacent to the A419/Ermin Street and given the importance of this historic Roman Road we would have thought that some archaeological oversight or other requirements would be appropriate.
- 3) The application makes no provision for supporting services in the settled base of Cricklade to meet the needs of the travelling community.
- 4) The siting of residential Gypsy pitches is out of character with the surrounding area, positioned between the listed Calcutt Farmhouse and Calcutt Manor, adjacent to the A419. I.e., the development is not in keeping with the character of the immediate area. In addition there is insufficient evidence of need for this locality sufficient to outweigh the harm to neighbours and land caused by the development of the site.

In Cricklade we already have 16 Gypsy pitches at Chelworth Lodge/Bournelake, within 3km of Cricklade. A further application is being considered for this site and if approved this would lead to 32 pitches at that site alone. A further 14 here would bring the total to 46. This is in addition to a number of unauthorised sites within the vicinity. This more than meets the requirement for the whole of North Wiltshire, let alone within 3 km of Cricklade. The Wiltshire and Swindon Gypsy and Travellers Accommodation Needs Assessment 2006 key recommendation (1.4) was to provide 24 pitches (including 16 at Minety less than 6 km from here and now approved retrospectively) by 2011. This would leave a further 8 pitches to be provided in North Wiltshire over the (then) next 5 years i.e. by 2011. This application is therefore inappropriate and in excess of the number considered appropriate for the area.'

They also made additional comments:

'I submitted comments to you yesterday on the above 2 planning applications. I have been trying to establish numbers and locations of sites in the Cricklade area as this should have an impact on the number of pitches and support the contention from Cricklade Town Council that this area, and Cricklade in particular already has sufficient pitches to meet demand and that additional pitches simply serve to attract travellers to this area.

I have now established that the following sites already exist:

Bournelake, (Chelworth Lodge) Cricklade (within 3km of Cricklade)
Sambourne Road, Minety (within 6km of Cricklade)
Malmesbury Road, Leigh (within 3km of Cricklade)
Tadpole Bridge, Purton (within 4km of Cricklade)
Lydiards Plain, Braydon Road, Lydiard Tregoze (within 10 km of Cricklade)

Plus two sites with temporary permission:
Bridge Paddock, Braydon Road, Purton (within 6km of Cricklade)
Wood Lane, Lydiard Tregoze (within 10km of Cricklade)

and two sites with no permission:
Restrop Road, Purton (within 6km of Cricklade)
Calcutt, Cricklade. (within 2km of Cricklade)

The number of pitches at these sites is not known, but presumably that information is held within Wiltshire Council somewhere although I have not been able to obtain the information.

In my submission I mentioned that 'The Wiltshire and Swindon Gypsy and Travellers Accommodation Needs Assessment 2006' key recommendation (1.4) was to provide 24 pitches (including 16 at Minety less than 6km from here and now approved retrospectively) by 2011. This would leave a further 8 pitches to be proved in North Wiltshire over the (then) next 5 years i.e. by 2011.

I think this further information further substantiates our contention that this application is therefore inappropriate and in excess of the number considered appropriate for the area.'

Further comments received on the noise survey as follows:

'Cricklade Town Council continues to object to this application. The noise survey that has been submitted only confirms what is already known. –there is a constant flow of traffic on the A419 with excessive noise and emissions which could be detrimental to health. The suggested mitigation which is in part already in place is not considered to be satisfactory. A one metre high bund with a two metre high fence on top would create an unwanted intrusion into the countryside and affect the open and visual aspect of the countryside as well as its proximity to a listed building. This would be contrary to NWDC Plan NE15. Furthermore a bund will act as a barrier to surface water in an area already prone to or at risk of flooding. Further assessment of the implications to drainage in the area needs to be undertaken.

Wiltshire Council Highways make the following comments:

'The site is located in open countryside, some 800m from the nearest bus stop, although a suitable walking route exists for much of that distance.

Bearing in mind the advice in Circular 1/2006 I do not consider that an objection on sustainability grounds is appropriate.

I recommend that no highway objection be raised.'

Highways Agency make the following comments:

'We have reviewed the documents and concluded we have no objections in principle to the proposals as they are likely to have little detrimental effect on the Strategic Road Network.

However, we do believe that the visual impact of the site could be a distraction to trunk road motorists but acknowledge the intention to install a landscaped bund and fencing to overcome such problems. The Agency therefore, would like to ensure that this mitigation work is an essential requirement.'

Wiltshire Council Archaeologist

This is an archaeologically sensitive location. Calcutt Farm is of medieval origin and ridge and furrow earthworks have been mapped at this location. The best opportunity would have been to have a watching brief when the topsoil was scraped off. Any investigations now would be of limited value. No objection or conditions.

Wiltshire Council Environmental Health

A noise survey was submitted at the request of the Environmental Health Officer and additional information was subsequently provided, concerns being the impact of noise from the A419 on residents. As a result of this information being provided, no objections are raised in respect of this proposal.

Environment Agency

Following much negotiation and discussion, the EA have removed their objection to the application subject to conditions.

7. Publicity

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

3 letters of objection have been received on the following grounds:

- The site is outside the framework boundary
- Pollution of water courses
- Surface water drainage problems
- Burning of rubbish
- Fence blocks view and access
- The site is 'illegal'

8. Planning Considerations

Policy

The emerging Regional Spatial Strategy, which carries significant weight, recommends the allocation/provision of 48 pitches in the northern area (former North Wiltshire District Council area). The current outstanding requirement to the period 2011 is 16 pitches taking into account permissions at sites such as Minety, Startley and Wootton Bassett.

There can be no objection in principle to a gypsy site in the countryside. Government advice and Development Plan policies make this clear in Circular 01/2006, Policy H9 of the North Wiltshire Local Plan 2011 and Policy DP15 of the Wiltshire and Swindon Structure Plan 2016. Policy DP15 specifically states that proposals for gypsy sites should not be considered against other policies for towns and villages due to their particular requirements.

The Council have recently commenced public consultation on the "Gypsy and Traveller Site Allocations Development Plan Document – Issues and General Approach Consultation Document". The consultation period ends on 4 June 2010. This document is a material consideration in the determination of these applications.

The purpose of the document is to invite views on the issues that the Council believes are central to identifying sustainable locations for future Gypsy, Traveller and Travelling Showpeople sites. Consensus is sought on the issues at the earliest stage in the preparation of the DPD which will enable the Council to develop policies which are based on a robust evidence base.

The consultation seeks to discuss the issues regarding site provision and site specific issues to date, to develop a methodology for assessing what is a good location for sites and to invite land to be put forward.

In terms of the site search criteria being suggested, sites within 1000 metres or less (as the crow flies) from shops/schools/open space and doctors are to be considered in the first instance with sites ideally being no more than 1200 metres from a district or neighbourhood centre. If no sites are found within 1000 metres, sites beyond 1200 m are considered up to a maximum of 2000 metres.

Prior to the publication of the emerging Gypsy and Traveller DPD, the acceptability of rural and semi-rural locations is clearly demonstrated in the appeal decisions at Minety and Startley. These decisions are material considerations in determination of this case.

This site has to be considered on its planning merits in accordance with adopted policies. Its suitability as a gypsy site is not dependent on the previous location or needs of the current occupiers. These issues would only be taken into account if the council were minded to grant permission on the grounds that the personal circumstances of the applicants were sufficient to outweigh facts which might otherwise make the site unacceptable.

Character and Appearance of the Area/Residential Amenity

The site is a piece of equestrian land of no exceptional character which has been cut off from adjoining land by the new access road and is now virtually surrounded by roads and other development. It is well screened by hedges to the north and south and there is screening to the A419 which is proposed to enhance with additional planting, a bund and a fence. The surrounding countryside is flat and the site is not prominent in distant views.

There is inevitably some impact and change in the immediate character of the area but there is not considered to be unacceptable impact on the setting of the listed buildings (from which the site is separated by other buildings and trees) or on residential amenity. Gypsy sites are acceptable in principle in the countryside and wherever they are located there will be some impact on the surrounding area.

Notwithstanding the comments of the Highways Agency the site is not particularly visible from the A419 and the proposed bund and fence set behind additional planting will provide adequate screening.

Flooding and Drainage

The site is wholly within flood zone 1 (the lowest risk category) where a flood risk assessment is not required due to its location. The site is, however, in excess of 1 ha which requires the submission of a Flood Risk Assessment (including surface water drainage proposals) irrespective of the type of location or the type of development proposed.

In the absence of a FRA being submitted but rather additional information from the applicants agents, the EA have undertaken a risk-based approach in respect of any risk to increased flooding on the site and surrounding areas as a consequence of the development. Due to the high impermeability of the site and the low density nature of the proposals, the EA considers that a satisfactory surface water drainage scheme to attenuate and potentially reduce surface-water run-off is achievable within the development and this can be conditioned.

The EA have investigated the current known flood levels at the site and along the A419 and consider that when compared with the EA's predicted flood levels, the topographic information submitted provides adequate assurance that a safe route of access can be provided in the event of a flood. A flood evacuation plan is required to be submitted via a planning condition.

The council's Environmental Health and drainage officers have investigated the issues raised by residents but have not identified any issues which will not be covered by the requirements of the Environment Agency.

Noise

The council's Environmental Health officers were concerned that the occupiers could be subject to excessive noise from the A419 bearing in mind the relatively poor sound insulation qualities of mobile homes. Consequently, the applicants commissioned and submitted a noise survey. Further dialogue between the applicant's agent and the EHO has taken place. Consequently, no objections are raised in respect of the proposal.

Archaeology

Had the development not already taken place a 'watching brief' would have been required. This is not now possible and no objection to the current application is raised by the county archaeologist.

Highways Impact

No highways objections are raised to the proposals.

Sustainability/Site Search

Given that there are no objections in principle to gypsy and traveller sites in the countryside, it follows that such sites will not always be located in the most sustainable of locations. Paragraph 54 of Circular 01/2006 states: "*in assessing the suitability of such sites, local authorities should be realistic about the availability, or likely availability, of alternatives to the car in accessing local services.*" (Officer emphasis).

Policy H9 of the Local Plan requires such sites to have "*reasonable access to local community facilities and services...*" (Officer emphasis).

Paragraph 64 of the Circular stresses that whilst sustainability is important, it is not to be solely considered in terms of transport mode and distances from services. Other considerations are integration within the community; wider benefits of easier access to GP and other health services, children attending school on a regular basis and the provision of a settled base to reduce the need for long distance travelling.

Having regard to recent appeal decisions in relation to gypsy sites at Minety and Startley and the recently approved site at Glenville Nurseries in Wootton Bassett, the site is considered to be well located to public transport and a range of facilities including shops, schools and employment opportunities. It is in walking distance of Cricklade on surfaced footpaths.

Based on the above, the proposal could be supported on sustainability grounds. However, as mentioned above, the emerging Gypsy and Traveller DPD is a material consideration. The site falls marginally outside the area of search at approximately 1200 metres. It falls within a safe walking distance of some 1500 metres to the High Street and 1800 metres of the primary school. It does not follow therefore, based on search criteria which are the subject of consultation that the site would satisfy the locational requirements of the emerging DPD and be allocated.

Human Rights

In determining this application the Committee is required to have regards to the Human Rights Act 1998, in particular Article 8 and Article 1 of the First Protocol, which confer rights of respect for a person's private life, home and possessions. Any interference in those rights by a public authority must be lawful and proportionate. This involves balancing the interests of all parties involved and taking into account the public interest in the proper application of planning policies.

Having considered all the circumstances of this application, it is considered that the granting of a temporary permission, would be proportionate and would not, therefore, be a violation of the Act.

9. Conclusion

The application site would make an important contribution to meeting the strategic Gypsy and Traveller requirement to 2011, leaving only two pitches to be provided until 2011. Prior to the publication of the Gypsy and Traveller DPD, this location would have been wholly acceptable in terms of landscape, amenity and sustainability grounds based on guidance contained within Circular 01/2006 and appeal decisions at Minety and Startley, as well as the approval last year of seven pitches in Wootton Bassett. Consequently the recommendation would have been for a full permission.

However, the emerging DPD is a material consideration and in this respect paragraphs 45 and 46 of Circular 01/2006 are relevant. Paragraph 45 refers to Circular 11/95 "The Use of Conditions in Planning Permission" and paragraph 110 of that document that: "advises that a temporary permission may be justified where it is expected that the planning circumstances will change in a particular way at the end of the period of the temporary permission. Where there is unmet need but no available alternatives gypsy and traveller site provision in an area but there is reasonable expectation that new sites are likely to become available at the end of that period in an area which will meet need, local planning authorities should give consideration to the grant of a temporary permission."

Paragraph 46 is of more relevance and states: "Such circumstances may arise, for example, in a case where a local planning authority is preparing its site allocations DPD. In such circumstances, local planning authorities are expected to give substantial weight to the unmet need in considering whether a temporary permission is justified. The fact that a temporary permission has been granted on this basis should not be regarded as setting a precedent for the use of the land as a caravan site. In some cases, it may not be reasonable to impose certain conditions on a temporary permission such as those that require significant capital outlay."

Accordingly, having regard to the emerging DPD and its suggested search criteria, against which this site does not instantly fare favourably, and to be consistent with other recent application decisions in respect of Gypsy and Traveller sites, it is considered that temporary 3 year permission would be appropriate in this instance and is recommended for the current application 10/01204S73A and would have been recommended for the appeal application, 09/00912S73A.

This would allow for the DPD process to take place in full with its adoption expected late 2011/early 2012 and for any sites to obtain the necessary permission if the site is not allocated and to enable relocation.

In light of the temporary permission, at this stage very limited conditions can be imposed since conditions such as landscaping and surface water drainage would entail significant capital costs which could be abortive.

10. Recommendation

09/00912S73A

Having regard to the appeal on grounds of non-determination to which 09/00912S73A relates, the recommendation would have been to grant temporary planning permission for the following reason:

The site outside a settlement could be acceptable under adopted policies. The site is not unacceptably harmful in its countryside location but is not wholly sustainable in terms of its access to services and amenities having regard to the emerging Gypsy and Traveller Site Allocations DPD. The proposal is, therefore, unacceptable at this juncture. In accordance with paragraphs 45 and 46 of Circular 01/2006 "Planning for Gypsy and Traveller Caravan Sites, on the basis of the emerging DPD it is entirely appropriate for a temporary permission to be granted to allow for the DPD process to take place and a permanent permission to be granted on an allocated site(s) when such a site(s) becomes available.

And subject to the following conditions:

1. 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 on to 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.

Reason: The provision of potential sites are being considered in the emerging Gypsy and Traveller Site Allocations DPD. A permanent permission in advance of this process would be premature and a temporary permission in this instance would accord with advice contained in Circular 01/2006 "Planning for Gypsy and Traveller Caravan Sites".

2. Within 3 months of this permission, a flood evacuation plan shall be submitted to and approved in writing by the Local Planning Authority in conjunction with other relevant bodies.

Reason: In order to ensure a safe, dry access to and from the development in the event of flooding.

3. Within three months of this permission, the access, turning area 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.

POLICY: C3

10/01204S73A

Planning Permission be DELEGATED to the Area Development Manager subject to the expiration of the consultation period and no new substantive issues being raised for the following reason:

The site outside a settlement could be acceptable under adopted policies. The site is not unacceptably harmful in its countryside location but is not wholly sustainable in terms of its access to services and amenities having regard to the emerging Gypsy and Traveller Site Allocations DPD. The proposal is, therefore, unacceptable at this juncture. In accordance with paragraphs 45 and 46 of Circular 01/2006 "Planning for Gypsy and Traveller Caravan Sites, on the basis of the emerging DPD it is entirely appropriate for a temporary permission to be granted to allow for the DPD process to take place and a permanent permission to be granted on an allocated site(s) when such a site(s) becomes available.

and subject to the following conditions:

1. 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 on to 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.

Reason: The provision of potential sites are being considered in the emerging Gypsy and Traveller Site Allocations DPD. A permanent permission in advance of this process would be premature and a temporary permission in this instance would accord with advice contained in Circular 01/2006 "Planning for Gypsy and Traveller Caravan Sites".

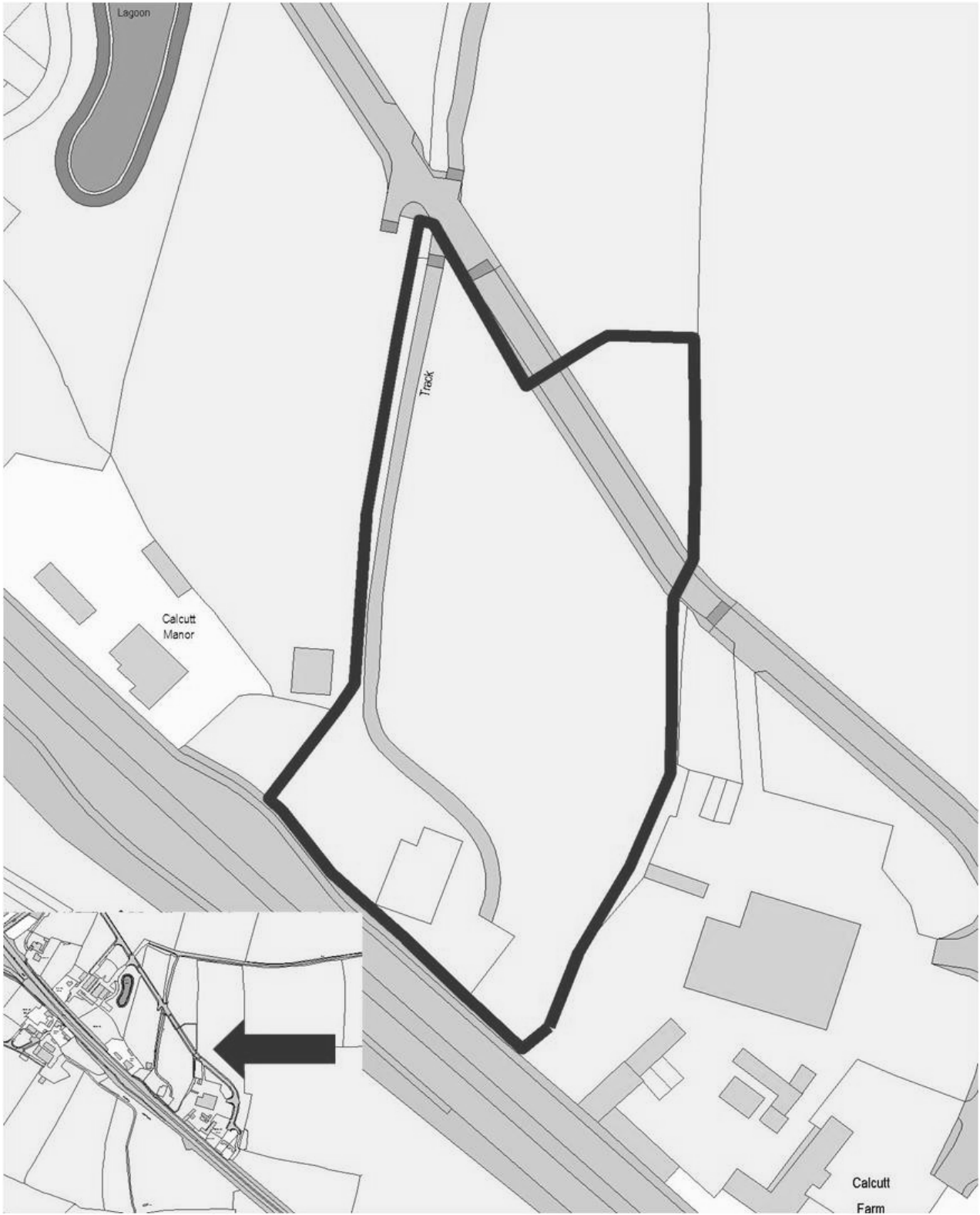
2. Within 3 months of this permission, a flood evacuation plan shall be submitted to and approved in writing by the Local Planning Authority in conjunction with other relevant bodies.

Reason: In order to ensure a safe, dry access to and from the development in the event of flooding.

3. Within three months of this permission, the access, turning area 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.

Appendices:	None
Background Documents Used in the Preparation of this Report:	1.20 2.02 2.10 2.25 3.03 3.04 4.02 4.03 4.04 4.07 5.02 5.05 6.01



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REPORT TO THE NORTHERN AREA PLANNING COMMITTEE

Date of Meeting	28th April 2010		
Application Number	09/02107/FUL		
Site Address	21 The Maltings, Malmesbury, Wiltshire, SN16 0RN		
Proposal	Single Storey Rear Extension, Loft Conversion including 2 Roof Lights + Roof Extension		
Applicant	Mr Kemp		
Town/Parish Council	Mamesbury		
Electoral Division	Malmesbury	Unitary Member	Simon Killane
Grid Ref	393194 187064		
Type of application	Full Application		
Case Officer	Kate Backhouse	01249 706684	Kate.backhouse@wiltshire.gov.uk

Reason for the application being considered by Committee

Called in by Cllr Kilane to consider

- Scale
- Visual Impact
- Relationship to adjoining properties
- Design
- Highway/Environmental Impact

1. Purpose of Report

To consider the above application and to recommend that planning permission be GRANTED subject to conditions.

2. Main Issues

The main issue in the consideration of this application is the effect that the proposal would have on the adjacent properties and the Malmesbury Conservation Area.

3. Site Description

21 The Maltings is a mid terrace property located towards the end of a cul de sac. The access to the estate is via a narrow lane which serves approximately 36 properties, built in the early 1990s. To the rear of the property there is a narrow garden which slopes down to the river. To sides of the garden are trellised fencing with a low picket fence to the end boundary. The property has white painted timber windows and doors and is built of reconstructed stone.

4. Relevant Planning History		
Application Number	Proposal	Decision
87.00977.FUL	41 Retirement Dwellings and Managers Dwelling with 14 Integral Garages, 13 Garages, 22 Parking Spaces and Access Residential Development - (34 Dwellings and 2 Flats)	PER
97.1736.FUL		PER

5. Proposal

The application seeks permission for the erection of a single storey rear extension and loft conversion to include a roof extension.

6. Consultations

Malmesbury Town Council

7. Publicity

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

10 letters of letters of objection have been received.

Summary of key relevant points raised:

- Not in accordance with C3 and HE1 of the North Wiltshire Local Plan 2011 in terms of scale and massing.
- A covenant on the properties restricting extensions
- Not in accordance with PPG15
- Light reduction
- Party wall issues
- Rooflights to the front will cause overlooking
- The properties were originally retirement homes and should not be used as family homes
- Character of the property
- Access for builders
- Setting a precedent

Malmesbury and St Paul Residents Association have objected to the application and the key points are summarised below;

- Size and scale of the rear extension
- Not in accordance with C3 of the North Wiltshire Local Plan 2011

8. Planning Considerations

The proposed rear extension has a depth of 3 metres and is to be built of materials to match the existing dwelling. Due to the staggered nature of the terraces, this means that only 2 metres of extension will extend further than the rear wall of 20 The Maltings and at a single storey level. The rear of the terrace is non-uniform being made up of a mixture of different house types and roof lines, it is therefore not considered that the proposed alterations would be out of keeping with the surrounding properties or fail to preserve the character and appearance of the Malmesbury Conservation Area at this location.

The proposed alterations to the roof to create additional living accommodation will extend the existing rear gable and insert two roof lights to the front roof slope. These are set a distance of 15 metres away from the house opposite (34 The Maltings). In addition to this 21 The Maltings is set slightly down from the property opposite and it is therefore considered that this will cause no additional overlooking and is acceptable in terms of size design, and scale.

In respect of party wall issues this is a civil matter rather than a planning consideration, likewise is the covenant on these properties.

The original intention of the estate as retirement homes is no longer relevant as permission was granted for dwellinghouses and has been used as such for over 15 years therefore there is no restriction on families living there. Access for builders is also not a planning consideration of this application.

There are three conservatories visible from the garden of 21 The Maltings and it is not considered that the proposed works will create a precedent for future development of the estate as each application is considered on its own merits having regards to the character and appearance of the area and host dwelling.

The Environment Agency have offered the standing advice to the applicant regarding the flood risk. It should be noted that the site is outside of floodzone 3

9. Conclusion

It is considered that the proposal is acceptable in terms of size scale and design and that there will be no significant adverse impact on the amenities of the adjacent properties. The application preserves the character and appearance of the Malmesbury Conservation Area and is therefore considered to be in accordance with Policies C3, HE1 and H8 of the North Wiltshire Local Plan 2011.

10. Recommendation

Planning Permission be **GRANTED** for the following reason:

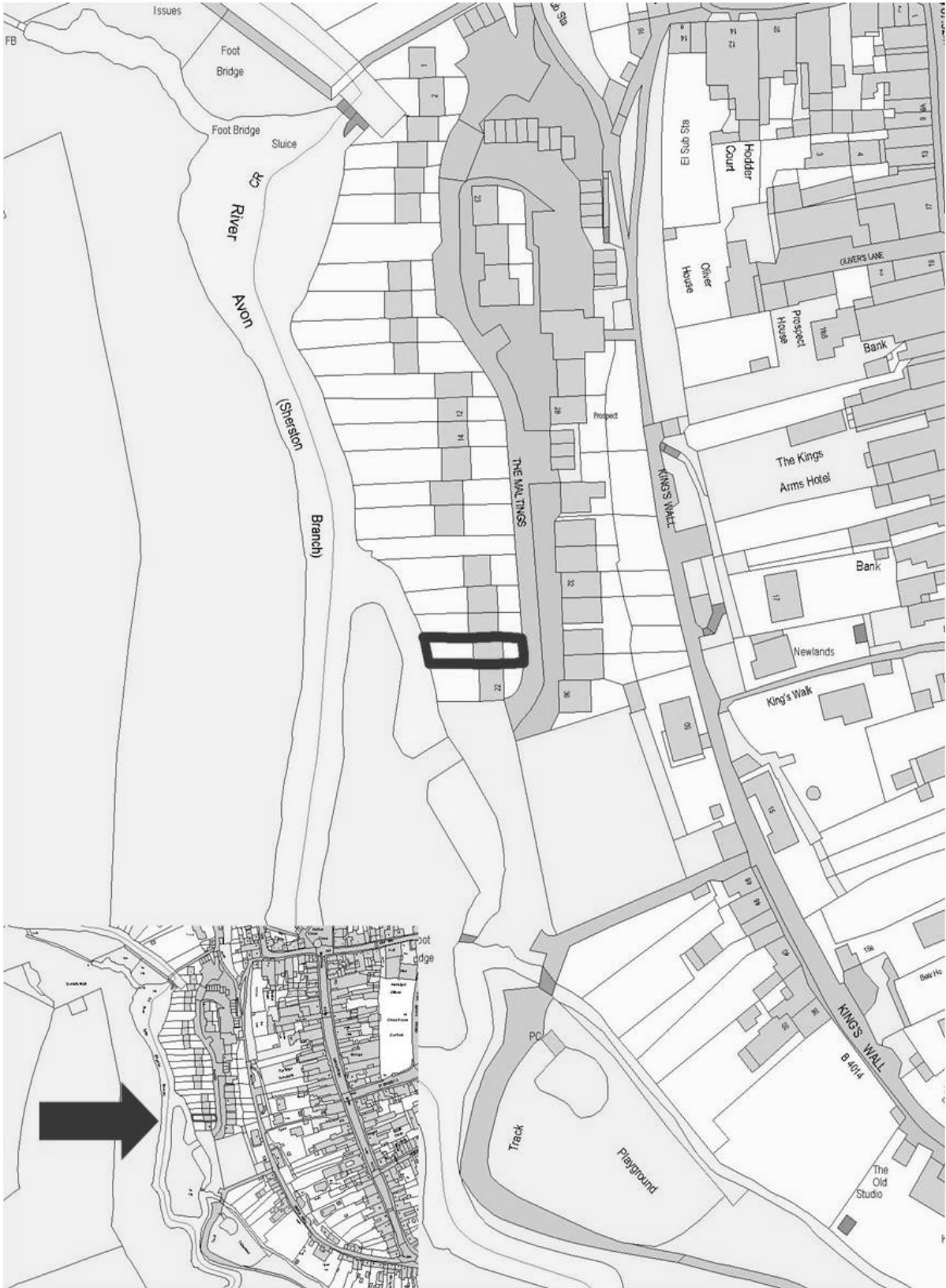
It is considered that the proposal is acceptable in terms of size scale and design and that there will be no significant adverse impact on the amenities of the adjacent properties. The application preserves the character and appearance of the Malmesbury Conservation Area and is therefore considered to be in accordance with Policies C3, HE1 and H8 of the North Wiltshire Local Plan 2011

Subject to the following conditions:

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

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

Appendices:	None
Background Documents Used in the Preparation of this Report:	1.20 4.02 4.03 4.04 5.01



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REPORT TO THE NORTHERN AREA PLANNING COMMITTEE

Date of Meeting	28 April, 2010		
Application Number	N/10/00001/FUL		
Site Address	52 NORTH STREET, CALNE, WILTSHIRE, SN11 0HJ		
Proposal	Single Storey Extensions		
Applicant	Mr P Green		
Town/Parish Council	Calne		
Electoral Division	Calne Chilvester & Abberd	Unitary Member	Cllr Chuck Berry
Grid Ref	399643 171591		
Type of application	Full Application		
Case Officer	Kate Backhouse	01249 706684	kate.backhouse@wiltshire.gov.uk

Reason for the application being considered by Committee

The application has been called into committee by Cllr Chuck Berry on the following grounds;

- Visual impact upon the surrounding area
- Relationship to adjoining properties
- Design
- Environmental / highway impact

1. Purpose of Report

To consider the above application and to recommend that planning permission be GRANTED subject to conditions.

2. Main Issues

The main issues in the determination of this application are:

- impact on host dwelling
- impact on amenity of neighbouring properties
- character and appearance of the area

3. Site Description

52 North Street is a semi-detached property located on a corner plot. To the side of the property is an existing flat roof element. The rear garden is enclosed by approximately 1.8 metre fencing on both sides. To the side (adjacent but outside of the fence) and front of the property is a low wall. The property has brown UPVC windows and doors and is constructed of recon stone. The property lies to the north of the adjacent property, 50 North Street.

4. Relevant Planning History

There is no history of relevance to this site

5. Proposal

The application seeks permission for single storey extensions to the front, side and rear of the property and one continuous structure.

The proposed single storey extension to the rear is to be 3 metres in depth and will span the entire rear of the property.

To the side the existing single storey side element is to be replaced with a lean-to extension which is to extend less than 2 metres.

The front of the property is to be extended by 1.5 metres to enclose the existing bay window.

Materials are to match the existing dwelling. The additional accommodation that this proposed extension will provide is a family room, utility, bedroom and porch.

6. Consultations

Calne Town Council have objected to the application on the grounds that it doesn't comply with policy C3 of the Local Plan 2011 parts (i) and (iii)

7. Publicity

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

1 letter of letters of objection received

Summary of key relevant points raised:

- Visual impact upon the surrounding area
- Relationship to adjoining properties
- Design
- Environmental / highway impact
- Inaccuracies of plans and information on application forms
- Proposed concrete tiles cannot achieve the proposed pitch.
- No measurements shown on plans
- Overshadowing
- Out of keeping
- Non compliance with Policy C3 of the North Wiltshire Local Plan 2011

8. Planning Considerations

Impact on host dwelling

The proposed rear extension has a maximum height of 3.4 metres with the eaves at 2.6 metres. On its own this element of the application would not require an application to be submitted as it is permitted development and this is a material planning consideration.

The proposed extensions will effectively wrap around the entire semi-detached property.

That proposed to the front is in keeping with the tiled canopy detail of 50 North Street.

There is already a single storey lean to along the side/north elevation and the proposal would not be so significantly different as to be harmful to the host dwelling, nor would any other element of the extensions proposed.

Furthermore, extensions such as this are not uncommon and have been permitted elsewhere.

Impact on residential amenities

The extension to the front extends no further forward than the canopy to 50 North Street and is thus not considered harmful in this respect. The extension to the rear extends 3 metres, due to this length and the proposed ridge height of 3.4 metres, together with the fact that a rear extension could be constructed as permitted development, this element of the proposal is not considered to be detrimental to the residential amenity of 50 North Street.

Other matters

The drawings provided are to scale, 1:100 Floor Plans and Elevations, 1:1250 Site Location Plan and 1:200 Block Plan therefore no measurements need to be provided as part of the application. Should the applicant be unable to achieve the proposed extensions in line with the scale drawings, either a minor amendment or a fresh application would need to be sought.

9. Conclusion

It is considered that the proposal is acceptable in terms of size scale and design and that there will be no significant adverse impact on the amenities currently enjoyed by the neighbouring residents. The proposal is considered to be in accordance with policies C3 and H8 of the North Wiltshire Local Plan 2011.

10. Recommendation

Planning Permission be GRANTED for the following reason:

It is considered that the proposal is acceptable in terms of size scale and design and that there will be no significant adverse impact on the host dwelling or the amenities currently enjoyed by the neighbouring residents. The proposal is considered to be in accordance with Policies C3 and H8 of the North Wiltshire Local Plan 2011.

Subject to the following conditions:

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

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

Appendices:	None
Background Documents Used in the Preparation of this Report:	1.20 4.02 4.03 4.04



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REPORT TO THE NORTHERN AREA PLANNING COMMITTEE

Date of Meeting	28 th April 2010		
Application Number	N/10/00340/FUL		
Site Address	Land at the end of Tern Close, Calne, Wiltshire		
Proposal	Proposed Detached House, Detached Garage, Access & Fencing.		
Applicant	Mr S Robinson		
Town/Parish Council	Calne		
Electoral Division	Calne Central	Unitary Member	Cllr. Howard Marshall
Grid Ref	400629 171001		
Type of application	Full Application		
Case Officer	Richard Palmer	01249 706673	richarde.palmer@wiltshire.gov.uk

Reason for the application being considered by Committee

Cllr. Marshall has requested this application be considered at the Committee meeting for reasons of: Scale of development; Relationship to adjoining properties; Design; Environment/highway impact.

1. Purpose of Report

To consider the above application and to recommend that planning permission be **DELEGATED** to Area Development Manager for **APPROVAL** subject to completion of S106 contribution towards Public Open Space and conditions

2. Main Issues

1. Principle of the development;
2. Scale, form and layout of development
3. Impact upon residential amenity
4. Highways
5. Public Open Space

3. Site Description

The site comprises of about 0.045ha of land at the eastern end of Tern Close in Calne. Tern Close comprises of 23 dwellings of predominantly terrace houses and a pair of semidetached housing dating from the 1970's. There is an area of garage blocks/parking and two areas of grassed space, one at the entrance to the cul-de-sac and the other the rear western end, now comprising the application site.

The application site is located between existing residential properties and farmland to the east. The site, a rough grassed area has a slight gradient and contains four trees to its frontage.

4. Relevant Planning History - None of relevance

5. Proposal

The proposal is to erect a detached 3-bed dwelling located central to the site with a detached garage to its eastern side, and access on its southern side (boundary with no.8). There will be a 1.8m high fence erected around part of the boundary to enclose the rear garden. The four frontage trees will remain.

The house is of a simple design and constructed with brick and tile. There are no flank windows proposed at either ground or first floor levels (and no dormers are proposed).

6. Consultations

WC Highway. - Recommends that no highway objection is received subject to 4 conditions being imposed (Conditions 5-8).

WC Environmental Health – Comments awaited

Wessex Water – Comments awaited

Calne Town Council - Objects to the proposal on the following grounds: (i) Local Plan Policy C3(i), (ii), (iii) (v), (vii). In addition it does not adhere to the requirements of Core Policy C3 paragraph 5.10. Members noted that there are proposals to plant new trees to the northeast boundary, however, were displeased to hear that two trees on the site have recently been felled - although these trees were not protected they were large, mature trees which enhanced the area.

7. Publicity

The application was advertised by site notice and neighbour consultation. Expiry date 08.04.2010

3 letters of objection received

Summary of key relevant points raised:

- The new development will prevent natural sunshine from reaching no.8 in the afternoon/evenings (especially in the summer);
- It would cause further vehicular congestion with increase in vehicles and where parking is at a premium;
- Vehicles have difficulty turning at present due to the parking of vehicles;
- It would increase environmental problems due to vehicle exhaust, household heating/lighting, noise;
- It would prevent children being able to play on this site;
- It will prevent emergency vehicles from access the rear of 8 Tern Close;
- There is a gas main and storm drain that is not marked on the plans;
- The house would overlook houses and therefore effect privacy;
- Would lose the view out into the countryside;
- The 6 foot fence would be inappropriate to an open plan estate;
- Concern raised about childrens safety during construction phase

8. Planning Considerations

Principle of the development:

The land is located wholly within the Settlement Framework Boundary of Calne (Policy H3). This policy aims to permit residential development subject to qualifying criteria.

The density equates to about 22 dwelling per hectare. Whilst this is below the threshold in PPS3 which aims for 30/ha, it is considered that to have two dwellings on this site (44/ha), would likely give rise to an over-development of the site.

Scale, form and layout of development

The design and scale of the development is considered to be appropriate to this location. Whilst it will be the only detached dwelling in Tern Close, it is located immediately adjacent (11m away) to the only pair of semidetached houses at the end of the Close and therefore will be seen in this context.

The building will be of brick and tile, which will be similar to neighbouring dwellings. It will be about 8m high which is marginally higher than the surrounding houses at about 6.5m. With the terrain in the cul-de sac sloping down from southeast to northwest, the height of the proposed house will be seen in context with the pair of semi-detached housing on the higher land. Furthermore, the proposed house is about 11m away from the row of terrace dwellings lower down the hill to the northwest. It is also a comparable depth and on a similar front building line to the semidetached dwellings to the south. Therefore in terms of scale, form and layout it is considered to be an appropriate form of development.

Impact upon residential amenity

There will be no side windows and therefore this will significantly minimise any potential direct overlooking of existing properties to either sides.

The house is also centrally located in its plot. It is considered that its proposed height and location would not be demonstrably harmful to the amenities of neighbours in terms of daylight or resulting in an oppressive form of development. No.8 is on higher land to the south and therefore the development will have minimal impact upon its existing sunlight levels. No's 5-7 are to the north of the development, and whilst the proposed development may have an impact, this is not considered to be significant due to the distance the proposed house is away, the proposed slope of the roof, and the rising land to the southeast.

The land has been used as an informal play/recreation area which has provided an amenity to the local residents. The land though is in private ownership and thus could be fenced off at any time.

Whilst the existing open gap presently allows views out of the cul-de-sac into the field and countryside to the east, views over private land are not protected. It is considered that a loss of a gap at the end of this cul-de-sac can not be safeguarded.

The proposed 1.8m fence will be erected to enclose the rear garden. Whilst there is an element from the side of the house to the detached garage south, there is still a large area of front garden that will remain unfenced. It is therefore commensurate to the open character of the area.

It is therefore considered that the effect on the amenity of the surrounding dwellings is acceptable.

Highways

Access to the site will be via a new driveway leading from Tern Close. This will be located between the existing trees and lead to the garage. Over two car parking spaces would be possible on the driveway and garage. It is considered that a proposed single dwelling would not lead to a significant increase in vehicle usage/trip generation in the Cul-de-sac. On this basis WC Highways have accepted the proposal and it is not considered that a refusal can be justified on this basis.

Public Open Space

Section 106 Contribution

The applicant has agreed to pay the relevant monies for POS contributions through a S106 agreement.

9. Conclusion

The land is presently an open piece of land that has been informally used by local residents in the past, for purposes of general amenity. The land though is in private ownership, with direct access to a highway (Tern Close) and is within the Settlement Framework of Calne. It therefore has potential for residential

development. The development of a single dwelling by reason of its location, size, layout and design is considered would not undermine the existing residential character of this area, nor be demonstrably harmful to the existing amenities of neighbouring residents.

10. Recommendation

The applicant be invited to enter an Agreement in respect of Public Open Space contributions following completion of which the Development Control Manager be authorised to GRANT Permission for the following reason:

The application site is located within the settlement framework boundary of Calne where the presumption allows for suitable residential infilling. Whilst the land is currently open, there is no right of public access. The proposal, by virtue of its siting, scale and design is considered to be in keeping with the character and appearance the streetscene in Tern Close and will have no demonstrable impact upon the amenities currently enjoyed by the nearby residents. The development will therefore accord with the aims and objectives of the development plan, having particular regard to Local Plan policies C3 and H3 of the adopted North Wiltshire Local Plan 2011 and there are no other material considerations which would make the development otherwise unacceptable.

and Subject to the following conditions:

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

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

2. No development shall commence on site until details and samples of the materials to be used for the external walls and roofs have been submitted to and approved in writing by the Local Planning Authority. Development shall 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 C3

3. 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:

- (a) indications of all existing trees on the land;
- (b) details of any to be retained, together with measures for their protection in the course of development;
- (c) all species, planting sizes and planting densities, spread of all trees and hedgerows within or overhanging the site, in relation to the proposed buildings and other works;
- (d) hard surfacing materials;

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

POLICY C3

4. 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.

POLICY-[C3]

5. Notwithstanding the provisions of the Town and Country Planning (General Permitted Development) Order 1995 (as amended by the Town and Country Planning (General Permitted Development) (Amendment) (No.2) (England) Order 2008 (or any Order revoking or re-enacting or amending that Order with or without modification), the garage(s) hereby permitted shall not be converted to habitable accommodation.

REASON: To safeguard the amenities and character of the area and in the interest of highway safety.

POLICY C3

6. The development hereby permitted shall not be occupied until the first five metres of the access, measured from the edge of the carriageway, has been consolidated and surfaced (not loose stone or gravel). The access shall be maintained as such thereafter.

REASON: In the interests of highway safety.

POLICY C3

7. No development shall commence on site until a scheme for the discharge of surface water from the site (including surface water from the access/driveway), incorporating sustainable drainage details, has been submitted to and approved in writing by the Local Planning Authority. The development shall not be first brought into use/first 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 C1 & C3

8. No dwelling shall be occupied until the parking spaces (driveway and garage) together with the access thereto, have been provided in accordance with the approved plans. The driveway and garage shall be kept for this purpose for parking and vehicle maneuvering thereafter.

REASON: In the interests of highway safety and the amenity of future occupants.

POLICY C3

9. Notwithstanding the provisions of the Town and Country Planning (General Permitted Development) Order 1995 (as amended by the Town and Country Planning (General Permitted Development) (Amendment) (No.2) (England) Order 2008 (or any Order revoking or re-enacting or amending those Orders with or without modification), no development within Part 1, Classes A-E shall take place on the dwellinghouse hereby permitted or within their curtilage.

REASON: In the interests of the amenity of the area and to enable the Local Planning Authority to consider individually whether planning permission should be granted for additions, extensions or enlargements.

POLICY C3

10. Notwithstanding the provisions of the Town and Country Planning (General Permitted Development) Order 1995 (as amended by the Town and Country Planning (General Permitted Development) (Amendment) (No.2) (England) Order 2008 (or any Order revoking or re-enacting or amending that Order with or without modification), no windows, doors or other form of openings other than those shown on the approved plans, shall be inserted in the side elevations of the development hereby permitted.

REASON: In the interests of residential amenity and privacy.

POLICY C3

11. No construction work, including the removal of debris resulting from the works (excluding any internal works) shall take place on Sundays or public holidays or outside the hours of 8.00am to 7.00pm weekdays and 8.00am to 1.00pm Saturdays.

Reason: To minimise the disturbance which noise from the construction works associated with the proposed development could otherwise have upon the amenities of nearby dwellings.

Policy C3, NE18

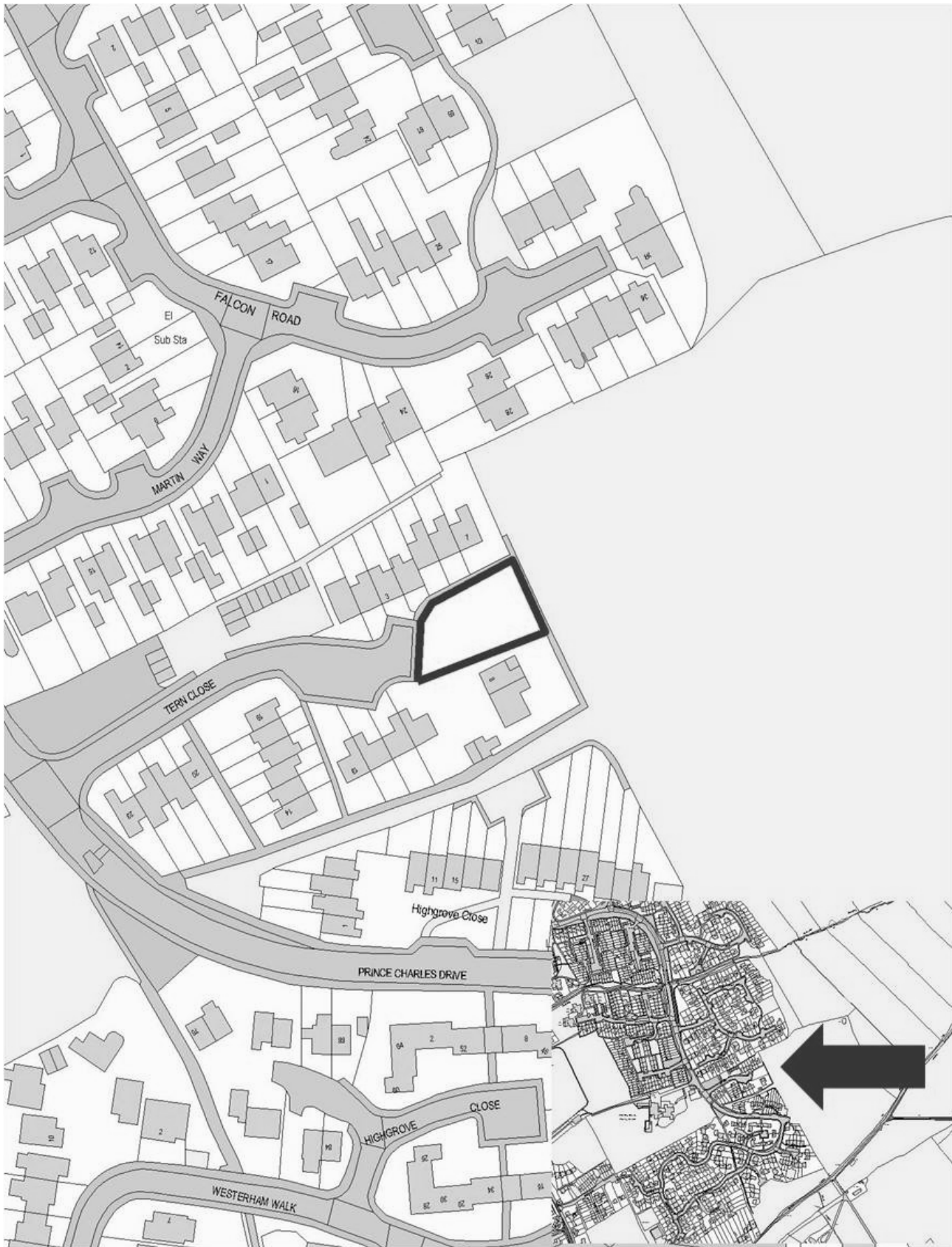
INFORMATIVES:

1 - This decision relates to documents/plans submitted with the application, listed below. No variation from the approved documents should be made without the prior approval of this Council. Amendments may require the submission of a further application. Failure to comply with this advice may lead to enforcement action which may require alterations and/or demolition of any unauthorised buildings or structures and may also lead to prosecution.

Plan Ref:-

Location Plan dated 01.02.2010;
SD/EW/05 dated 01.02.2010
DG/1.0/1B dated 01.02.2010;
TCC/100/1A dated 01.03.2010;
3.114/P/B/L dated 01.03.2010;
TCC/100/2 dated 01.03.2010.

Appendices:	None
Background Documents Used in the Preparation of this Report:	1.20 2.02 4.02 4.03 4.04



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REPORT TO THE NORTHERN AREA PLANNING COMMITTEE

Date of Meeting	28 th April 2010		
Application Number	10/00589S73A		
Site Address	Lower Lodge, 35 Bowden Hill, Lacock, Wilts SN15 2PP		
Proposal	Single storey extension to side/rear (part retrospective)		
Applicant	Mrs K Du-Boulay		
Town/Parish Council	Lacock		
Electoral Division	Corsham/Box	Unitary Member	Cllr Richard Tonge
Grid Ref	393768 167774		
Type of application	Full		
Case Officer	Tracy Smith	01249 706642	tracy.smith@wiltshire.gov.uk

Reason for the application being considered by Committee

At the request of Cllr Richard Tonge to consider the scale of the development.

1. Purpose of Report

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

2. Main Issues

The main issues in considering this proposal are:

- Scale of development and impact on the host dwelling
- Impact on the character and appearance of the Conservation Area
- Impact on trees the subject of Preservation Orders.

3. Site Description

Lower Lodge comprises a large detached dwelling which also operates as a bed and breakfast. The dwelling has been much extended. Based on recent appeal decisions, the property has already been “substantially” extended in the past.

The dwelling occupies a prominent but isolated position within the Bowden Hill Conservation Area and landscape given the land falls away sharply to the west. It is set within large grounds with trees and vegetation dominating the northern boundary of the site with other less dense vegetation on its other boundaries.

The nearest properties are in excess of 90 metres of the site and largely to the north. These properties are screened from the proposed extension via the vegetation on the northern boundary.

4. Relevant Planning History		
Application Number	Proposal	Decision
08/02416FUL	Erection of self contained residential annex in rear garden following removal of existing shed	Refused
07/02984FUL	Two storey extension (partial demolition)	Refused/ Dismissed at appeal
07/02376FUL	Two storey extension (annex) on side elevation	Refused/ Dismissed at appeal
02/00538FUL	Two storey extension	Permission
96/2258FUL	Conservatory	Permission
92/02388FUL	Extension	Permission
80/01420FUL	Alterations and extensions	Permission

5. Proposal

The application is for a single storey extension to the side and rear of Lower Lodge. The extension extends the existing family room to the rear. The extension protrudes 3.7 metres to the side and has a depth of between 2.6 and 2.9 metres (due to its slight stagger). The extension has a mono-pitch roof.

When viewed from the east the extension appears as a blank red brick wall which sits flush with the tall gabled north elevation with detailed timber framing at first floor level.

6. Consultations

Lacock Parish Council – raise no objection

7. Publicity

The application was advertised by site notice, press advert and neighbour consultation. No representations have been received.

8. Planning Considerations

Scale of development and impact on the host dwelling

The northern elevation of the property is one of the most sensitive elevations of this dwelling given its featured tall timber framed gable elevation. This historic aspect of the original dwelling was a fact noted a previous appeal decision (06/2376FUL relates).

The proposed extension notwithstanding its relative small size is attached to the side and rear of the property in such a manner which bears no consistency with the existing built form of the dwelling. When viewed from the rear it is clear that attempts have been made to match the fenestration of the family room and appropriate bricks used, however, this is where any resemblance of the host dwelling ends.

The mono-pitch roof ensures that when viewed from the side, regardless of the limited public views into the site, the extension appears as a blank wall protruding to the side. When viewed from any vantage point on this side of the property, it is also clear that the single storey extension pays no attention to the timber framed gable wall projection against which the extension now clashes and ensures that it appears as an incongruous addition to this dwelling.

It is for this reason that the extension by reason of its scale, design and siting is considered to be harmful to the character and appearance of the host dwelling.

Impact on the character and appearance of the Conservation Area

By reason of the harm to the dwelling which is located within the Bowden Hill Conservation Area, it follows that the proposal also demonstrably harms, rather than preserves or enhances, the designated area.

Impact on Trees

The Tree Officer has confirmed that the application only affects one of the TPO trees, the Ash and that root damage may have been caused as a consequence of the extension. However, this will not be apparent for a few years. Accordingly, there is no evidence at this time on which to refuse the application.

10. Recommendation

REFUSE for the following reason:

1. The proposed extension by reason of its scale, design and siting appears as an incongruous addition to the building out of character with its form and appearance and fails to preserve or enhance the Bowden Hill Conservation Area in which it is located. Accordingly, the proposal is contrary to Policies C3, HE1 and H8 of the adopted North Wiltshire Local Plan 2011.

Appendices:	None
Background Documents Used in the Preparation of this Report:	1.20 4.02 4.03 5.01 5.03 5.04

