

<b>Date of Meeting</b>	2 <sup>nd</sup> November 2017
<b>Application Number</b>	17/06842/FUL
<b>Site Address</b>	Land to the rear of Trinity Cottage, Castle Grounds, Snails Lane, Devizes SN10 1DB
<b>Proposal</b>	Proposed dwelling on site of former horticultural buildings.
<b>Applicant</b>	Mr & Mrs R Smart
<b>Town/Parish Council</b>	DEVIZES
<b>Electoral Division</b>	DEVIZES AND ROUNDWAY SOUTH – Cllr Sue Evans
<b>Grid Ref</b>	400331 161217
<b>Type of application</b>	Full Planning
<b>Case Officer</b>	Nick Clark

### Reason for the application being considered by Committee

The application is being reported to the planning committee for consideration at the request of Councillor Sue Evans, who considers the proposal to be:

‘a carefully designed and imaginative scheme that would enable the applicant to continue his family's long association with the site. It would provide a custodian (the applicant) living on the site to ensure the future care and maintenance of this sensitive location. In doing this it will ensure that the site can be enhanced as a benefit to the character and appearance of the setting of the Castle and the other heritage assets within the immediate area. The proposed design is sufficiently 'Low-impact and respects the site's topography and setting’.

#### 1. Purpose of Report

The purpose of the report is to assess the merits of the proposal against the policies of the development plan and other material considerations and to consider the recommendation for the application to be refused.

#### 2. Report Summary

The main issues to be considered are the impact of the development on the setting of Devizes Castle as a Scheduled Monument and the grade I listed Victorian castle, the associated grade II listed castle walls and the nearby grade I listed St John's Church and grade II listed Sexton Cottage, and impacts in terms of the archaeological potential of the site.

In these respects, the report concludes in agreement with objections received from Historic England, the Conservation Officer and the Assistant County Archaeologist, that the proposed house, due to its siting, height, bulk, design and associated hard landscaping (road and parking) and associated residential paraphernalia and activity will have an adverse impact on the significance of designated heritage assets; principally

the Scheduled Monument and listed Castle and associated walls but also the strong historic associations and visual connections between the Castle and the grade I listed Church of St John the Baptist.

In turn, the development would be detrimental to the character of the designated Area of Minimum Change.

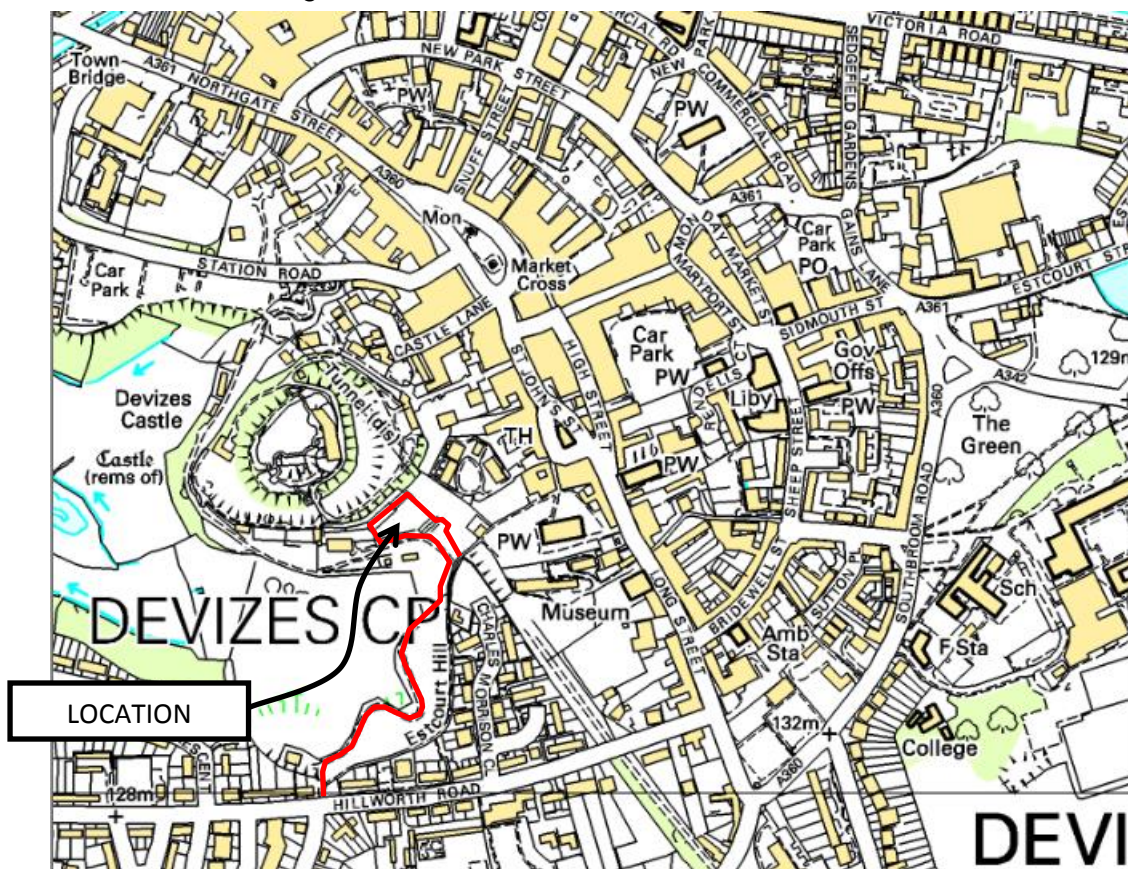
Furthermore, in the absence of further archaeological investigation the Council is also unable to assess the impact of the development upon the archaeological interest of the site.

The NPPF advises that development resulting in harm to heritage assets cannot be approved unless the harm is outweighed by public benefits. With no public benefits identified sufficient to outweigh the harm, the report recommends refusal of the application.

A further reason for refusal is recommended in respect of lack of ecological assessment. Subject to the submission of additional information this will potentially have been resolved by the date of the committee.

### 3. Site Description

The application site is within the setting of Devizes Castle; being on slopes at the foot of the castle mound and comprising former gardens associated with the Victorian castle and the remains of glass houses.



The original castle and mound are designated as a Scheduled Monument. The Victorian castle is grade I listed (including glass house walls and garden walls encircling the west side of mound). The castle walls and gates are grade II listed. The grade I listed St John's Church and grade II Sexton Cottage are in close proximity and the site lies adjacent to the boundary of the Devizes Conservation Area, and within the Area of Minimum Change designated around the castle.

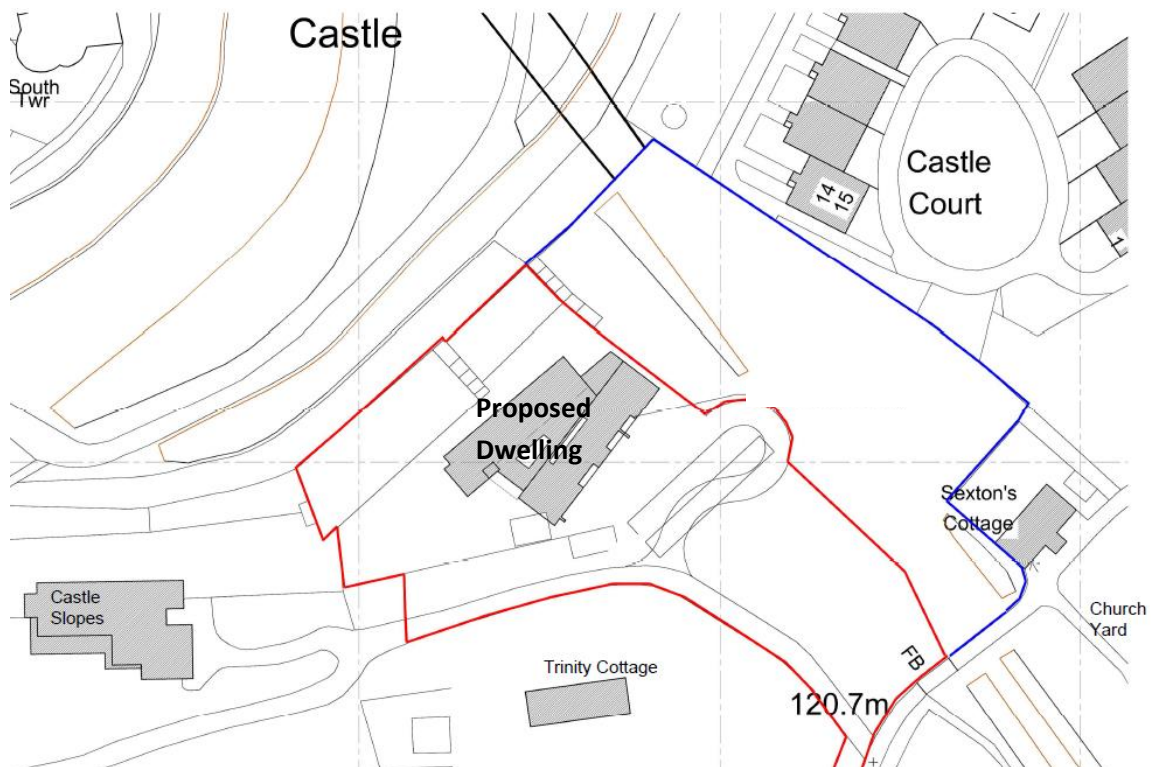
The former railway tunnel beneath the castle mound and its approach are also important aspects of the town's history, and thus can be considered to be non-designated heritage assets.

#### 4. Planning History

Pre-application advice given in 2016 set out that the principle of additional residential development in this location would not be supportable.

#### 5. The Proposal

The application proposes a detached single storey split-level dwelling partly cut into and stepping down the slopes at the base of the castle mound.



The dwelling is proposed with a flat green roof with use of 'green walls' in the south elevation. It would have 4 bedrooms with a sizeable internal floor area of 293m<sup>2</sup> with additional integral garaging.



The site would be accessed from Hillworth Road to the south west by an existing driveway, included within the application site.

It is understood that a model of the proposed development will be made available for Members to view at the committee meeting.

## 6. Local Planning Policy

The development plan so far as is relevant comprises the Wiltshire Core Strategy (2015) and saved policies of the Kennet Local Plan.

The following policies of the Wiltshire Core Strategy are of particular relevance to the proposal:

CP57 Ensuring high quality design and place shaping

CP58 Historic environment

The following saved policy of the Kennet Local Plan is also key as the site lies within a designated Area of Minimum Change

HH10 Areas of Minimum Change

Government policy for 'conserving and enhancing the historic environment' is set out in section 12 of the National Planning Policy Framework and needs to be read together with other policies of the Framework.

## 7. Summary of consultation responses

Devizes Town Council: "whilst the committee did not object to the application they asked for it to be noted that they would not want to see any further development on the site".

Historic England:	Significant adverse impact on the balance of open space around the castle particularly in terms of the relationship between the castle and St John's Church
Trust for Devizes:	Concerns in respect of cumulative impacts in sensitive setting of the Castle and St Johns Church.
WC Archaeologist:	Objection due to the potential for significant archaeological remains and the absence of archaeological evaluation as previously advised needed to be carried out pre-application.
WC Conservation Officer:	Objection: 'adverse impact on the significance of the designated heritage assets principally the Scheduled and listed Castle and associated walls but also the strong historic associations and visual connections with the grade I Church of St John the Baptist'.
WC Highway Officer:	No objection
Other:	No neighbour or other comments received

## 8. Publicity

The application was advertised in the Wiltshire Gazette & Herald on August 10<sup>th</sup> 2017 and has been subject to direct neighbour consultation.

## 9. Planning Considerations

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

Section 66 of the Planning (Listed Buildings and Conservation Areas) Act 1990 provides in respect of listed buildings, that the Council must 'have special regard to the desirability of preserving the building or its setting or any features of special architectural or historic interest which it possesses'

### Principle of development

The site is located within the Limits of Development for Devizes where the main considerations are the setting of Devizes Castle as a Scheduled Monument and the grade I listed Victorian castle, the associated grade II listed castle walls and the nearby grade I listed St John's Church and grade II listed Sexton Cottage, and impacts in terms of the archaeological potential of the site.

Given this very sensitive heritage setting, and as noted above, the applicant has previously been advised that the principle of further residential development is unacceptable.

### The setting of Devizes Castle and St John's Church

Devizes Castle is designated as both a Scheduled Monument (the castle and mound) and a Grade I listed building (the Victorian Castle). Scheduled Monuments and listed buildings are of national importance and grade I listed buildings in particular are defined as being of 'exceptional' national interest.

The setting of the castle is considered to be of key importance to its heritage significance, with the national heritage listing noting that 'the rich parklands of the Old Park form, with the Castle mound, a fine piece of landscape, which should always be preserved'. The Conservation Area Statement similarly notes that 'The impact of Devizes Castle is best viewed from the south where there is a footpath from Hillworth Road. Here it is possible to appreciate the importance of the original Castle as a defensive structure'.

St John's Church was situated within the inner bailey of the castle and likely started out as the castle chapel. The relationship between the castle and church is thus considered also to contribute to the heritage significance of both the church and the castle, as well as the setting within the conservation area.

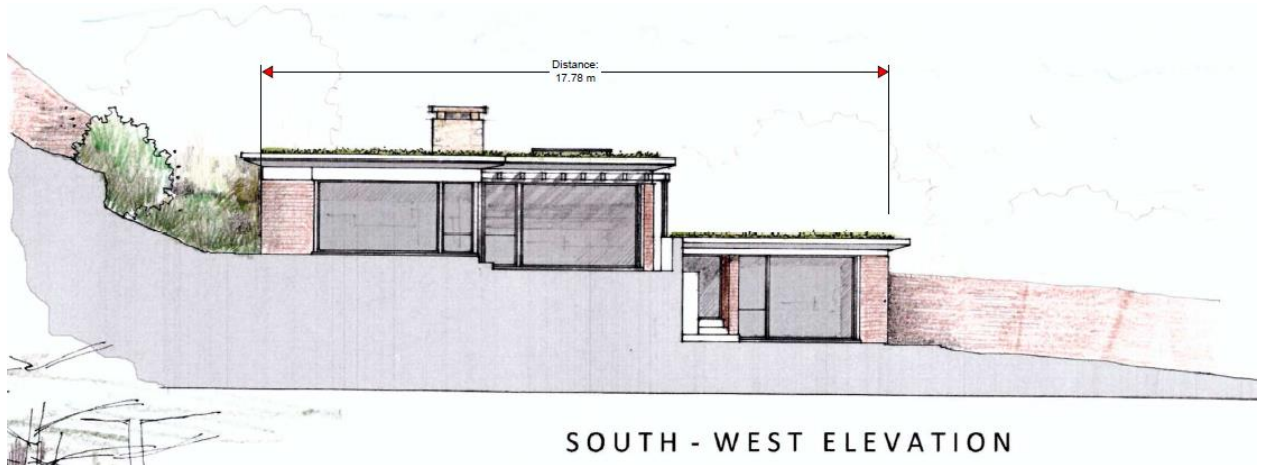
The application site undoubtedly forms part of the historic castle grounds. It is currently largely grassed over, but with the remains of former glasshouses originally established in association with the Victorian castle. Whilst no longer serving as gardens to the castle, the largely undeveloped and inert character of the site contributes to the landscape setting of the castle mound in views from the south. Historic England thus considers that at present the application site 'reinforces the strong relationship' between the castle and the church.

While the site may have been dominated by glasshouses in the past, the original glasshouses were part of the castle's Victorian garden layout and had a functional and subservient connection to the castle, and the residue of this continues to contribute to the heritage significance of the site.

Within this setting, the proposed dwelling would have a width of 28m and height of c. 5.5m. It would be partly dug into the rising ground that effectively supports the castle mound. The height of the dwelling would obstruct views of walls around the mound, and the building, with associated driveway, vehicle parking, garden paraphernalia and use would clearly disturb the landscape setting of the castle, particularly in views from the south and southeast, from where the dwelling, set on rising ground, would be visible from the churchyard and the public footpath.



It would also be evident in long views from the southwest, towards which the 17m wide elevation would be almost entirely glazed, giving rise to a potentially high visual impact in hours of darkness in the long views available from the south west.



Historic England notes that the setting of the castle has been compromised in the past by development but does not consider this to set a precedent for further development. It concludes that whilst attempts have been made in the design to 'hide' the dwelling, the development would fundamentally alter the character of former garden land associated with the castle. Historic England thus does not believe that development of the land can be achieved without 'significantly adversely diminishing the balance of open space' that contributes to the connection between castle and church. Similar objection is raised by the Conservation Officer.

The Conservation Officer and the Archaeologist also object to the proposal in terms of the setting of the castle itself, noting that the application site forms part of the original castle slopes and that it may have also been part of man-made medieval defences. The Conservation Officer notes that the mound and the slopes contribute to the heritage significance and appreciation of the defensive position of the castle. To build on the castle slopes is the harmful to this important remaining element of the setting of the castle.

The Conservation Officer also considers that the open garden space and walls on the application site are important remnants of the Victorian gardens associated with the grade 1 Victorian castle. Their replacement by a house would harm the historic setting of the castle, resulting in turn in harm to the heritage significance of the building.

#### Sextons Cottage

Sextons Cottage is a grade II listed building dating from the 17<sup>th</sup> century. The development would be clearly visible from Sextons Cottage, and while it would impact on the wider heritage setting of the cottage to a degree, the application site setting is not considered to be key to the heritage significance of the cottage and the impact would not result in any harm to the cottage's heritage significance.

#### The former railway and tunnel

The proposed dwelling would be sited adjacent to the entrance to the railway tunnel. The works within the approach to the tunnel would not be above ground level however and considering the non-designated status of the former railway line and tunnel it is concluded that the development would not harm the heritage significance of the tunnel or its approach.

#### The level of harm to heritage significance.

The National Planning Policy Framework advises that 'clear and convincing justification' is needed for any harm to heritage assets. It identifies harm in terms of it being either 'substantial' or 'less than substantial'. 'Substantial harm' is generally limited to direct impacts on an asset itself rather than impacts on the setting.

As identified above, the development would harm the setting of Devizes Castle and the Church of St John The Baptist as well as the railway line. As the development affects the assets' setting the harm falls within the scope of 'less than substantial'. Within this category however there is a wide spectrum of harm.

Considering the Grade I recognition of the castle and church and the 'significant adverse impact' identified by Historic England together with the objections of the Council's Conservation Officer and Archaeologist, the level of harm to the heritage significance of the castle and church is considered to fall at the higher end of this scale of harm.

The NPPF advises that the harm should be weighed against the public benefits of the development. The level of public benefit needs to be sufficient to outweigh the permanent and irrevocable harm to heritage significance that would result.

#### Public benefits

The documents supporting the application conclude that there would be no harm to the heritage significance of the listed buildings or Scheduled Monument. No 'clear and convincing justification' has been provided for the development in terms of public benefits, but the supporting statement suggests that the development 'would enable the applicant to continue his family's long association with the site and to provide a custodian for the future care and maintenance of this sensitive location'. No clarification or substantiation for this statement has been provided and in any event it is not



considered that this could amount to a public benefit sufficient to outweigh the identified level of harm.

#### Area of Minimum Change

The importance of the wider site around the mound is recognised by Kennet Local Plan policy HH10, which designates Areas of Minimum Change in order to protect areas of land within, or at the edge of built up areas that make an important contribution to the character and appearance of the settlement. The policy applies to significant areas of public and private open space, gardens and churchyards.

Policy HH10 states that planning permission will not be granted for development that would materially damage the character of an Area of Minimum Change.

The relatively undeveloped nature of the Area designated around the Castle is thus recognised and protected by the policy. Whilst there is some long-established development within the designated Area, this pre-dates policy HH10 as well as the strong emphasis now to be found in national and local policies for heritage protection. Existing development within the Area of Minimum Change does not therefore set any form of precedent for further development as proposed.

The introduction of a new residential unit into this relatively undeveloped part of the designated Area, in an elevated position on the slopes of the mound, would materially damage the character of the Area of Minimum Change and would be contrary to policy HH10.

#### Archaeology

The area around the castle is of undoubted archaeological potential. Historic England, in its comments, notes that the site may lie over archaeological deposits associated with the castle, including its defensive ditch. The County Archaeologist advised the applicant pre-application of the need for any planning application to be accompanied by the results of archaeological evaluation.

Whilst the application includes a Heritage Assessment it is dismissive of the likelihood of the development impacting on any archaeological interest; concluding that construction of the adjoining former railway is likely to have destroyed or disturbed all previous archaeological remains on the site of the dwelling. The only evidence put forward to substantiate this is the results of 2 borehole samples that showed significant ground disturbance. These were taken in the south east of the application site however, 'within or close to the railway cutting' where ground disturbance is not surprising. The dwelling however would be located outside the cutting where it is separated from the railway cutting by a brick wall (which may pre-date the railway construction), and on high/ rising ground where there is nothing to suggest a likelihood of railway construction activity having extended to any significant degree.

The applicant also suggests that works to create terraces within the grounds may have also destroyed any archaeological interest, but there is no evidence of the nature and extent of any terracing works and how they may have impacted upon the perhaps significant depth of defensive ditches around the castle.

The archaeologist thus disagrees with the conclusions of the Assessment and considers that there is the potential for significant archaeological remains to exist within the site such as the bailey and/or town defences and medieval settlement remains (especially as the proposed dwelling lies within a less disturbed part of the site). The Assessment itself also recognises 'the potential for encountering archaeologically significant medieval remains'. The nature and extent of any archaeological interest however is unknown, and it is unknown whether any such remains would be best preserved in-situ and if so, whether in-situ preservation would be compatible with the development.

Core Policy 58 provides that development 'should protect, conserve and where possible enhance the historic environment'. In the absence of any archaeological evaluation of the site, the Council is unable to assess the impact of the development on the archaeological interest of the site and the development is thus contrary to Core Policy 58.

#### Ecology

The application is supported by a Phase 1 Ecological Assessment. The Assessment identifies the need for further survey work to identify the nature and extent of impacts of the development on bats and reptiles. The agent advises that further surveys have been carried out and whilst a report on the findings of the surveys has been chased, at the time of drafting this report no further information has been received.

Core Policy 50 requires that applications must demonstrate how they provide for the protection of protected species. Case law dictates that the impact of development on protected species must be identified before planning permission can be granted. In the absence of a report identifying the impact of the development on protected species, the proposal is contrary to Core Policy 50.

### **10. Conclusion (The Planning Balance)**

The development would result in harm to the heritage significance of Devizes Castle and the Church of St John The Baptist and to the character of the Area of Minimum Change and in the absence of information to demonstrate that the development would have an acceptable impact in terms of archaeology and on protected species, the proposal is contrary to the development plan. With there being no circumstances to warrant otherwise the application is recommended for refusal for the 3 reasons set out below.

### **RECOMMENDATION**

That planning permission is REFUSED for the following reasons:

1. The application site occupies a sensitive heritage setting in the designated Area of Minimum Change on the slopes at the base of the Devizes Castle mound, where the largely undeveloped nature of the land and its residual character as former gardens to the castle contribute to the heritage significance of the Scheduled Monument and Grade I listed castle. Within this setting, the proposed dwelling would be visible from a

number of directions. The significant size and elevated position of the dwelling and the associated access and garden accoutrements would be detrimental the character and appearance of the site and would intrude upon the heritage setting of the castle and particularly the relationship between the castle and the grade I listed St John's Church, resulting in less than substantial harm to their heritage significance. As such, the development would be contrary to Kennet Local Plan policy HH10 and Wiltshire Core Strategy Core Policy 57 and Core Policy 58, and in the absence of public benefits sufficient to outweigh the harm, contrary to the National Planning Policy Framework.

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2. The development would necessitate significant excavation and earthworks in an area where there is the potential for significant archaeological remains to exist such as the bailey and/or town defences and medieval settlement remains. In the absence of archaeological investigation of the site, the nature and extent of archaeological remains unclear and thus the impact of the development on the archaeological value of the site cannot be determined. As such, the application would be contrary to Wiltshire Core Strategy Core Policy 57 and Core Policy 58 and the advice of the National Planning Policy Framework.
  3. In the absence of the results of further survey work to identify the extent and species of bats and reptiles on the site (as recommended in the submitted ecological assessment) the Council cannot be satisfied that the development would not have an adverse impact on protected species. As such, the development would be contrary to Wiltshire Core Strategy Core Policy 50.
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