

WESTERN AREA PLANNING COMMITTEE

10 March 2010

Planning Applications for Determination

Item No.	Application No.	Location	Parish	Page No.
01	W/09/00690/FUL	Erection of a single storey 1,937sq m gross extension to the east and western elevations of the store; car park improvements and an extension to the south west of the existing car park resulting in an additional 91 car parking spaces; relocation of the petrol filling station from the river avon to the south eastern area of the site; revised service yard arrangements; provision of an online service facility; construction of a new pedestrian link with town centre; and landscape and ecological improvements to enhance the nature and amenity value of the site and the surrounding land to the south west - Sainsbury Store Bath Road Melksham Wiltshire SN12 6LL	Melksham (Town)	1
02	W/09/02622/FUL	Mobile home, day room and retention of existing pair of sheds - Land At Capps Lane Bratton Wiltshire	Bratton	34
03	W/10/00163/FUL	Extension of existing bed and breakfast accommodation to provide 5 additional rooms together with refurbishment of Cornicks Cottage to 2 additional rooms, formation of new vehicular access and car parking, and alterations to thatched boundary wall - Dove Inn Corton Wiltshire BA12 0SZ	Boyton	43
04	W/09/03641/FUL	Siting of a mobile home - Land Adjacent 28 Fairwood Road Dilton Marsh Wiltshire	Dilton Marsh	53

REPORT TO THE WESTERN AREA PLANNING COMMITTEE

Item No. 01

Date of Meeting	10.03.2010		
Application Number	W/09/00690/FUL		
Site Address	Sainsbury Store Bath Road Melksham Wiltshire SN12 6LL		
Proposal	Erection of a single storey 1,937sq m gross extension to the east and western elevations of the store; car park improvements and an extension to the south west of the existing car park resulting in an additional 91 car parking spaces; relocation of the petrol filling station from the river avon to the south eastern area of the site; revised service yard arrangements; provision of an online service facility; construction of a new pedestrian link with town centre; and landscape and ecological improvements to enhance the nature and amenity value of the site and the surrounding land to the south west		
Applicant	Sainsbury's Supermarkets Ltd		
Town/Parish Council	Melksham (Town)		
Electoral Division	Melksham Central	Unitary Member:	Stephen Petty
Grid Ref	390311 163970		
Type of application	Full Plan		
Case Officer	Miss Julia Evans	01225 770344 Ext 140 juliaj.evans@wiltshire.gov.uk	

Reason for the application being considered by Committee

Former Councillor White has requested that this item be determined by Committee for the following reasons:

“the reason for calling in the Sainsbury’s Store application is as follows:

“The Town Council objected to the following planning application: 09/00690: Erection of a single storey 1,937sq m gross extension to the east and western elevations of the store; car park improvements and an extension to the south west of the existing car park resulting in an additional 91 car parking spaces; relocation of the petrol filling station away from the river Avon to the south eastern area of the site; revised service yard arrangements; provision of an online service facility; construction of a new pedestrian link with town centre and landscape and ecological improvements to enhance the nature and amenity value of the site and the surrounding land to the south west. Sainsbury Store, Bath Road, Melksham (Full Plan).

“Resolved: After considering the comments raised by residents and the many letters Extract from minutes of Melksham Town Council Development Control committee submitted the Town Council objected to the above application on the following grounds:

- Displacement of water. There is already a problem with flooding in this area, there is a concern if areas that currently flood are built upon where will the water go, especially as there are houses nearby in Church Walk / Canon Square area, which could be damaged.
- Again regarding displacement of water, this could even dry out some properties in Church Walk and the conservation area.

- Flooding. This is already a problem, the footpath adjacent to Sainsburys currently floods as does the small access road leading to the rear of properties in Victoria Terrace / Church Walk, if building work goes ahead this could make the problem worse. There is also a flooding problem to the rear of Sainsburys, however, it is not clear if this is a result of blocked drains and it was asked what plans are in place to resolve this problem now and in the future.
- The removal of the balancing pond to allow for the extra car parking may also cause more flooding problems.
- There is a concern there are existing underground water courses in this area which could be disturbed if building work goes ahead. This situation needs to be looked into more detail.
- Repositioning of the petrol station could cause pollution problems ie fumes, light from the petrol station and cars and also noise from the cars to nearby properties in Victoria Terrace, Church Walk and Canon Square. This matter needs to be looked at carefully and whether there is a need to move the petrol station at all, as this is a safety issue for nearby residents. Indeed could the extra parking spaces be provided on the proposed new petrol station site. There needs to be clarification on how many more extra car parking spaces there will be as several documents available seem to contradict each other.
- If this application goes ahead there needs to be a restriction on the delivery times, as current delivery times cause noise pollution problems for nearby residents.
- Part of this application affects houses in a conservation area and indeed – part of the application encroaches onto a conservation area. The Conservation Officer and English Heritage need to be informed of this application as consideration needs to be given to how this application impacts on the conservation area.
- `Riverside Walk. Currently this footpath is not maintained to a satisfactory standard and any maintenance, cleanliness issues need to be part of any Section 106 Agreement relating to this application.
- There needs to be reassurances that the building work will not have an impact on the neighbouring properties in the conservation area, as had happened in the past when pile drivers were used.
- It was noted that residents in Victoria Terrace and Canon Square were not informed of the planning application.
- There seems to be confusion on how many more parking spaces will be provided.
- Recycling bins. These need to be positioned so as not to cause a nuisance to nearby neighbours.

“If minded to give permission to this application, could a condition be placed on any planning permission that Church Walk is repaired to a satisfactory condition.

“Planning Policies C18, C21, C31a, C32, C35, C36 and C38 apply.”

1. Purpose of Report

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

The report below has now been added to, so as to include the late list comments and the deferment request from the Members of the Planning Committee after at its initial consideration at the meeting of the 10th February 2010.

2. Main Issues

The main issues to consider are:

- * retail impact;
- * flooding and drainage matters;
- * highways and sustainability impact;
- * impact on Listed Buildings and the Conservation Area;
- * amenity (noise & nuisance);
- * contaminated land matters;
- * archaeology matters;
- * nature conservation;
- * miscellaneous matters.

3. Site Description

This is a full application for:-

- * the erection of a single storey 1,937sq m gross extension to the eastern and western elevations of the store;
- * car park improvements and an extension to the south west of the existing car park resulting in an additional 91 car parking spaces;
- * relocation of the petrol filling station from the River Avon to the south-eastern area of the site;
- * revised service yard arrangements;
- * provision of an online service facility;
- * construction of a new pedestrian link with the town centre; and
- * landscape and ecological improvements to enhance the nature and amenity value of the site and the surrounding land to the south-west, to the Sainsbury Store, Bath Road, Melksham, Wiltshire.

The existing Sainsbury store lies to the western side of Bath Road (the A3102), and runs along the southern bank of the River Avon. A mix of commercial and residential properties run along Bath Road to the east of the site. To the south lies Church Walk and the residential properties that run along it, whilst to the south-west lies amenity and nature conservation land, with associated pedestrian accesses over it. Beyond the River Avon to the north of the site lies a mix of commercial uses. The store and its ancillary service yard lies to the southern edge of the site, overlooking the River Avon, with its car park located in front and to its western side. It is a distinctly-designed building with a curved roof, with the service yard located to its eastern end. Service and customer access comes off Bath Road, to the northern edge of the site, with the existing petrol filling station lying adjacent to the river. Beyond the car park along the store's western elevation lies a level, overgrown area, bounded by semi-mature trees, and beyond this lies existing landscaping including flood compensation schemes. A public footpath runs along the riverside, with an additional route leading into the town and Church Walk. The site also includes the area known as the Bear Car Park, which is currently segregated from the Sainsbury site by landscaping and timber fencing. There is vehicular access to this site from Bath Road, but with no current vehicular or pedestrian linkage to the store.

4. Relevant Planning History

(Excluding advertisement control applications for the store and the previous employment uses on the site)

92/00308/OUT – Retail development (Class A1) and ancillary car parking – including demolition of existing buildings – Withdrawn 10/02/94

95/01126/OUT – Redevelopment of site including retail, flats, offices, petrol filling station and leisure uses with landscaping, car parking, servicing, highway, flood plain storage and engineering works – Permission 10/07/96

96/00591/REM – Redevelopment of site including retailing, petrol filling station, shops, and flats with ancillary landscaping, car parking, servicing, highway and flood plain storage – Approved 08/08/96

98/00807/FUL – Restaurant extension (156sqm) – Permission 27/07/98

01/01159/FUL – Extension to petrol filling station kiosk together with ancillary works – Permission 30/08/01

01/00613/FUL – Erection of a 605 square metre extension to existing foodstore and revision to car park layout – Permission 19/08/02

02/01581/FUL – Restaurant extension (renewal of 98/0807 dated 27 July 1998) – Permission 04/03/03

02/01661/FUL – Extension to warehouse area – Permission 05/12/02

02/01718/FUL – Variation of condition 02 of permission 01/00613/FUL: parking provision – Permission 10/04/03

03/00232/FUL – Air handling plant to the rear of the sales area extension – Permission 14/07/03

03/01053/FUL – Erection of a new 2m high acoustic fence to rear of store – Permission 08/08/03

05/01185/FUL – Relocation of air conditioning units – Permission 28/09/05

07/01399/FUL – Variation of condition 15 of planning permission 95/01126 in order to allow deliveries to take place up until 1am (mon-sat) for a temporary 6 month trial period – Permission 10/09/07

08/00211/FUL – Variation of condition 15 of planning permission 95/01126/FUL in order to allow deliveries to take place up until 1am (Mon to Sat) – Withdrawn 22/04/09

5. Proposal

This is a full application for:-

- * the erection of a single storey 1,937sq m gross extension to the eastern and western elevations of the store;
- * car park improvements and an extension to the south west of the existing car park resulting in an additional 91 car parking spaces;
- * relocation of the petrol filling station from the River Avon to the south-eastern area of the site;
- * revised service yard arrangements;
- * provision of an online service facility;
- * construction of a new pedestrian link with the town centre; and
- * landscape and ecological improvements to enhance the nature and amenity value of the site and the surrounding land to the south-west, to the Sainsbury Store, Bath Road, Melksham, Wiltshire.

The Store – the application proposes the extension of the store to both its east and west elevations, plus an extension to the existing first floor. The western elevation would be extended to provide for additional sales floorspace (approximately an additional 555sqm), a bakery and an online service area. To the east there would be an extension providing an extended and relocated servicing area, which would in turn allow approximately another 700sqm of sales floorspace for the store. Above the service area, the first floor would be extended to provide further ancillary support floorspace for the store. The extensions would be constructed of materials to match the existing, ie reconstituted Bath stone faced blockwork with cladding to the roof. The walls of the service yard would also be constructed of matching blockwork. The access to the service yard would be as existing (ie off Bath Road), but one of the access roads within the store would be realigned so that it could also serve the relocated petrol filling station.

The Petrol Filling Station – the existing one lies to the northern edge of the site adjacent to the bank of the River Avon. The application seeks to relocate it to the south-eastern corner of the site, in the area currently known as The Bear car park. It would be a self-service station, with associated landscaping. The existing access to the car park would be retained for pedestrian use only, and a footpath would be provided round the edge of the site to the store. The public sewer crossing the site would be diverted and have a three metre easement each side.

Car Park – the relocation of the petrol filling station would allow additional car parking provision for the store. A new access road would be located along the northern edge of the site to provide access to a further car park to the west of the store, and the online facility. Landscaping would be provided along the northern edge of the access road, and to the western boundary of the car park, to compensate for that lost by its extension.

Landscaping Works – In addition to the new pedestrian access off Bath Road, the existing footpaths in the site would be retained, including those along the river bank and that going into the church yard. Landscaping would be provided along the site edges and the existing flood storage area would be extended as a result of the proposed extensions and car park enlargements.

The application has been supported with the following information and submissions:-

- * a design and access statement;
- * a transport assessment;
- * a statement of community consultation;
- * a protected species survey;
- * a retail assessment;
- * an air quality assessment;
- * a noise assessment;
- * a flood risk assessment; and
- * a geo-technical and geo-environmental assessment.

The supporting statement for the application concludes:-

“The proposed extension will enable Sainsbury’s to upgrade the existing store by:

- * improving the quality and range of the existing non-food retail offer in an improved and modern foodstore shopping environment;
- * allowing for qualitative improvements to the internal layout of the store to provide a more comfortable and enjoyable shopping experience for all customers;
- * facilitating more innovative and attractive product displays; and
- * helping to relieve congestion in the store and the ‘back-up’ areas of the store.

“In retail terms, the proposed extension meets a quantitative need for comparison goods floorspace identified in the West Wiltshire Retail Needs Study (2007). Meeting the identified need at an existing

town centre retail anchor complies with the sequential approach to site selection and will ensure both qualitative and quantitative benefits to the town centre as a whole.

“Improving the range of non-food goods on offer at the application store will increase the attractiveness of the store and the town centre as a retail destination. The proposed extension and alterations to the store will increase its ability to compete with larger stores in nearby Chippenham and Trowbridge. In turn, an improved anchor store will increase the attractiveness of Melksham Town Centre as a retail destination and its ability to satisfy the shopping needs of the catchment population in the face of competition from alternative centres and facilities in the sub-region.”

In support of the application Sainsbury wrote a letter to all Members of the Planning Committee explaining the need and benefits of their proposal. This letter was summarised on the late list for the Committee meeting of the 10th February, and stated Sainsbury “seeks to more comfortable shopping experience and a wider product choice for customers”, which will achieve the following:

- 91 additional car parking spaces for both the town store and the town;
- improved access to the store from the town centre, particularly with the new pedestrian link;
- relocation of the petrol filling station away from the listed town bridge;
- an improved landscaping scheme, including an enhanced riverside walk; and
- the creation of approximately 30 jobs.

“There has been an extensive community consultation to address local concerns, including matters such as lighting, acoustic issues, litter, landscaping and enhancement of the riverside walk.”

6. Planning Policy

Wiltshire Structure Plan 2016

DP1 – Priorities for sustainable development

DP2 – Infrastructure

DP3 – Development Strategy

DP5 – Town centres, district centres, and employment areas

DP6 – Shopping

T3 – Public passenger transport

T5 – Cycling and walking

T6 – Demand management

C1 – Nature conservation

C2 – Nature conservation

C3 – Nature conservation

C5 – The water environment

HE2 – Other sites of archaeological or historic interest

HE7 – Conservation Areas and Listed Buildings

West Wiltshire District Plan - First Alteration 2004

C6 – Areas of High Ecological Value

C9 – Rivers

C17 – Conservation Areas

C23 – Street scene

C24 - Advertisements

C25 – Shopfronts

C31A - Design

C32 – Landscaping

C35 – Light pollution

C37 – Contaminated land

C38 – Nuisance

C40 – Tree planting

LP1 – Protection and enhancement of existing open space or sport and recreation provision

CR1 – Footpaths and rights of way

CR3 – Greenspace network

T9 – Bus services

T10 – Car parking

T11 – Cycleways

T12 – Footpaths and bridleways
SP1 – Town centre shopping
SP3 – Out of centre shopping
U1A – Foul water disposal
U2 – Surface water disposal
U4 – Groundwater Source Protection Areas
I1 – Implementation
I2 – Access for everyone

National Guidance

Planning Policy Statement 1 - Delivering Sustainable Development
Planning Policy Statement 4 - Planning for Sustainable Economic Growth
Planning Policy Statement 9 - Biodiversity and Geological Conservation
Planning Policy Guidance 13 - Transport
Planning Policy Guidance 15 - Planning & the Historic Environment
Planning Policy Guidance 16 - Archaeology & Planning
Planning Policy Guidance 23 – Planning & Pollution Control
Planning Policy Guidance 24 - Planning & Noise
Planning Policy Statement 25 - Development & Flood Risk

7. Consultations

Melksham Town Council state “After considering the minor alterations to the plans, and listening to the members of the public present the Town Council’s previous objections made on 30 March 2009 still stand ie: “Displacement of water. There is already a problem with flooding in the area, there is a concern if areas that currently flood are built upon, where will water go, especially as there are houses nearby in Church Walk / Canon Square area, which could be damaged.

“Again regarding displacement of water, this could even dry out some properties in Church Walk and the Conservation Area.

“Flooding. This is already a problem, the footpath adjacent to Sainsburys currently floods as does the small access road leading to the rear of properties in Victoria Terrace / Church Walk, if building work goes ahead this could make the problem worse. There is also a flooding problem to the rear of Sainsburys, however, it is not clear if this is a result of blocked drains and it was asked what plans are in place to resolve this problem now and in the future.

“The removal of the balancing pond to allow for the extra car parking may also cause more flooding problems.

“There is a concern there are existing underground water courses in this area which could be disturbed if building work across ahead. This situation needs to be looked into in more detail.

“Relocation of the petrol filling station could cause pollution problems ie fumes, light from the petrol station and cars and also noise from the cars to nearby properties in Victoria Terrace, Church Walk, and Canon Square. This matter needs to be looked at carefully and whether there is a need to move the petrol filling station at all as this is a safety issue for nearby residents. Indeed could the extra parking spaces be provided on the proposed new petrol station site. There needs to be clarification on how many more extra parking spaces there will be as several documents available seem to contradict each other.

“If this application goes ahead there needs to be a restriction on the delivery times, as current delivery times cause noise pollution problems for nearby residents.

“Part of this application affects houses in a Conservation Area and indeed part of the application encroaches onto a Conservation Area. The Conservation Officer and English Heritage need to be informed of this application as consideration needs to be given to how this application impacts on the Conservation Area.

“Riverside Walk. Currently this footpath is not maintained to a satisfactory standard and any maintenance, cleanliness issues need to be part of any Section 106 Agreement relating to this application.

“There needs to be reassurances that the building work will have no impact on the neighbouring properties in the Conservation Area, as had happened in the past when pile drivers were used.

“It was noted that residents in Victoria Terrace and Canon Square were not informed of the planning application.

“There seems to be confusion on how many more parking spaces will be provided.

“Recycling bins. These need to be positioned so as not to cause a nuisance to nearby neighbours.

“If minded to give permission to this application, could a condition be placed on any planning permission that Church Walk is repaired to a satisfactory condition.

“Planning policies C18, C21, C31A, C32, C35, C36, and C38 apply.

“The Town Council also wished to add the potential risk to customers using the new pedestrian access via The Bear Public House across the service road.”

Highways Authority state “The layout is now acceptable, subject to the following conditions being attached to any planning permission granted:-

* No development shall commence on site until full construction details of the alterations to the site layout as indicated on drawing reference CHQ.0707707 - PL05 P have been submitted to and approved by the Local Planning Authority; the measures shall be implemented in accordance with the approved details before the store extensions are first brought into use. Reason: To ensure a safe and satisfactory access and parking arrangement.

* No development shall commence on site until full details of the bus gate, including a scheme for its operation and maintenance, shall be submitted to and approved by the Local Planning Authority; the bus gate shall be in continuous operation on first use of the store extensions in accordance with the approved scheme. Reason: To prevent unauthorised and unsafe use of the bus gate and to ensure the bus gate remains available at all times.”

Library & Museum Services state “Thank you for sending the revised plans / information regarding the proposal above. Assuming we have received all such revisions, and there are no material changes to the plans, layout, footprint etc, I can confirm that we have no further comment to make, but reiterate the advice provided by my predecessor, Vanessa Clarke.”

The previous responses of the Section were as follows:- “Following on from the emails below, I recommend that the following condition is attached to any forthcoming planning consent:

“Recommendation: Full condition - archaeological watching brief. No development shall commence within the area indicated (proposed development 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 archiving of the results, has been submitted to and approved by the Local Planning Authority; and
- b) The approved programme of archaeological work has been carried out in accordance with the approved details.

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

“Further Recommendations: The work should be conducted by a professional recognised archaeological contractor in accordance with a brief issued by this office and there will be a financial implication for the applicant.”

Strategic Planning state “Key Issues: The application looks to the additional land purchased as an opportunity to increase the convenience offer of the retail store modernising an older facility, and to use this to facilitate the enhancement the existing peripheral landscaping, improve the ecology and also improve the pedestrian link with the town centre of the store.

“Whilst enhanced links and landscaping are welcome, the key test of suitability comes from criteria set out in Planning Policy Statement 6 - Planning for Town Centres; namely that there should be a need for the development, and that it should not impact upon the vitality and viability of the town centre. Furthermore, given that the extension to the store in gross floorspace is greater than 200 square metres a sequential test should be applied to the proposal (paragraph 3.29 of Planning Policy Statement 6 - Planning for Town Centres).

“Both the Retail Assessment submitted with the application and the West Wiltshire Retail Needs Study 2007 demonstrate that there is quantitative need for additional convenience retailing in Melksham, and that the extension will not have an excessive impact on the town centre.

“Although the Sainsbury’s development can be described as edge of centre, the store is already in existence. This ensures that the criteria in the sequential test is fulfilled by the need to improve the offer of an “anchor” for Melksham town centre retail offer.

“In terms of Structure Plan Policy DP6, the location of the store at one of the main settlement centres ensures it is in line with the retail hierarchy. Also given that the retail assessments have shown there should be no adverse impact on the town centre in terms of viability and vitality the application satisfies structure plan requirements.

“Conclusions: The need assessment and sequential test both demonstrate that the proposed extension will have a positive benefit to Melksham

“Policy Recommendation: The application is in line with strategic policy.”

Environment Agency state “Further to the submission of a revised Flood Risk Assessment on 27th October, the Environment Agency wish to withdraw its objection to the proposal subject to the following conditions forming part of any permission granted:

* Condition: The floodplain compensation scheme must be delivered prior to the enhancement of the car park and shop extension development. Reason: to ensure that the flood risk to the land is not increased at any time during or after the development.

* Condition: No development approved by this permission shall be commenced until a scheme for the provision of surface water drainage works has been submitted to and approved by the Local Planning Authority. The drainage works shall be completed in accordance with the details and timetable agreed. Reason: to prevent the increased risk of flooding by ensuring the provision of a satisfactory means of surface water disposal. Note: We expect the surface water drainage scheme to be delivered to improve the drainage of the existing car park. As can be seen in the photo enclosed there is an apparent drainage problem that must be rectified.

* Condition: No development shall commence until detailed plans and cross-sections showing the maintenance to the River Avon have been submitted to and formally approved in writing by the Local Planning Authority. Reason: to ensure that there is continued maintenance access along the River Avon.

“With regard to the responsibility for, and programme of operation and maintenance of the flood storage area, your council may consider it more appropriate for these issues to be addressed and secured through a Section 106 Agreement. We would welcome your council’s confirmation with respect to this matter.

“The failure to adequately operate and maintain the flood storage areas could potentially result in increased flood risk to the development and land / property in third party ownership.

“In the event of planning permission being given we request that the Decision Notice contains the following information: Under the terms of the Water Resources Act 1991 and the Land Drainage Byelaws, the prior written consent of the Agency is required for any proposed works to structures in, under, over, or within 8 metres of the top of the bank of the River Avon, designated a ‘main river’. Please contact our Development and Flood Risk team on 01278 484654 for guidance on how to apply for Flood Defence Consent.

“Please note that the conditions recommended in our letter dated 30 June 2009 remain relevant to this proposal.”

These conditions were as follows:

* Condition: Prior to the commencement of development approved by this planning permission (or such other date or stage in development as may be agreed in writing with the Local Planning Authority), a scheme to deal with the risks associated with contamination of the site shall be submitted to and approved, in writing, by the Local Planning Authority. That scheme shall include all of the following elements unless specifically excluded, in writing, by the Local Planning Authority.

1. A site investigation scheme, based on the preliminary risk assessment and previous site investigations already undertaken, to provide additional information to be used to prepare a detailed quantitative assessment of the risk to all receptors that may be affected, including those off site.
2. The results of the site investigations and risk assessment (1), and a method statement based on those results giving full details of the remediation measures required and how they are to be undertaken.
3. A verification report on completion of the works set out in (2) confirming the remediation measures that have been undertaken in accordance with the method statement and setting out measures for maintenance, further monitoring and reporting.

Any changes to these agreed elements require the express consent of the Local Planning Authority. Reason: to provide additional assessment of the site regarding the level of contamination present and the likely impact that it will have on controlled waters. The date will allow a suitable remedial scheme to be developed and implemented to ensure that the proposed development will not cause pollution of controlled waters.

“The Environment Agency recommends that developers should:

1. Follow the risk management framework provided in CLR11, Model Procedures for the Management of Land Contamination, when dealing with land affected by contamination;
2. Refer to the Environment Agency Guidance on Requirements for Land Contamination Reports for the type of information that we require in order to assess risks to controlled waters from the site. The Local Authority can advise on risk to other receptors, eg human health.
3. Refer to our website at www.Environment-Agency.gov.uk for more information.

“Condition: Prior to development commencing, an Ecological Management Plan detailing how the habitats created as a result of the development will be managed in future for wildlife benefits should be prepared and submitted in writing for approval by the Local Planning Authority. The plan should also state who will be responsible for ensuring the management is carried out in the long-term. Reason: to protect and safeguard the wildlife value of the site.

“Condition: A Construction Ecological Management Plan / Method Statement should be prepared and submitted in writing to the Local Planning Authority prior to development commencing. This plan should provide details of how works will be carried out on site with regard to protecting the wildlife and river corridor. Reason: to safeguard the wildlife adjacent to the site during construction.

“Condition: No development approved by this permission shall be commenced until a scheme for prevention of pollution during the construction phase has been approved by the Local Planning Authority. The scheme should include details of the following:

1. Site security;
2. Fuel oil storage, bunding, delivery and use;
3. How both minor and major spillage will be dealt with;
4. Containment of silt / soil contaminated run off;
5. Disposal of contaminated drainage, including water pumped from excavations;
6. Site induction for workforce highlighting pollution prevention and awareness.

Reason: to prevent pollution of the water environment.

“Condition: Prior to the opening of the store extension / car park, a trolley management system shall be in place to restrict the removal of trolleys from the site (and in particular prevent access for trolleys to the River Avon) in full accordance with details submitted to and approved in writing by the Local Planning Authority, unless otherwise agreed in writing by the Local Planning Authority. Thereafter the agreed measures shall be retained. Reason; to prevent pollution of the water environment and reduce the potential of blockage to flood flows.”

Wessex Water state “I refer to the recent application in respect of the above and can confirm the following:

“Foul Sewerage. I refer to the applicants drawing 659B-031A and note the public foul sewers which cross the site proposed for the relocated petrol station. We have been in discussions with the applicant’s consultants but as yet no diversion agreement is in place.

“Surface Water. There should be no surface water connections to the public foul sewer. The only exception will be the surface water from underneath the petrol station canopy, which subject to agreement of details, may discharge to the public foul sewer via a petrol / oil interceptor.”

Planning Policy – Flooding Matters state “It is understood that parts of the proposed development site are located within the floodplain. However, the majority of this area falls within Flood Zone 3a and therefore as less vulnerable development, as defined by Planning Policy Statement 25 - Development & Flood Risk, is considered as appropriate. A small area of the development site falls within Flood Zone 3b and on this basis it should be demonstrated that the Sequential Test has been passed. It is understood that the only part of development that will fall within Flood Zone 3b is part of the store car park.

“It should be noted that as the proposal is to extend an existing store, avoiding development within the floodplain would involve re-locating the store to another site in Melksham. The existing store is currently located in close proximity to the Primary Retail Frontage and so any alternative site would need to be identified in a highly sustainable, town centre location and in or in close proximity to the Primary Retail Frontage. It is not appropriate to consider out of town locations for the re-location of this store. It is considered that moving this store to an out of town location would be likely to have a significant negative impact on the town centre.

“Existing retail in the heart of Melksham has suffered from the existing economic climate and town centre regeneration has been identified as a priority for the emerging Wiltshire Core Strategy. The existing Sainsbury’s performs as an anchor store in Melksham and loss of this retailer in the town is likely to have a significant negative impact on the vitality of the town centre. A summary of the business case for store location has been made by the developer (Appendix 1) and this is supported by Spatial Planning.

“There are no other sites in the town centre of Melksham and in close proximity to the Primary Retail Frontage that can be considered suitable or large enough for the development of a supermarket.

“The developers have prepared plans for flood alleviation work which will allow the reclassification of the affected area from Flood Zone 3b to 3a. Details are attached as Appendix 2.

"It is considered that no alternative sites are available for a supermarket within the heart of the town centre. Work is proposed that will provide flood protection and allow the reclassification of the affected Flood Zone area to Flood Zone 3a. This will result in any development being classified by Planning Policy Statement 25 - Development & Flood Risk as 'appropriate'. For the reasons described above it is considered that the Sequential Test is passed."

Conservation Officer has not replied to the revised plans reconsultation but initially stated "The extension of the main building the service yard to the east, combined with the relocation of the petrol filling station (PFS) to the eastern corner, would result in a significant increase in built form and activity in the area adjacent to the Conservation Area.

"Policies C17 and C18 of the West Wiltshire District Plan - First Alteration 2004 apply to this case even though the site is outside the Conservation Area. The explanatory paragraph 2.4.4. states "Within Conservation Areas or outside, where development proposals would affect the setting, in particular, views into or out of the area, the preservation of their special character and / or appearance will be the primary consideration."

"The gap on Bath Road between The Bear Public House and No 5 Bath Road is a principal view of the site from the Conservation Area and consequently this aspect is very important to the character and setting of the Conservation Area. This gap would be completely compromised by the positioning of the PFS in such close proximity to the Conservation Area.

"Church Walk is within the Conservation Area and there are various glimpses of the store and the site that will be affected. The visual gap to the east of No 27 Church Walk would be the most affected and would be compromised in a similar way as above regarding the relocated PFS. This would also have a negative impact on the settings of 34 and 36 Church Walk, both of which are Grade II Listed Buildings.

"From the Sainsbury's site, there is an area of space between the existing car park / service yard and the Conservation Area edge and Church Walk. This space is important in maintaining a break in built form between the Conservation Area and the modern supermarket site. To fill this entire area with the extension, new service yard and barrier walls and the relocated PFS would result in the blurring of this site with the historic Conservation Area. The modern built form would be in such close proximity that it would result in irreparable harm to the Conservation Area as the setting of this important historic area would be lost.

"A benefit of relocating the petrol filling station is that there would be a small improvement in the setting of the Grade II listed town bridge. Although there would be an improvement in that the structure would be removed, the area would then be given over to car parking which would still have a negative impact on the setting of the listed bridge.

"Regarding the proposed extension of the store to the west, I do not consider that this would have any greater impact on the listed buildings in Church Walk or the Conservation Area than the existing building.

"In conclusion, the eastern extension, new service yard and relocated PFS, due to their poor relationship in such close proximity to the Conservation Area and Listed Buildings, would harm the character and setting of the Conservation Area and the settings of the nearby Listed Buildings in Church Walk.

"Recommendation: Refuse."

The Planning Committee deferred making a decision on the application until a response from the Conservation Officer on the revised plans submitted by the applicant was received. The Conservation Officer has now made comments and would like those made post-committee and his informal comments of the 1st June 2009 included within the report. These have all been attached below for consideration. It should also be noted that the Conservation Officer has now entered into negotiations with the applicant as regards his objections to the scheme. This meeting is scheduled for the 4th March 2010, and the outcome will be reported on the late list.

In the interim he has commented:

“Permission for housing at The Bear site clearly removes my argument over the loss of visual gap next to The Bear, adjacent to the Conservation Area, however I do feel that the scheme for housing would be preferable in design terms to the Petrol filling station.

“I still consider that the Petrol filling station would have an adverse visual impact on the Conservation Area due to its unsympathetic design whereas the housing scheme would be broadly in keeping with the surrounding built form. My comments regarding views of the site and proposals from Church Walk, and therefore the impact on those listed buildings and the Conservation Area, are unchanged.

The proposed plans have not been revised to address my earlier comments and therefore my position has not altered since the email sent to the case officer on 1st June 2009, copy attached.

“My only additional comment concerning the latest revised plans is that the originally proposed 2.1m timber fence, on the extension at the eastern end of north elevation, is now proposed to be a 4m high wall built in ‘marigold coloured tarmac topblocks’. This would result in further harm to the settings of the listed buildings on Church Walk and to the special character and appearance of the Conservation Area due to the increase in height and use of unsympathetic materials.

“Recommendation:Refuse

Environmental Health states “Matters considered: Noise, amenity, air quality, contaminated land. Food comments: No objection in principle – see informative below. Licensing comments: Not consulted. Safety comments: No general concerns (disappointed that reduction in customer toilets). Protection comments: Contaminated land. The development site has been subject to a previous site investigation undertaken in the approximate area of the proposed development. This study identified that there was a possibility of gas arising from peaty deposits and that there was also the possibility of some historic contamination in the made ground in the approximate region of the proposed development. This original study was undertaken on the assumption that housing was to be developed and the proposed commercial use is clearly less sensitive. It will however be necessary to undertake a survey to determine the existence and extent of any possible contamination and to ensure that the development mitigates any risks to a satisfactory level. Recommendation: No objections subject to conditions. Conditions:- Unless otherwise agreed by the Local Planning Authority, development other than that required to be carried out as part of an approved scheme of remediation must not commence until conditions 1 to 4 have been complied with. If unexpected contamination is found after development has begun, development must be halted on that part of the site affected by the unexpected contamination to the extent specified by the Local Planning Authority in writing until condition 4 has been complied with in relation to that contamination.

1. Site characterisation. An investigation and risk assessment, in addition to any assessment provided with the planning application, must be completed in accordance with a scheme to assess the nature and extent of any contamination on the site, whether or not it originates on the site. The contents of the scheme are subject to the approval in writing of the Local Planning Authority. The investigation and risk assessment must be undertaken by competent persons and a written report of the findings must be produced. The written report is subject to the approval in writing of the Local Planning Authority. The report of the findings must include:

- i. a survey of the extent, scale and nature of contamination;
- ii. an assessment of the potential risks to:
 - * human health;
 - * property (existing or proposed) including buildings, crops, livestock, pets, woodland and service lines and pipes;
 - * adjoining land;
 - * groundwaters and surface waters;

- * ecological systems;
 - * archaeological sites and ancient monuments;
- iii. an appraisal of remedial options, and proposal of the preferred option(s).

This must be conducted in accordance with DEFRA and the Environment Agency's "Model Procedures for the Management of Land Contamination, CLR 11".

2. Submission of remediation scheme. A detailed remediation scheme to bring the site to a condition suitable for the intended use by removing unacceptable risks to human health, buildings and other property and the natural and historical environment must be prepared, and is subject to the approval in writing of the Local Planning Authority. The scheme must include all works to be undertaken, proposed remediation objectives and remediation criteria, timetable of works and site management procedures. The scheme must ensure that the site will not qualify as contaminated land under part 2A of the Environmental Protection Act 1990 in relation to the intended use of the land after remediation.

3. Implementation of approved remediation scheme. The approved remediation scheme must be carried out in accordance with its terms prior to the commencement of development other than that required to carry out remediation, unless otherwise agreed in writing by the Local Planning Authority. The Local Planning Authority must be given two weeks written notification of commencement of the remediation scheme works. Following completion of measures identified in the approved remediation scheme, a verification report (referred to in PPS23 as a validation report) that demonstrates the effectiveness of the remediation carried out must be produced, and is subject to the approval in writing of the Local Planning Authority.

4. Reporting of unexpected contamination. In the event that contamination is found at any time when carrying out the approved development that was not previously identified it must be reported in writing immediately to the Local Planning Authority. An investigation and risk assessment must be undertaken in accordance with the requirements of Condition 2, which is subject to the approval in writing of the Local Planning Authority. Following completion of measures identified in the approved remediation scheme a verification report must be prepared, which is subject to the approval in writing of the Local Planning Authority in accordance with condition 3.

5. Long term monitoring and maintenance. A monitoring and maintenance scheme to include monitoring the long-term effectiveness of the proposed remediation and the provision of reports on the same must be prepared, both of which are subject to the approval in writing of the Local Planning Authority. Following completion of the measures identified in that scheme and when the remediation objectives have been achieved, reports that demonstrate the effectiveness of the monitoring and maintenance carried out must be produced, and submitted to the Local Planning Authority. This must be conducted in accordance with DEFRA and the Environment Agency's "Model Procedures for the Management of Land Contamination CLR 11".

Reason: to ensure that risks from land contamination to the future users of the land and neighbouring land are minimised, together with those to controlled waters, property and ecological systems, and to ensure that the development can be carried out safely without unacceptable risks to workers, neighbours and other offsite receptors.

"Informatives: Reduction in toilet facilities for customers is disappointing given increased retail area. Applicant is advised to reconsider. Minimum of two extra urinals for male customers should be considered within current scheme. Further application for inclusion of small café might reasonably be expected as a future development which would also impact on scale of provision of customer toilets.

"Air Quality. The applicant has carried out monitoring and modelling of Benzene levels from the proposal to move the fuel filling station onto the carpark of "The Bear". The consultant concluded that Benzene levels will be well below the National Air Quality Objective which comes into force in 2010. I accept the conclusions. There is no Air Quality Management Area in Melksham and it is not considered that increases in traffic will make a significant difference to existing Nitrogen Dioxide Levels, the pollutant most affected by road traffic. I therefore have no objection on grounds of Air Quality.

“Noise. I have previously objected to plans for extended delivery hours, due to the proposal to build dwellings in “The Bear” car park. This proposal would extinguish that permission and instead move the filling station onto that locality. The applicant’s consultant has carried out a thorough review of previous noise surveys and modelled the impact of this proposal. It concludes that there will be no unreasonable impacts and that noise levels will meet national planning guidelines. I have audited the work and am satisfied that it is robust. I am satisfied that this proposal is acceptable in terms of noise.”

Regeneration Officer states “The proposals to extend the store and remodel the external form and function of the site are acceptable in terms of town centre regeneration. This is the right site in terms of town centre large floorplate retail provision and the delivery of the proposed improvements may well off-set the potential detrimental impacts of the edge of town ASDA development in terms of minimising leakage from the town centre. The proposals to improve pedestrian linkage with the town centre are to be welcomed as this has scope to allow linked shopping trips to the town centre which would benefit other existing retailers. This scheme has potential to enhance the vibrancy and vitality of Melksham Town Centre and is to be welcomed in terms of its economic and regeneration benefits.”

Drainage Engineer has not responded. A further reminder letter for a response has been sent, and any comments received will be reported on the late list.

Tree & Landscape Officer has not responded. A further reminder letter for a response has been sent, and any comments received will be reported on the late list.

Building Control has not commented. A further reminder letter for a response has been sent, and any comments received will be reported on the late list.

Economic Development has not commented. A further reminder letter for a response has been sent, and any comments received will be reported on the late list.

County Ecologist states “Relevant Policy and Guidance: PPS 9, ODPM Circular 06/2005, Habitats Regulations 1994 (as amended), Wildlife and Countryside Act 1981 (as amended).

“Background: I have reviewed the Protected Species Surveys report (White Green Young, Feb 09), the Extended Phase 1 Habitat Survey and Great Crested Newt Presence/Absence Survey, (White Green Young, Feb 09) and also the landscape drawings (Authur Amos Assoc. 659B-03 Rev B and 659B-04 Rev A).

“Key Issues: Survey work is of a high professional standard. Key outstanding issues are the design, long term management and protection of the proposed flood compensation / habitat management and enhancement area, protection of the river during construction, translocation of reptiles, potential effects of lighting on the River Avon corridor and enhancement for bats. The Conigre Mead Nature Reserve currently lies about 150 m away from the Sainsbury’s car park and this will be reduced to 80m under the current application. I would be concerned if future development further reduced this buffer.

“ Ecological Recommendations: I suggest attaching conditions to any permission to achieve the following:

1. Long term protection of the proposed flood compensation area should be secured in perpetuity by condition or legal agreement in order to protect the features of Conigre Mead nature reserve
2. Before works commence a Construction Environment Management Plan will be submitted for LPA approval and implemented as agreed. The CEMP will cover, but not be limited to, the following:

- * Protection of the banks and water quality of the River Avon
 - * Protection of habitat used by otters
 - * Translocation of reptiles
 - * Erection of bat boxes
 - * Protection of breeding birds
3. Before works are completed a habitat management plan covering the proposed flood compensation area will be submitted for LPA approval and implemented as agreed.
4. A lighting scheme will be submitted for approval by the LPA and implemented as agreed. The scheme will demonstrate that the River Avon and its bankside habitats will remain unlit.”

Countryside Access Development Officer states “I was involved with this planning application from a highways perspective and have recently moved to the rights of way section. I have been contacted by Melksham Parish Councils who would like to see the riverside path next to Sainsbury’s upgraded (widened and better surfaced). I presume they submitted formal comments on the application which included this request. I have discussed this with Rebecca Lockwood, who is dealing with the highways aspects of the application, and we would like to let you know that we support the requests of the Parish Councils.”

8. Publicity

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

Expiry date: 17/iv/09 & 24/xi/09.

Summary of points raised: Forty letters have been received from twenty households and organisations, making the following comments:-

- * increased noise and light pollution from re-siting the petrol filling station, particularly as the lights are left on all night;
- * increased noise from an increase in delivery vehicles, which is already a nuisance problem;
- * loss of view in and out of the Conservation Area;
- * increased risk of flooding and disruption to the natural water course affecting wells sited in various properties in Church Walk;
- * impact on the bats in the area;
- * the roofline of the proposed extension is not in keeping with the surrounding Conservation Area;
- * when the store was originally built many houses were damaged, including several Listed Buildings, and it is a concern this will happen again;
- * the access road between Sainsbury and the rear of Church Walk regularly floods;
- * odour pollution from the petrol filling station;
- * there is no need for an extension to the store as there are already six large supermarkets in the town, and Asda on the way;
- * increased nuisance to residential properties from the new online facility and the enlarged car park;

- * loss of a small woodland area which will result in a habitat loss and visual impact;
- * there is insufficient junction capacity to support traffic flows particularly at rush hours;
- * increased noise and hooligan activity close to homes;
- * noise and fumes from the relocated petrol filling station will detrimentally impact on the business along Bath Road;
- * the layout of the new footpath from Bath Road will cause security problems for adjacent businesses;
- * the proposed new footpath will be across a petrol station forecourt and is therefore unsafe;
- * the petrol station's relocation will result in the loss of a mature tree which offers amenity value and landscape character to the area;
- * flooding already occurs every year and is getting higher in level and more frequent in occurrence;
- * loss of the old coach-house in "The Bear" carpark;
- * Sainsbury's are an inconsiderate company;
- * acoustic fencing is needed to the store and petrol filling station and online facility;
- * there will be increased opportunity for burglaries in the area;
- * there will be a future application for extended operating and delivery hours;
- * after hours racing round the car park is a regular thing, particularly in the summer and after rain;
- * the benzene in unleaded fuel is a class 2 carcinogen and will be located close to residential properties;
- * Sainsbury did not tidy up their site after the last lot of works that occurred;
- * the works will block up the historic drainage system for the area;
- * increased use of the listed bridge;
- * the applicant's "Transport Assessment" is obviously biased and uses obsolete modelling;
- * unfair to refuse domestic extensions if this application is permitted;
- * increased level of vermin in and around the site;
- * objection to 24 hour use of the site, including the petrol filling station due to the resulting noise and light pollution;
- * insurance company view that the works will cause unnecessary flooding risk to neighbouring properties, despite the view of the Environment Agency that it will have a neutral effect;
- * loss of green space adjacent to a nature reserve;
- * contamination of surrounding land and waterways from re-siting the petrol station and wash off from the increased car park; and
- * disruption to local residents when it is being constructed.

Two additional letters from the same property were reported on the late list. They stated the following:-

- * they were not notified of the proposal;
- * the loss of the floodplain will impact on properties in the surrounding area;
- * the flooding has been very close to the property in the past, so what provision will there be to stop it happening in the future;
- * what measures will the Council and Sainsbury take to stop properties flooding?

A further letter has been received since the consideration of the application by Planning Committee on the 10th February. It makes the following points:-

- * the proposal will have a serious impact on the safety and well being of Melksham residents in the event of a flooding episode. The proposals are likely to result in shifting the flood area to the north of the river Avon, affecting the properties in this area;
- * global warming is likely to increase the severity of flash floods thereby increasing the risk to local businesses and residents; and
- * the last development on the Sainsbury site increased flooding on the north side of the river.

9. Planning Considerations

9.1 This is a full application for:-

- * the erection of a single storey 1,937sq m gross extension to the eastern and western elevations of the store;
- * car park improvements and an extension to the south west of the existing car park resulting in an additional 91 car parking spaces;
- * relocation of the petrol filling station from the River Avon to the south-eastern area of the site;
- * revised service yard arrangements;
- * provision of an online service facility;
- * construction of a new pedestrian link with the town centre; and
- * landscape and ecological improvements to enhance the nature and amenity value of the site and the surrounding land to the south-west, to the Sainsbury Store, Bath Road, Melksham, Wiltshire.

9.2 The main issues to consider are:

- * retail impact;
- * flooding and drainage matters;
- * highways and sustainability impact;
- * impact on Listed Buildings and the Conservation Area;
- * amenity (noise & nuisance);
- * contaminated land matters;
- * archaeology matters;
- * miscellaneous matters.

9.3 Retail Matters. Planning Policy Statement 4 - Planning for Sustainable Economic Growth aims to maintain the vitality and viability of town centres, and that proposals that are considered to be edge of or out of centre do not undermine this function. The Sainsbury store is considered to be an edge of centre store, and as a result Policy SP3 of the West Wiltshire District Plan - First Alteration 2004 applies. This states:- "New and extensions to existing edge of centre and out of centre shopping developments, including superstores, supermarkets and retail warehouses but excluding small neighbourhood shops, will only be permitted if all of the following criteria are met:

A There is a need for the development;

B There are no suitable and viable sites available within firstly, the defined Primary Retail Frontages and secondly, (for out of centre proposals) edge of centre locations;

C The development does not, either by itself or together with other retail developments, harm the vitality or viability of nearby centres;

D The development is of acceptable scale, materials and design and does not harm the local environment or residential amenity;

E The development is sited to reduce the number and length of car journeys and is accessible by a choice of means of transport, including by foot, bicycle and public transport;

F The traffic generated by the proposal can be accommodated safely on the local highway network and sufficient car parking and servicing is provided;

Applications to vary the range of goods sold from out of centre stores, or to allow subdivision of units, will only be permitted where it can be demonstrated that the proposal would not harm the vitality and viability of the town centre's shopping role."

9.4 The Strategic Planning Section have considered the application and the retail impact of the proposal on the town centre. The store is considered to be important to the town, acting as a key anchor store for Melksham. They conclude that there is a need for the store's extension and that it will not have an adverse impact on the Melksham town centre in terms of viability and vitality. The Council's Regeneration Officer also supports the scheme in that it will allow regeneration opportunities for the town, plus offset the potential detrimental impacts of the out-of-town Asda store in terms of minimising leakage from the town centre. The edge of centre location and the proximity of the store to the town centre enables a potential reduction in vehicle movements, especially with the new pedestrian linkage to the town centre. It is considered that the scheme has the potential to enhance the vibrancy and vitality of Melksham town centre, and is to be welcomed in terms of its economic and regeneration benefits. Conditions have been suggested which limit the floorspace and type of sales occurring in the store so as to protect the vitality of the town centre. The proposal is considered to fulfil the policy requirements of SP3 of the West Wiltshire District Plan - First Alteration 2004 and the government guidance in Planning Policy Statement 4 - Planning for Sustainable Economic Growth.

9.5 Flooding and Drainage Matters. The store lies in the River Avon floodplain. A number of residents and the Town Council have objected to the proposal due to a concern that the proposal will increase flooding in the area, particularly from the River Avon. The application has been supported by a Flood Risk Assessment and has been subjected to extensive consideration and negotiation by both the Environment Agency and the Council's Strategic Flood Risk Officer. Sainsbury is considered by the Council to have an important anchor store role for the town in a sustainable location: its loss on flooding grounds is likely to have a significant negative impact on the vitality of the town centre. There are no other sites in the town centre in such close proximity to the Primary Retail Frontage that can be considered suitable or large enough for the relocation of a store the size of the proposed Sainsbury. In light of this the application has had to be robustly justified in terms of its flood impact, and an extensive range of mitigation has had to be proposed to ensure that proposal does not have a significant detrimental flooding impact on the surrounding area. The applicants have prepared proposals for flood alleviation works which have addressed the initial objection of the Environment Agency. Their objection has been withdrawn now that the Council has passed the Sequential Test, and subject to the extensive conditioning concerning the flood compensation measures and drainage of the site, no objection is raised on flooding grounds. The pollution control measures required by the Environment Agency have also been attached in order to prevent contamination.

9.6 Wessex Water have required agreement of connection onto their apparatus, and they have also requested relocation of the foul sewer that crosses "The Bear" car park. This has been suggested for conditioning, despite the applicant already being in negotiations with Wessex Water to address this matter. They also require that any surface water connections should not go to the public sewer: matters such as this can be dealt with by condition.

9.7 Highways and Sustainability Impact. The application has also been subject to extensive negotiation as regards the access and parking matters that it raises. Again the Town Council and a number of residents have objected to the application on the grounds that it would increase use of a dangerous access. The revised layout has not generated any objection from the Highway Authority

subject to conditions concerning construction details and details of the bus gate. The pedestrian access from “The Bear” car park has also raised local objection, but it is felt to be a significant improvement to the site, enhancing its permeability to the town centre. In addition, it has not raised any objection from the Highway Authority, although a condition has been suggested requiring further details of the route so as to ensure public safety.

9.8 Impact on the Listed Buildings and Conservation Area. The site is surrounded by a number of Listed Buildings and is adjacent to the Melksham Conservation Area. The Town Council and several residents have objected to the detrimental impact of the extension of the store on the Conservation Area and the settings of Listed Buildings. Concern has been raised in particular about the impact of the petrol filling on the built heritage. The relocation of the petrol filling station has the benefit of improving the setting of the Listed town bridge, although this view is not supported by the Council's Conservation Officer. He considers that the replacement car parking would also have a negative impact on the Listed Building. The Conservation Officer initially objected to the scheme in terms of its impact on the Conservation Area and Listed Buildings, considering that the extensions to the store and the relocated petrol filling station result in a significant increase in the built form and activity in the area which also results in a loss of views and vistas into and out of the site. Despite the submission of revised plans and several requests for comments, the Conservation Officer has not commented on these changes. Although he has not commented on the revised proposals his original comments did not consider the extant housing permission on the site, which also results in a significant loss of views and increased built form in the area. The absence of comments from the Conservation Officer on the revised scheme means that an “on-balance” judgement has to be made, particularly in view of the importance of the store on the vitality and viability of Melksham town centre. The store has been extended several times in the past, and the recent planning permission for housing on The Bear car park is a material consideration in the processing of this application. On balance, it is felt that the existing proposals are not significantly detrimental to the Conservation Area and Listed Building to warrant a refusal.

9.9 Amenity Matters, Including Noise & Nuisance. A large number of the neighbouring residents who have responded to the application's publicity procedures have objected to the proposal in terms of the increased nuisance to neighbouring residential properties. The increased size of the store is felt to result in more deliveries, which are already causing noise nuisance during the night-time. The relocation of the petrol filling station is considered to result in light, noise, and fumes nuisance, that would be additional to that currently experienced. The Environmental Health Section have not raised any objection to the proposal on amenity grounds. They consider that the petrol filling station will not make a significant difference to existing pollution levels, and that the extensions to the store will not result in unreasonable impacts, and that it will meet national planning guidelines. They have not made any comments on light pollution. No conditions have been suggested by the Section, but in view of the extensive planning history to the site, the established delivery hours and operational requirements have been suggested, as has a condition on lighting to the site. An informative has also been attached as regards the Section's request for additional customer toilets.

9.10 Contaminated Land. Both the Environment Agency and the Council's Environmental Health Section have made extensive comments on the resolution of contaminated land matters on the site. They require a comprehensive survey to determine the existence and extent of any possible site contamination and to ensure that the development mitigates any risks to a satisfactory level. These have also been suggested.

9.11 Archaeology Matters. The extension to the site requires an archaeological assessment, which due to negotiations during the processing of the application, can be dealt with by the imposition of a condition. This requires an archaeological watching brief prior to the commencement of development on the site.

9.12 Nature Conservation Matters. The River Avon has a high nature conservation importance, that includes its banks and floodplains. The applicant was supported with a protected species report,

which the County Ecologist and the Environment Agency have assessed. Both required additional conditions to protect the wildlife and their habitats, including an Ecological Management Plan, and these have been suggested.

9.13 Miscellaneous Matters. The publicity responses raised several objections in that building the store caused damage to neighbouring properties, particularly those to the south of the store in the Church Walk vicinity. Alleged structural damage to properties is not a planning matter, so cannot be addressed through the processing of this application. Any claims of this nature should be dealt with outside of the planning system.

9.14 The Town Council would like the applicant to repair Church Walk. Requests of this type need to be considered in light of Circular 11/95 as to whether such conditions would be relevant to the development to be permitted. Whereas works to the footpath along the riverside are relevant to the consideration of this application, the refurbishment of Church Walk is considered not to be, and therefore no conditions concerning it have been suggested.

9.15 The provision of the new pedestrian link via The Bear car park has raised security concerns from the nearby residents. A condition has been suggested as regards security measures to the site, including the provision of CCT to protect both the users of the footpath and the adjacent businesses, occupiers, and residents.

9.16 Several letters of complaint were received as to publicising the application. The statutory requirements were met as regards publicising the application, including the posting of site notices and undertaking neighbour notification.

.10. Deferred Issues

10.1 The report was first considered by the Planning Committee on the 10th February 2010, and it was deferred for the following additional information and research to be undertaken:-

- * - to ascertain the latest flooding legislation and the Council's position;
- * - to consider gating the car park out-of-hours;
- * - to ascertain the comments of the Conservation Officer on the revised plans;
- * - to renegotiate the impact of the petrol filling station on Church Walk;
- * - to reword conditions with hours – ie do to use the standard format;
- * - check whether the planning system can increase the number of toilets in the store, or whether this is covered by other legislation;
- * - ascertain the arrangements for disabled access to the petrol filling station;
- * - chase the missing consultation comments;
- * - request an increase to the two-hour parking restriction on the site; and
- * - request information signage to the town centre.

10.2 Latest Flooding Legislation. At the Planning Committee meeting on the 10th February Members requested officers to ascertain what the latest legislative situation was and whether the application and the Environment Agency had considered it in relation to the most up-to-date position. It was considered that recent legislation had come into force that would have a material impact on the processing of the application. Your officers have contacted the Environment Agency to ascertain what the latest legislative situation is, and they “confirm that our recent comments remain relevant. I believe that it is the Practice Guide, published December 2009 that the Councillor refers to, but this is advisory and does not alter our comments.”

10.3 Out-of-Hours Car Park Gating. Members requested consideration of gating the store's car park out-of-hours to prevent its nuisance use. Although the Highways Authority have no objection to this proposal, Sainsbury have raised concern as regards the provision of emergency access to the river which would need to be gained at all times. To address security and nuisance concerns Sainsbury have agreed that the whole site would be covered by CCT. In addition to emergency river access concerns, if the site was gated it may well also prevent the other businesses and individuals who share use of the site gaining access.

10.4 Comments From the Conservation Officer on the Revised Plans. The Conservation Officer's comments on the revised plans have now been received and he maintains his objection (see consultation comments section within this report). A meeting has been scheduled with the Conservation Officer and Sainsbury to discuss whether his objections can be overcome, the outcome of which will be reported on the late list.

10.5 To Renegotiate the Impact of the Petrol Filling Station on Church Walk. Sainsbury are meeting with the Conservation Officer to discuss the petrol filling station, and the outcome will be reported on the late list.

10.6 To Reword Conditions 12 and 13 With Hours. This has been done.

10.7 To Check Whether the Planning System Can Increase the Number of Toilets in the Store. Toilet provision within the store is not a planning matter, so Members request to increase provision cannot be addressed through the application. Sainsbury point out that the number of toilets on site is legislatively compliant.

10.8 To Ascertain the Arrangements for Disabled Access to the Petrol Filling Station. The kiosk-free petrol filling station raised concerns from Members as to how it was to be used by those with mobility problems. The pumps will be constructed to be DDA compliant, provided with a button to summon assistance.

10.9 To Chase the Missing Consultation Comments. This has been done, and any comments received will be reported on the late list.

10.10 To Request an Increase to the Two-hour Parking Restriction on the Site. Members requested that Sainsbury increase their free parking at the site from two hours to three. Sainsbury have agreed to this subject to a parking management condition being attached that allows the time limit to be varied if they find it being abused by non-shoppers. This has been suggested (see Condition 35).

10.11 To Request Information Signage to the Town Centre. Members requested signage to the town centre. This has been agreed, as has signage to the riverside, and a condition has been attached for its provision (see suggested condition 36 and the informative concerning the need for Advertisement Regulations Consent).

10.12 Sainsbury have also agreed to submit revised drawings of the petrol filling station without any signage shown. These drawings will also incorporate any changes required by the Conservation Officer, if required. Please note that advertisements and signage may need a separate Consent under the Town & Country Planning (Control of Advertisements) (England) Regulations 2007.

Recommendation: Permission

For the following reason(s):

The proposed development conforms to the Development Plan and the conditions attached to it overcome any objections on planning grounds.

Subject to the following condition(s):

1 The development hereby permitted shall begin 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 of the external materials for the development, including the petrol filling station, have been submitted to and approved in writing

by the Local Planning Authority. Development shall be carried out in accordance with these approved details.

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

POLICIES: West Wiltshire District Plan - First Alteration 2004 – Policies C17, C18, C31A, and SP3.

- 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 and hedgerows 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, roads, and other works;
 - (d) finished levels and contours;
 - (e) all means of enclosure including all walling, fencing, railings, etc;
 - (f) car park layouts;
 - (g) other vehicle and pedestrian access and circulation areas;
 - (h) hard surfacing materials;
 - (i) minor artefacts and structures (eg furniture, play equipment, refuse and other storage units, signs, lighting, etc);
 - (j) proposed and existing functional services above and below ground (eg drainage, power, communications, cables, pipelines, etc, indicating lines, manholes, supports, etc)

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

POLICY: West Wiltshire District Plan - First Alteration 2004 – Policies C17, C18, C31A, C32.

- 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 buildings 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 be carried out in accordance with the approved details prior to the occupation of any part of the development or 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 landscape features.

POLICY: West Wiltshire District Plan - First Alteration 2004 – Policies C17, C18, C31A & SP3.

- 5 No development shall commence on site until details of all earthworks have been submitted to and approved in writing by the Local Planning Authority. These details shall include the proposed grading and mounding of land areas including the levels and contours to be formed, and the nature of the material, showing the relationship of proposed mounding to existing vegetation and surrounding landform. Development shall be carried out in accordance with the approved details.

REASON: to ensure a satisfactory landscaped setting for the development and in the interests of flood prevention.

POLICY: Planning Policy Statement 25 - Development & Flood Risk and West Wiltshire District Plan - First Alteration 2004 - Policy C32.

- 6 No development shall commence on site until a landscape management plan, including long-term design objectives, management responsibilities and maintenance schedules for all landscape areas (other than small, privately owned, domestic gardens) has been submitted to and approved in writing by the Local Planning Authority. The landscape management plan shall be carried out as approved in accordance with the approved details.

REASON: to ensure the proper management of the landscaped areas in the interests of visual amenity and in the interests of flood prevention.

POLICY: Planning Policy Statement 25 - Development & Flood Risk and West Wiltshire District Plan - First Alteration 2004 – Policy C32.

- 7 No development shall commence on site until full construction details of the alterations to the site layout as shown on drawing reference CHQ.0707707-PL05-P have been submitted to and approved in writing by the Local Planning Authority. The measures shall be implemented in accordance with these approved details before the store extensions are first brought into use.

REASON: to ensure a safe and satisfactory means of access and parking arrangements.

POLICY: West Wiltshire District Plan - First Alteration 2004 – Policy SP3.

- 8 No development shall commence on site until full details of the bus gate, including a scheme for its operation and maintenance, shall be submitted to and approved in writing by the Local Planning Authority. The bus gate shall be in continuous operation on first use of the store extensions in accordance with these approved details.

REASON: To prevent unauthorised and unsafe use of the bus gate and to ensure the bus gate remains available at all times.

POLICY: West Wiltshire District Plan - First Alteration 2004 – Policy SP3.

- 9 No development shall commence on site until a management plan for the use of the service yard, including details of the provision for loading and unloading of goods within the site has been submitted to and approved in writing by the Local Planning Authority. The measures shall be implemented in accordance with these approved details before the store extension is first brought into use, and at all times thereafter.

REASON: To ensure that adequate provision is made for servicing in the store in the interests of highway safety.

POLICY: West Wiltshire District Plan - First Alteration 2004 – Policy SP3.

- 10 No development shall commence on site until full details of the cycle parking facilities shown on drawing CHQ.07.7707-PL05-P have been submitted to and approved in writing by the Local Planning Authority. The cycle parking facilities shall be implemented in accordance with these approved details before the store extensions are first brought into use, and shall be retained in accordance thereafter.

REASON: To ensure that satisfactory facilities for the parking of cycles are provided to encourage travel by means other than the private car.

POLICY: West Wiltshire District Plan - First Alteration 2004 – Policy SP3.

- 11 No materials, goods, plants, machinery, equipment, finished or unfinished products or parts of any description, skips, crates, cages, containers, waste or any other item whatsoever shall be placed, stacked, deposited, or stored outside any building on the site without the prior approval in writing of the Local Planning Authority.

REASON: In the interests of the appearance of the site and the amenities of the area, and in the interests of flood prevention.

POLICY: Planning Policy Statement 25 - Development & Flood Risk, and West Wiltshire District Plan - First Alteration 2004 – Policies C17, C18, C38, and SP3.

- 12 The delivery and despatch of goods to and from the site shall be limited to between the hours of 0600 and 2300.

REASON: in order to safeguard the amenities in which the development is located.

POLICY: West Wiltshire District Plan - First Alteration 2004 – Policy C38 and SP3.

- 13 The use of the petrol filling station hereby permitted shall only take place between the hours of 0700 and 2300 on Monday to Saturdays, and 0900 and 2200 hours on Sundays and Bank Holidays.

REASON: in order to safeguard the amenities in which the development is located.

POLICY: West Wiltshire District Plan - First Alteration 2004 – Policies C38 and SP3.

- 14 The use of the online deliveries facility hereby permitted shall only take place between the hours of 0800 and 2200 on Mondays to Saturdays, and 09.00 and 1700 on Sundays and Bank Holidays.

REASON: in order to safeguard the amenities in which the development is located.

POLICY: West Wiltshire District Plan - First Alteration 2004 – Policies C38 and SP3.

- 15 No development shall commence on site until full details showing ventilation and extraction equipment within the site, including that to suppress and disperse any fumes and or smell created by the cooking operations on the premises have been submitted to and approved in writing by the Local Planning Authority. The details shall include details of noise attenuation, position and appearance. The approved equipment shall be installed before the first use of the store's extensions, and shall thereafter be maintained in accordance with these approved details.

REASON: in order to safeguard the amenities in which the development is located.

POLICY: West Wiltshire District Plan - First Alteration 2004 – Policies C38 and SP3.

- 16 No external lighting shall be installed on site before full details showing the type of light appliance, the height and position of fitting, illumination levels, light spillage, and hours of use, have been submitted to and approved in writing by the Local Planning Authority. These details shall include all measures for security lighting to the site. The lighting and use approved shall be installed and maintained in accordance with these approved details.

REASON: in the interests of the amenities of the area and to minimise unnecessary light spillage.

POLICY: West Wiltshire District Plan - First Alteration 2004 – Policy C35 and C38.

- 17 No development shall commence on site until details of the storage of refuse, including details of location, size, means of enclosure and materials, have been submitted to and approved in writing by the Local Planning Authority. These arrangements shall be undertaken in accordance with these approved details and shall be brought into use before the first use of the store's extensions. The approved arrangements shall be subsequently maintained in accordance with the approved details thereafter.

REASON: in the interests of public health and safety.

POLICY: West Wiltshire District Plan - First Alteration 2004 – Policies C38 and SP3.

- 18 No development shall commence on site until a scheme to restrict shopping trolleys leaving the site has been submitted to and approved by the Local Planning Authority. The development shall not be first brought into use until the approved scheme has been brought into operation. The approved scheme shall be maintained in operation in accordance with these approved details.

REASON: in the interests of the character, appearance, and amenities of the area, and to prevent pollution of the water environment and reduce the potential of blockage to flood flows.

POLICY: Planning Policy Statement 25 - Development & Flood Risk, and West Wiltshire District Plan - First Alteration 2004 – Policies C38 and SP3.

- 19 No development shall commence on site until details of surface water drainage from impermeable parking areas and hardstandings for vehicles, commercial lorry parks and petrol stations associated with the development to oil interceptor(s) has been submitted and approved by the Local Planning Authority. The development shall not be first brought into use until the oil interceptor(s) has/have been installed in accordance with the approved details. Thereafter the oil interceptor(s) shall be maintained in accordance with the approved details. Roof water shall not pass through the interceptor(s).

REASON: To minimise the risk of pollution of the water environment.

POLICY: West Wiltshire District Plan 1st Alteration 2004 - Policy U2.

- 20 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 brought into use until surface water drainage has been constructed in accordance with the approved scheme.

REASON: To ensure that the development can be adequately drained and to prevent the increased risk of flooding by ensuring the satisfactory disposal of surface water.

POLICY: Planning Policy Statement 25 - Development & Flood Risk and West Wiltshire District Plan 1st Alteration 2004 – Policy - U2.

- 21 No development shall commence on site until a scheme for the diversion of and the protection of the public foul sewer crossing the site has been submitted to and approved in writing by the Local Planning Authority. The works shall be undertaken in accordance with these approved details.

REASON: to protect public infrastructure on the site.

POLICY: West Wiltshire District Plan - First Alteration 2004 – Policy U1A.

- 22 Unless otherwise agreed by the Local Planning Authority, development other than that required to be carried out as part of an approved scheme of remediation must not commence until requirements 1 to 4 (below) have been complied with. If unexpected contamination is found after development has begun, development must be halted on that part of the site affected by the unexpected contamination to the extent specified by the Local Planning Authority in writing until condition 4 has been complied with in relation to that contamination.

1. Site characterisation. An investigation and risk assessment, in addition to any assessment provided with the planning application, must be completed in accordance with a scheme to assess the nature and extent of any contamination on the site, whether or not it originates on the site. The contents of the scheme are subject to the approval in writing of the Local Planning Authority. The investigation and risk assessment must be undertaken by competent persons

and a written report of the findings must be produced. The written report is subject to the approval in writing of the Local Planning Authority. The report of the findings must include:

- i. a survey of the extent, scale and nature of contamination;
- ii. an assessment of the potential risks to:
 - * human health;
 - * property (existing or proposed) including buildings, crops, livestock, pets, woodland and service lines and pipes;
 - * adjoining land;
 - * groundwaters and surface waters;
 - * ecological systems;
 - * archaeological sites and ancient monuments;
- iii. an appraisal of remedial options, and proposal of the preferred option(s).

This must be conducted in accordance with DEFRA and the Environment Agency's "Model Procedures for the Management of Land Contamination, CLR 11".

2. Submission of remediation scheme. A detailed remediation scheme to bring the site to a condition suitable for the intended use by removing unacceptable risks to human health, buildings and other property and the natural and historical environment must be prepared, and is subject to the approval in writing of the Local Planning Authority. The scheme must include all works to be undertaken, proposed remediation objectives and remediation criteria, timetable of works and site management procedures. The scheme must ensure that the site will not qualify as contaminated land under part 2A of the Environmental Protection Act 1990 in relation to the intended use of the land after remediation.

3. Implementation of approved remediation scheme. The approved remediation scheme must be carried out in accordance with its terms prior to the commencement of development other than that required to carry out remediation, unless otherwise agreed in writing by the Local Planning Authority. The Local Planning Authority must be given two weeks written notification of commencement of the remediation scheme works. Following completion of measures identified in the approved remediation scheme, a verification report (referred to in PPS23 as a validation report) that demonstrates the effectiveness of the remediation carried out must be produced, and is subject to the approval in writing of the Local Planning Authority.

4. Reporting of unexpected contamination. In the event that contamination is found at any time when carrying out the approved development that was not previously identified it must be reported in writing immediately to the Local Planning Authority. An investigation and risk assessment must be undertaken in accordance with the requirements of Condition 2, which is subject to the approval in writing of the Local Planning Authority. Following completion of measures identified in the approved remediation scheme a verification report must be prepared, which is subject to the approval in writing of the Local Planning Authority in accordance with condition 3.

5. Long term monitoring and maintenance. A monitoring and maintenance scheme to include monitoring the long-term effectiveness of the proposed remediation and the provision of reports on the same must be prepared, both of which are subject to the approval in writing of the Local Planning Authority. Following completion of the measures identified in that scheme and when the remediation objectives have been achieved, reports that demonstrate the effectiveness of the monitoring and maintenance carried out must be produced, and submitted to the Local Planning Authority. This must be conducted in accordance with DEFRA and the Environment Agency's "Model Procedures for the Management of Land Contamination CLR 11".

REASON: to ensure that risks from land contamination to the future users of the land and neighbouring land are minimised, together with those to controlled waters, property and ecological systems, and to ensure that the development can be carried out safely without unacceptable risks to workers, neighbours and other offsite receptors.

POLICY: West Wiltshire District Plan - First Alteration 2004 – Policy C37.

- 23 The flood compensation scheme detailed in the approved Flood Risk Assessment (FRA) dated October 2009, "Extension to Sainsbury's Supermarket, Melksham, Flood Risk Assessment – Final", by Black & Veatch, shall be carried out and delivered in full prior to the first use of the car parks and store extensions.

REASON: to ensure that the flood risk to the land is not increased at any time during or after the development.

POLICY: Planning Policy Statement 25 - Development & Flood Risk.

- 24 No development shall commence on site until details of the balancing pond shown on the approved plans has been submitted to and approved in writing by the Local Planning Authority. Subsequently the scheme shall be constructed strictly in accordance with the approved details prior to the use of the store's extensions.

REASON: in the interests of flood prevention.

POLICY: Planning Policy Statement 25 - Development & Flood Risk.

- 25 No development shall commence until detailed plans and cross-sections showing the maintenance to the River Avon have been submitted to and approved in writing by the Local Planning Authority. The works shall be undertaken in accordance with these approved details, and thereafter.

REASON: in the interests of flood prevention.

POLICY: Planning Policy Statement 25 - Development & Flood Risk.

- 26 No development shall commence on site until details of the operation and maintenance of the flood storage area and the production of a Habitat Management Plan have been submitted to and approved in writing by the Local Planning Authority. The flood storage area shall be maintained in accordance these approved details.

REASON: in the interests of flood prevention and habitat protection.

POLICY: Planning Policy Statement 25 - Development & Flood Risk, and West Wiltshire District Plan - First Alteration 2004 – Policy C9.

- 27 A Construction Ecological Management Plan / Method Statement should be submitted to and approved in writing by the Local Planning Authority prior to the commencement of any development on the site. The Plan should provide full details of how works will be carried out on site with regard to protecting the wildlife and river corridors.

REASON: to safeguard the wildlife and river adjacent to the site during construction.

POLICY: West Wiltshire District Plan - First Alteration 2004 – Policy C9.

- 28 No development shall commence until a scheme for the provision of pollution during the construction phase has been submitted to and approved in writing by the Local Planning Authority. The scheme should include details of the following:-

- * site security;
- * fuel storage, bunding, delivery and use;
- * details of how major and minor spillages will be dealt with;
- * containment of silt, soil, and contaminated run off;
- * disposal of contaminated drainage, including water pumped from excavations;

* site induction measures for workforce for pollution prevention and awareness.

REASON: to prevent pollution of the water environment.

POLICY: West Wiltshire District Plan - First Alteration 2004 – Policy U4.

- 29 No development shall commence within the site area until:
- (a) A written programme of archaeological investigation, which should include on-site work and off-site work such as the analysis, publishing and archiving of the results, has been submitted to and approved by the Local Planning Authority; and
 - (b) The approved programme of archaeological work has been carried out in accordance with the approved details.

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

POLICY: Planning Policy Guidance 16: Archaeology and Planning

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

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

has been submitted to, and approved in writing by, the Local Planning Authority. The approved Statement shall be adhered to throughout the construction period. The development shall not be carried out otherwise than in accordance with the approved construction method statement without the prior written permission of the Local Planning Authority.

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

POLICY: Planning Policy Guidance 24: Planning and Noise and West Wiltshire District Plan 1st Alteration 2004 - POLICY: C38.

- 31 Before the commencement of development on the site a scheme providing details of the security measures to the site, including CCT and lighting, shall be submitted to and approved in writing by the Local Planning Authority. The works shall be undertaken in accordance with these approved details, prior to the first use of the petrol filling station and the store's extensions.

REASON: in the interests of the security of the site and surrounding area.

POLICY: West Wiltshire District Plan - First Alteration 2004 – Policy C38.

- 32 Prior to the commencement of any development on site, an Ecological Management Plan, detailing how the habitats created as a result of the development will be managed in future for wildlife benefits should be prepared and submitted in writing for approval by the Local Planning Authority. The Plan should include details of who will be responsible for ensuring the management is carried out in the long-term.

REASON: to protect, safeguard and enhance the wildlife value of the site.

POLICY: West Wiltshire District Plan - First Alteration 2004 – Policy C9.

- 33 The gross external area of the foodstore hereby permitted shall not exceed 5,495 metres square. The net sales and display area (defined as all areas used for the display and sale of goods, including floor spaces used for checkouts, customer circulation and customer services but excluding entrance / exit lobbies, customer toilets, café and Automated Teller Machines (ATMs)) shall not exceed 3,425 square metres, of which not more than 1,203 square metres shall be used for comparison goods.

REASON: in order to protect the vitality and viability of the town centre.

POLICY: West Wiltshire District Plan - First Alteration 2004 – Policy SP3.

- 34 No part of the net sales and display area (defined as all areas used for the display and sale of goods, including floor spaces used for checkouts, customer circulation and customer services but excluding entrance / exit lobbies, customer toilets, café and Automated Teller Machines (ATMs)) of the foodstore hereby permitted shall be given over to any dry cleaning services, key cutting, shoe repair, photographic, or pharmacy services dispensing medicines by prescription or post office counter services.

REASON: in order to protect the vitality and viability of the town centre.

POLICY: West Wiltshire District Plan - First Alteration 2004 – Policy SP3.

- 35 Before the commencement of any development on site, a car park management plan, including specification of the terms and conditions of the existing and proposed hours of free public parking, shall be submitted to and approved in writing by the Local Planning Authority. The operation of the car park shall be in accordance with these approved details, and any changes to it shall be subject to the written consent of the Local Planning Authority.

REASON: to ensure that adequate provision is made for parking within the site in the interests of highway safety and to encourage multiple trips between the store and the town.

POLICY: West Wiltshire District Plan - First Alteration 2004 – Policies T10 and SP3.

- 36 No development shall commence on site until details and positioning of the directional signage to the town centre, riverside walk and nature reserve, have been submitted to and approved in writing by the Local Planning Authority, including, if necessary the relevant consents under the Control of Advertisement Regulations 2007.

REASON: in order to encourage trips to the town.

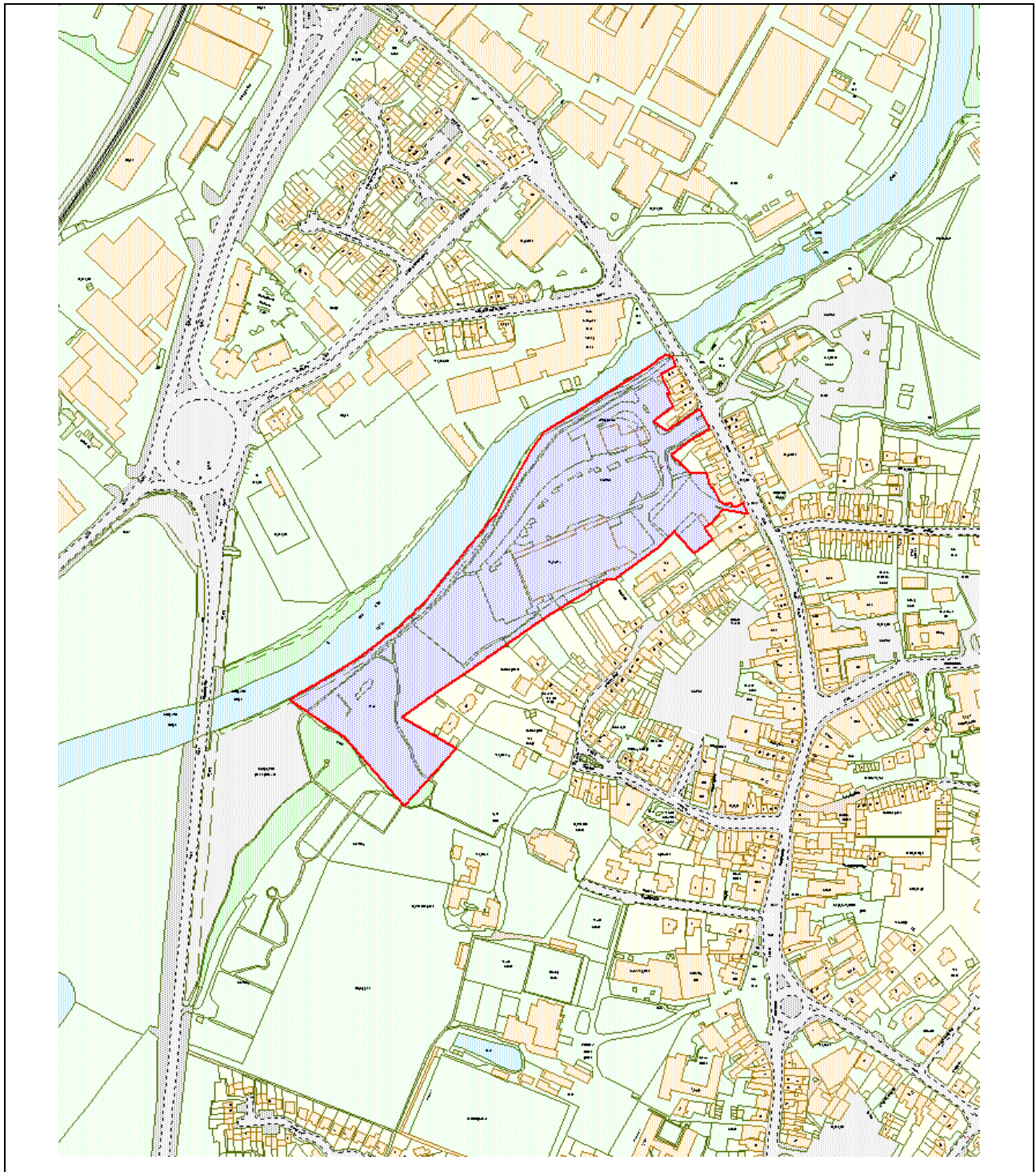
POLICY: West Wiltshire District Plan - First Alteration 2004 – C24.

Informative(s):

- 1 You are advised to contact Wessex Water to agree points of connection onto their apparatus.
- 2 The applicant should note that under the terms of the Wildlife and Countryside Act 1981 and Countryside and Rights of Way Act 2000, it is an offence to disturb nesting birds or roosting bats. You should note that the work hereby granted consent does not override the statutory protection afforded to these species and you are advised to seek expert advice if you suspect that the demolition would disturb any protected species. For further advice, please contact the district ecologist at Wiltshire Council.
- 3 The failure to adequately operate and maintain flood storage areas could potentially result in increased flood risk to the development and land / property in third party ownership.

- 4 Under the terms of the Water Resources Act 1991 and the Land Drainage Byelaws, the prior written consent of the Environment Agency is required for any proposed works to structures in, under, over, or within 8 metres of the top of the bank of the River Avon, designated a 'main river'. Please contact the Environment Agency's Development and Flood Risk team on 01278 484654 for guidance on how to apply for Flood Defence Consent.
- 5 The reduction in toilet facilities for customers is disappointing given the increased retail area. The applicant is advised to reconsider, as a minimum of two extra urinals for male customers.
- 6 Ecological Recommendations: the suggested conditions to any permission to should seek to achieve the following:
1. Long term protection of the proposed flood compensation area should be secured in perpetuity by condition or legal agreement in order to protect the features of Conigre Mead nature reserve
 2. Before works commence a Construction Environment Management Plan will be submitted for LPA approval and implemented as agreed. The CEMP will cover, but not be limited to, the following:
 - * Protection of the banks and water quality of the River Avon
 - * Protection of habitat used by otters
 - * Translocation of reptiles
 - * Erection of bat boxes
 - * Protection of breeding birds
 3. Before works are completed a habitat management plan covering the proposed flood compensation area will be submitted for LPA approval and implemented as agreed.
 4. A lighting scheme will be submitted for approval by the LPA and implemented as agreed. The scheme will demonstrate that the River Avon and its bankside habitats will remain unlit."
- 7 The archaeological watching brief should be conducted by a professional recognised archaeological contractor in accordance with a brief issued by this office and there will be a financial implication for the applicant.
- 8 "The Environment Agency recommends that developers should:
1. Follow the risk management framework provided in CLR11, Model Procedures for the Management of Land Contamination, when dealing with land affected by contamination;
 2. Refer to the Environment Agency Guidance on Requirements for Land Contamination Reports for the type of information that we require in order to assess risks to controlled waters from the site. The Local Authority can advise on risk to other receptors, eg human health.
 3. Refer to our website at www.Environment-Agency.gov.uk for more information .
- 9 You are advised that signage in and around the site may requirement Consent under the Town & Country Planning (Control of Advertisements) (England) Regulations 2007.

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



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

MSA: 100022961

RELEVANT APPLICATION PLANS

Drawing : CHQ.07.7707 PL01 received on 03.03.2009
Drawing : CHQ.07.7707-PL02 received on 03.03.2009
Drawing : CHQ.07.7707-PL04 received on 03.03.2009
Drawing : CHQ.07.7707-PL03 received on 03.03.2009
Drawing : CHQ.07.7707-PL09 received on 03.03.2009
Drawing : CHQ.07.7707-PL05P received on 10.11.2009
Drawing : CHQ.07.7707-PL07C received on 16.10.2009

Drawing : CHQ.07.7707-PL06C received on 16.10.2009

Drawing : CHQ.07.7707-PL08 received on 03.03.2009

Drawing : 2327/16A received on 26.02.2010

Date of Meeting	10.03.2010		
Application Number	W/09/02622/FUL		
Site Address	Land At Capps Lane Bratton Wiltshire		
Proposal	Mobile home, day room and retention of existing pair of sheds		
Applicant	Mr Freddy Hughes		
Town/Parish Council	Bratton		
Electoral Division	Ethandune	Unitary Member:	Julie Swabey
Grid Ref	389997 153518		
Type of application	Full Plan		
Case Officer	Mr James Taylor	01225 770344 Ext 169 james.taylor@wiltshire.gov.uk	

Reason for the application being considered by Committee

This application is being brought to Committee following the receipt of further requested information. This has been obtained following the members requests and ultimate deferral of a decision at the 28 October 2009 meeting.

The application was deferred from 27 January 2010 at the request of the applicants and their agent because the agent was unable to attend and wished to make verbal representations.

Councillor Julie Swabey requested that this item be determined by Committee due to:

* "I understand that there is enforcement action ongoing with this and the land has been used as a site, unauthorised for several years."

* "complete lack of clarity on the number of sites we should allow in the West Wiltshire area".

1. Purpose of Report

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

Further to address the concerns of members at the meeting of 28 October 2009 namely:

1. to establish the current position with regards to gypsy and traveller sites in the LDF including the number of pitches needed in the western part of Wiltshire and the number that have been provided
2. to find out more details about the applicants 'lifestyle', 'nomadic / travelling way of life' and his 'horse trading business'
3. for an explanation of where the existing unauthorised sheds fit into the applicant's proposals for the site and this application
4. to ascertain the current status of the enforcement action on the site, -
 - * what action is currently being taken.
 - * what is being done to remove unauthorised structures etc,
 - * against whom id this action being taken

This information has now been received and these matters are addressed in the officer's appraisal at Planning Considerations.

2. Main Issues

The main issues to consider are:

- * Impact on the rural character of the area
- * Impact on highway safety
- * Impact on amenity, including that of neighbours
- * Proximity to local services and facilities
- * The needs and safety of future occupants and their children
- * Requested information from members

3. Site Description

The application site is located in open countryside which is subject to no special landscape designations. It is sited on the C-classified Capps Lane which runs between Heywood and the settlements of Bratton and Edington.

The site has natural hedges to the north and east boundaries. To the south the boundary is a post and wire fence. To the west it is a mix of hedge and post and wire fencing.

Part of the site is still open to grazing, but the northern part is occupied by 2 barns and a caravan; the site has been subject to enforcement action by the Council regarding this and its uses.

Access to the site is existing, denoted by solid timber gates set back nominally from the highway. A rough access track is laid into the site beyond.

4. Relevant Planning History

None

5. Proposal

This is a planning application for a single private gypsy pitch to include the siting of a mobile home and touring caravan and the erection of a day room.

The day room would have a footprint of 5 metres by 6 metres; a height to eaves of 2.35 metres and a height to the ridge of 4 metres.

The proposal also proposes the retention of two existing barns at the site for use in connection with horses; the applicant is a traditional horse dealer.

Further the proposal includes revising the existing access to the site, hard and soft landscaping and parking and turning provision.

6. Planning Policy

West Wiltshire District Plan 1st Alteration (2004)

C1 Countryside Protection

C31a Design

C38 Nuisance

CF12 Gypsy Caravan Sites

National guidance
PPS1: Delivering Sustainable Development
PPS7: Sustainable Development in Rural Areas

ODPM Circular 01/2006: Planning for Gypsy and Traveller Caravan Sites.
DETR Circular 03/1999: Planning requirement in respect of the use of non-mains sewerage incorporating septic tanks in new development.

7. Consultations

Bratton Parish Council

Objection:

"The council opposed the application on the following grounds:

1. The application is for a site outside the village policy limits contrary to policies H1 and H17 of the West Wiltshire District Plan 1st alteration (2004).
2. The proposal located in open countryside outside the defined village policy limits of Bratton would be tantamount to a new dwelling in the countryside without justification in the essential needs of agriculture or forestry contrary to Policy H19 of the West Wiltshire District Plan 1 Alteration (2004)
3. The proposal by reason of the proliferation of gypsy and traveller sites in the area would have a cumulative impact which fails to respect the scale of the village of Bratton contrary to paragraph 54 of ODPM Circular 01/2006.
4. The potential to accommodate further families.
5. It would appear that this application has been engineered to obstruct the declared wishes of Wiltshire Council (i.e. the enforcement notice of 13.07.09) who have stated that the land should be cleared."

Highway Authority

No Objection: Subject to conditions:

The development hereby permitted shall not be occupied until the access 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."

Wessex Water

No Objection.

8. Publicity

The application was advertised by site notice and neighbour notification.

Expiry date: 7 October 2009.

2 letters of objection from 1 party have been received. Summary of points raised:

- * The land has been subject to planning enforcement, which has yet to be complied with.
- * If approved the land may be handed back to the original owner to proceed as they intended prior to Council enforcement action.
- * Blot on the landscape (confirmed by planning inspector)
- * Erode the isolated and unspoilt countryside location.
- * Noise from generators and barking dogs is disturbing amenity (tested by an inspector).
- * Increase in traffic cannot be coped with on this lane.
- * No footpath or lighting on this lane which is used by local riding school
- * In the enforcement appeal it was stated by the Council that the land should not be residential.

- * No bus service
- * This proposal is a means of side stepping planning law.
- * The siting of the caravan and the new day room would spoil views from lounge and bedroom windows.

9. Planning Considerations

9.1 With regard to the first member request relating to the LDF progress on gypsy and traveller sites, Wiltshire Council's spatial planning officers were consulted in November 2009 and the matter has been revisited again in February 2010 to provide up to date information to committee. Consistent with the agenda item 14 produced for Wiltshire Council's cabinet on 23 February 2010 they have confirmed that in the 'west' area in January 2010 there was a residual residential need for 10 pitches (not including transient pitches).

9.2 The spatial planning team have detailed a timetable for the adoption of a Development Plan Document for gypsy and traveller site allocations, to form part of the LDF. The report to cabinet on 23 February 2010 detailed that stage 1 of the commissioned study to inform the Gypsy & Traveller Site Allocation DPD for Wiltshire is complete. This is being used to inform an 8-week public consultation on issues & options which following cabinet approval will commence on 5 April 2010 ending 31 May 2010. This will include a 'call for sites'.

9.3 As detailed in the initial committee report this spatial planning work for the LDF is still at a relatively early stage and there is a confirmed shortage of sites in this area at present. There is a demonstrable need for further gypsy and traveller sites.

9.4 The second member request relating to details of the applicants 'lifestyle', 'nomadic/travelling way of life' and 'horse trading business'. The applicant's agent has supplied additional information and stressed the original submission of details.

9.5 This may be summarised as follows. The applicant has reiterated that they are a gypsy and have stated that they have not lived in a house for 30 years and although using a permanent address with his partner and family often travels with his family for several months, as long as 8 months sometimes. Indeed the Hughes family are well known Romany Gypsies who have been saving and waiting for some land to be available such as this.

9.6 It is also considered prudent to reiterate the planning circular definition of a gypsy set out by national government in ODPM circular 01/2006.
'persons of nomadic habit of life whatever their race or origin, including such persons who on grounds only of their own or their family's or dependant's educational or health needs or old age have ceased to travel temporarily or permanently.....'

9.7 It is considered that the applicant appears to meet the definition of a gypsy or traveller. Further the suggested condition can ensure that the Council retains reasonable control of the occupation of the site, limiting it to a person (and their family) that meets the above definition.

9.8 Turning to the third member request relating to details of how the unauthorised sheds that are on the site fit into the applicant's proposals. The applicant has clarified that these would be used for the keeping of horses to be taken away for sale at fairs or direct to purchasers. There would not be any selling of horses at the site. The sheds would therefore be used for stabling and for keeping usual equestrian type equipment and feed.

9.9 The applicant has highlighted, that like many Romani gypsies, they do many different things including in this case seasonal field work and demonstrations of gypsy crafts such as wooden peg making. Mr Hughes took part in the Romani Gypsy traveller history last June in Frome.

9.10 This additional information and reiteration of the previous comments affirm the status of the applicant as a gypsy and also confirms the intended use of the existing barns on the site.

9.11 Finally the members request for confirmation on the current status of enforcement action on the site has been thoroughly detailed. The Council has successfully taken enforcement action against the previous land owners who were in breach of planning regulations. This matter was considered in the magistrates' court in November where a guilty plea was made; the magistrates issued a fine and ruled that the Council's reasonable costs should be paid. The Council's enforcement team cannot take any further action against the previous land owner who was in breach of planning as they have sold the land.

9.12 The Council now needs to consider enforcement action against the new owners, however the outcome of this planning application is material to considering the expedience of such efforts.

9.13 Returning to the original planning considerations. This proposal has been presented as an application for a single private gypsy site. As such it must be principally considered under Policy DP15 of the Wiltshire Structure Plan 2016 and Policy CF12 of the West Wiltshire District Plan (2004). Further the proposals need to be considered in light of other relevant development plan policy and the regional and national context which includes the ODPM Circular 01/2006 on planning for gypsy and traveller caravan sites.

9.14 Policy DP15 clearly states that proposals for gypsy caravan sites cannot be assessed using policies for settlements and that travellers and gypsies have particular needs which are recognised in national government policy. Further it is clear that suitable sites may be found within and outside settlements.

9.15 Policy CF12 is consistent with the Structure Plan and also sets out criteria by which to assess applications and has a positive phrasing stating that proposals to provide caravan sites for gypsies will be permitted in appropriate locations having regard to issues such as nuisance, encroachment into open countryside, the needs and safety of future occupants and their children, highway safety, availability and adequacy of infrastructure, proximity to services, protecting agricultural land and flood risk.

9.16 National policy on such matters was updated in February 2006 with the production of ODPM Circular 01/2006. This acknowledges that the community has generally become more settled and that being settled can have benefits in terms of access to health and education facilities, and can contribute to greater integration and social inclusion within local communities as detailed in the circular.

9.17 As detailed above the Council's spatial planning team continues to work towards the production of a Development Plan Document for Gypsy and Traveller site allocations as part of the new Local Development Framework for Wiltshire. However this is in its very early stages and no allocations have been made to date nor have consultations on issues and options taken place. The Regional Spatial Strategy has indicated that there is a shortage of allocated sites within the former West Wiltshire administrative area and so there is an acknowledged need in the area.

9.18 National and local planning documents accept that private sites are acceptable in principal, indeed this can be beneficial in that it can reduce conflict between different families, ethnicities and cultural origins of travellers on larger communal sites.

9.19 This application site is located in the open countryside remote of village policy limits. This site is very close to an existing authorised private gypsy site and via public rights of way can access the village of Bratton and its services and facilities. The first of the Capps Lane approved sites was granted by a planning inspector who considered the site to be reasonably sustainable for a gypsy site given their nomadic lifestyles.

9.20 The planning policy is explicitly clear that applications should not be considered against the normal policies for housing and village and town settlement boundaries. Applications outside of settlements may be perfectly acceptable.

9.21 It is noted that the highway authority raises no objection subject to safety orientated conditions. The access to the site is rather rough, although well established. The visibility in both directions can be improved without significant harm to landscaping interests. Therefore subject to conditions over

visibility plays then the modest intensification of traffic at this point poses no significant concerns. Indeed the proposals would set back the gates which in itself would be an improvement over the existing access provision.

9.22 The site is located approximately 1.5 km from the village policy limits of Bratton which has all the facilities to be expected of a modest rural village, including a rural bus service which connects to larger local settlements and their facilities. This site, although not ideal in terms of its location some distance from an established settlement and not very well related to any settlement, in the context of being a gypsy application, is on balance reasonable. There is access to local facilities and services to satisfy the needs and safety of future occupants and their children including access to education, health facilities and work and leisure opportunities. Other locations, arguably, may be preferable, but without any LDF site allocations (indeed the Council's work is still at an early stage) it is hard to reasonably argue such a case when there is a demonstrable need. This site has been brought forward and must be assessed on its merits in light of the material considerations.

9.23 Turning to wider planning considerations of the site it is noted that this proposal is in open countryside that is subject to no special designations. The frontage of the site is well screened by an established hedge. The site would however be visible from public vantage points and the one neighbouring property to the west. However landscaping may mitigate against this to some extent and the planning system does not seek to protect an individual property owner's view. This can be reasonably secured by planning conditions and the applicant states a willingness to discuss landscaping and take on board advice from the Council on additional planting.

9.24 The amount of development being proposed is quite typical of a single, private gypsy application including a large caravan, a touring caravan and a dayroom. All of this development is limited to single storey heights and would be suitably sited within the context of the area, viewed against the backdrop of vegetation. In summary the proposal would not have a significant impact on the rural character at this point.

9.25 The proposals detail the siting of sewerage treatment facilities on the site, which seem reasonable. Since there are no mains facilities in the area then this is an acceptable approach. It is noted that Wessex water raises no objection. Conditions can reasonably control the points on services, and thus reduce the potential for nuisance noise from generators.

9.26 The application site is subject to the lowest level of flood risk and therefore this factor is not of significance. Further the land is not considered to be the best or most versatile agricultural land.

9.27 It has been noted that the proposals have been subject to some public objection following the display of a site notice and some neighbour letters being sent out. All the comments and points received in the consultation process have been noted and given consideration prior to reaching any conclusion or recommendation. Any planning matters have been discussed above, but other grounds for objection such as the loss of view are not material planning considerations.

9.28 In conclusion the members are advised that the additional information that has been sought at their request does not make any difference to the officers' original comments and recommendation at the committee meeting on 28 October 2009. In short the Council's LDF work is at an early stage and is being informed by evidence of a lack of sites at this time. The applicant has detailed their lifestyle, travelling and horse trading arrangements, which appear consistent with gypsy and traveller culture. The proposed use of the existing barns is reasonable in planning terms. Finally enforcement action has been successfully taken against the person originally in breach. However action against the new owners is dependent on the outcome of this application which requires a decision from members. Your officers still recommend planning permission be granted subject to conditions. If the Council grants permission it will also be for the retention of the buildings which were previously subject to enforcement action.

Recommendation: Permission

For the following reason(s):

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

Subject to the following condition(s):

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

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

- 2 The site shall not be permanently occupied by persons other than gypsies and travellers as defined in paragraph 15 of ODPM Circular 01/2006.

REASON: Planning permission has only been granted on the basis of a demonstrated unmet need for accommodation for gypsies and travellers and it is therefore necessary to keep the site available to meet that need.

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

- 3 No more than 2 caravans, as defined in the Caravan Sites and Control of Development Act 1960 and the Caravan Sites Act 1968, of which no more than 1 shall be a static caravan or mobile home, shall be stationed on the site at any time.

REASON: In the interests of the visual amenity of the area.

West Wiltshire District Plan 1st Alteration (2004) POLICY CF12.

- 4 The development hereby permitted shall not be occupied or first brought into use until the area between the nearside carriageway edge and a line drawn 2.0 metres parallel thereto over the entire site frontage has been cleared of any obstruction to visibility at and above a height of 900mm above the nearside carriageway level. That area shall be maintained free of obstruction at all times thereafter.

REASON: In the interests of highway safety.

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

- 5 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.

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

- 6 Any gates shall be set back 4.5 metres from the edge of the carriageway, such gates to open inwards only.

REASON: In the interests of highway safety.

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

- 7 No development shall commence and no caravans brought onto site until details, including a timetable for implementation, have been submitted to and approved in writing by the Local Planning Authority for the following:

i) the materials to be used in the construction of the external surfaces of the day room, hardstandings, access drives, parking and amenity areas;

- ii) the landscaping of the site (a scheme showing the species, plant sizes, numbers and densities) including details of any supplementary planting to reinforce the existing hedgerows;
- iii) any new boundary treatment, fencing or gates
- iv) refuse storage facilities
- v) electricity generation
- vi) lighting
- vii) details of septic tank

REASON: In the interests of amenity of the area and neighbours.

West Wiltshire District Plan 1st Alteration (2004) POLICY CF12.

- 8 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 site. 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.

REASON: To ensure a satisfactory landscaped setting for the development.

West Wiltshire District Plan 1st Alteration 2004 – POLICY CF12.

- 9 There shall be no burning of waste on the site.

REASON: In the interests of amenity and environmental protection.

West Wiltshire District Plan 1st Alteration (2004) POLICY CF12.

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



RELEVANT APPLICATION PLANS

- Drawing : SITE PLAN received on 08.09.2009
- Drawing : 0946/01 received on 08.09.2009
- Drawing : 0946/02 received on 08.09.2009
- Drawing : DAY ROOM received on 08.09.2009

REPORT TO THE WESTERN AREA PLANNING COMMITTEE

Item No. 03

Date of Meeting	10.03.2010		
Application Number	W/10/00163/FUL		
Site Address	Dove Inn Corton Wiltshire BA12 0SZ		
Proposal	Extension of existing bed and breakfast accommodation to provide 5 additional rooms together with refurbishment of Cornicks Cottage to 2 additional rooms, formation of new vehicular access and car parking, and alterations to thatched boundary wall		
Applicant	The Dove Inn (Corton) Ltd		
Town/Parish Council	Boyton		
Electoral Division	Warminster Copheap And Wylve	Unitary Member:	Christopher Newbury
Grid Ref	393466 140527		
Type of application	Full Plan		
Case Officer	Mrs Rosie MacGregor	01225 770344 Ext 597 rosie.macgregor@wiltshire.gov.uk	

Reason for the application being considered by Committee

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

Councillor Newbury has requested that the following reason for his calling it to committee is stated in full:

'Called in at the request of several residents who wish to explain to the Planning Committee their concerns about parking and highways issues, noise, the scale of development and other matters.'

1. Purpose of Report

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

2. Main Issues

The main issues to consider are:

- * Previous planning history
- Tourism
- Community
- Streetscene
- Historic environment
- Area of Outstanding Natural Beauty
- Neighbouring amenity
- Highways

3. Site Description

The property comprises a public house, a detached cottage set within a mature garden and holiday accommodation

The site is situated on the edge of the village adjacent to countryside within the Wylve Valley entirely within the Corton Conservation Area, Cranbourne Chase and West Wiltshire Downs Area of Outstanding Natural Beauty. Little Manor Cottage which is a Grade II Listed Building is situated to the rear of the public house.

The site is located not far from the T- junction where the road divides on entering the village and is in a prominent corner position fronted by a grassy triangle. The site is partially enclosed by a wall with a traditional thatch capping which is a prominent feature within the street scene and in the Corton Conservation Area. There is a listed building to the north-east of the site.

4. Relevant Planning History

05/00990/FUL - Alterations and extension to provide improved accommodation - Refused - 18/07/05

06/00658/FUL - Alterations and extension to provide improved accommodation - Refused – 24/04/06

07/03897/FUL – Proposed extensions to cottage and public house and additional parking – Refused – 15.04.08.

08/01407/FUL – Rear two storey extension to public house – Approved – 01.07.2008

5. Proposal

This is a full planning application for the extension of the existing bed and breakfast business at The Dove Inn. This would provide 5 additional rooms contained within a proposed 2-storey extension to the existing accommodation block to create improved tourist accommodation, together with the refurbishment and change of use of the detached Cornicks Cottage to form 2 additional rooms.

The proposals would be built in materials to match the existing but would include some timber cladding to the proposed and existing elevations. An external timber walkway supported on timber posts with staddle stones at the base and gallows brackets at the gallery level is proposed to provide access to the first floor bedrooms.

Externally the proposal includes alterations to the vehicular access and additional car parking spaces resulting in a total of 26 spaces. The proposal would have resulted in removal of a short section of cob wall to form a pedestrian access and an additional length of the frontage thatched cob wall to screen the parked vehicles to match the existing. The existing vehicular access would be closed off.

The application is accompanied by a Design and Access Statement.

6. Planning Policy

Wiltshire Structure Plan 2016

HE7 - Listed Buildings and Conservation Areas

RLTI – Recreation, sport and leisure

RTL9 – Hotels and camping sites

West Wiltshire District Plan 1st Alteration 2004

E6 – Rural Employment

C2 - Areas of Outstanding Natural Beauty

C17 - Conservation Areas

C18 - New Development in Conservation Areas

C19 - Alterations in Conservation Areas
C31a - Design
C38 – Nuisance
TO3 – Hotels, guest houses and self catering establishments
CF3 – Villages and rural areas

PPS1 - Delivering Sustainable Development
PPG15 - Planning and the Historic Environment

7. Consultations

Boyton Parish Council

Support the application subject to the following:

- a) The foul drainage system is of a specification which will prevent any risk of sewage getting into the village drains.
- b) An adequate surface water drainage system should be installed so that rainwater does not run off down the village roads.
- c) Lighting to the rear car parking area and rear garden should be low level and of an intensity to avoid light pollution.

Highways

'You will be aware that an objection on highway safety grounds was raised previously to an application to extend the site and provide additional parking, due to the increased traffic using the sub standard access.

The development the current application is concerned with includes the closing of the three existing vehicular accesses and the formation of a single access. The two existing accesses onto the southern side of the site are substandard with extremely poor visibility. I am satisfied that the proposed access is to a similar standard to the existing access on the western site boundary and would be suitable to accommodate the existing vehicle movements and those resulting from the proposed development.

In view of the above I recommend that no highway objection be raised subject to the following conditions being attached to any permission granted:-

Prior to the development hereby permitted being brought into use the parking spaces shown on drawing reference S4431/104B shall be provided.

Reason: In the interest of amenity and road safety

Prior to the development hereby permitted being brought into use the proposed access shall be constructed and available for use, and the existing accesses stopped up and their uses permanently abandoned, in accordance with drawing reference S4431/104B.

Reason: In the interest of highway safety.'

Heritage Development Officer

It is vital to keep public houses open, for community benefit and to aid the local economy. This is a comprehensive scheme which has been long in negotiation and will provide the accommodation needed to retain viability of the business. The major changes are within the site and are constructed in materials which are compatible with the local environment.

No objection.

Environmental Health

No objection.

Wessex Water

No objection in principle.

Cranbourne Chase and West Wiltshire Downs Area of Outstanding Natural Beauty

'The Area of Outstanding Natural Beauty (AONB) Team are aware there is a shortage of Bed and Breakfast facilities in the AONB and would therefore be sympathetic to the provision of additional facilities where there are no conflicts with the reasons for the AONB designation.

The proposals appear to be a significant improvement on the previous application which was refused. However, parking still seems to be a significant issue. I note that the Design and Access Statement refers to the pub garden being retained, however the plans show that the majority of the open space is removed and replaced either with tarmac car parking or a terraced courtyard.

I also note that the parking on the south side of the conservatory is simply moved to the area on the south of Cornicks Cottage. The AONB Team is aware that car parking is currently an issue at the Inn and that there is frequent parking on the road.

The proposals clearly add seven units of accommodation which would imply at least seven additional vehicles requiring parking space. It appears that very few additional parking spaces are being provided in total and that the plan of the existing situation is more than slightly vague about the parking facilities on the northern and north eastern side of the pub.

As you know the AONB Team is particularly concerned about rural roads and the impact of traffic on the tranquillity of the villages in the AONB. We are therefore concerned that whilst the current proposals are a considerable improvement on the previous application the issues of parking at the pub are added to, and not solved by, these proposals.'

8. Publicity

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

Expiry date: 26.02.2010

Fourteen letters have been received from local residents of which eight object and six are in support.

Summary of points raised:

The objections are on the following grounds:

New access is potentially dangerous.

Creation of additional surface water and sewage problems in an area where there are already problems.

Removal of ancient hedge.

Access to the village will be compromised by construction traffic for the duration of the building works.

Insufficient car parking will result in vehicles parking on the narrow roads.

Nuisance from additional traffic on roads.

Does Corton need a Motel at its entrance?

The scale of the proposals is disproportionate to the original buildings.

The proposals are too large for the needs of the area.

Harmful to the character of the village and conservation area.

Impact of increase need for drainage and water supply.

Impact of lighting and use of public address system.

The letters in support of the application are on the grounds that:

It will help ensure the survival of this valuable community resource in a village that has previously lost its school, post office, shop and two public houses.

2000 pubs close each year and this shows consideration for users, working people and suppliers alike.

Closure of the existing entrances and siting of the new entrance will make village roads considerably safer.

Extension of the thatched wall will create a very attractive feature, enhancing the overall appearance of this corner of the village.

The courtyard will create a very pleasant area for sitting out and by directing lighting to the centre of the site will reduce light pollution.

Great care has been taken to minimise any impact on the village and surrounding area.

Property values are enhanced because there is a pub in the village.

Even if cars do park on grass verges beside the road it is more important that a pub is retained in the village.

9. Planning Considerations

9.1 The key issues of this application are whether the proposal complies with development plan policy, whether there are any material considerations to outweigh the policy and whether any previous reasons for refusal of earlier related applications have been overcome.

9.2 The Council has a duty to protect the historic environment. The Dove Inn is situated entirely within the Corton Conservation Area and Little Manor, a dwelling to the side/rear of The Dove Inn, is a Grade II Listed building.

9.3 Corton is located within an Area of Outstanding Natural Beauty. Council policy further seeks to protect character of the countryside particularly in Areas of Outstanding Natural Beauty.

9.4 It is Council policy to encourage tourism and conversion of existing buildings and extensions to existing hotels and guest accommodation in villages without village policy limits will be supported provided that such extensions do not result in disproportionate additions over and above the existing building or harm the character of the existing building.

9.5 The principle of expanding the business to provide enhanced tourist facilities with the addition of 7 extra ensuite bedrooms at the public house in the manner proposed with improved parking and is to be encouraged. However, although there would be no objection in principle to the extension of these premises it will be necessary to ensure that the proposals meet the criteria contained within the policy.

9.6 The need to enhance the existing tourist accommodation and provide additional parking is understood but this should not be at the expense of other material considerations, not least the potential harm to the character and appearance of the conservation area, setting of any listed building, or the rural amenity in this prominent location at the entrance to the village within an Area of Outstanding Natural Beauty.

9.7 The site is in a prominent and sensitive location in the street scene, and this group of buildings - Cornicks Cottage, The Dove Inn and ancillary buildings are amongst the first to be seen on entering the village. The Dove Inn and Cornicks Cottage can be seen from wider views into the conservation area from the west. This is from the road that leads towards Tytherington and climbs a hill that gives an elevated view down towards the site. The buildings on site are clearly visible from a number of vantage points.

9.8 The current scheme is significantly different to any of the previous refusals at the site. In particular the historic cob wall would be retained and its length increased to match the existing and the attractive small cottage Cornicks Cottage would be retained and converted to bed and breakfast accommodation. Furthermore, an extension is now proposed to the existing bed and breakfast accommodation.

9.9 This extension represents a large increase in the size of the existing building, virtually doubling its volume. However, this forms only part of the site and when considered in the context of the various buildings which form part of the overall site including the public house, its outbuildings and Cornicks Cottage, these additions to the built form are not considered to be a disproportionate addition.

9.10 The proposals would enhance the appearance of the existing detached bed and breakfast accommodation by recladding some of the very poor and patchy brickwork on the original building. The extension has been designed in such a way that the height reduces along its length from two storey down to single storey to create a natural progression and reduce the visual impact. This is particularly important as the lower portion of the extended building would be the amongst the first buildings to be seen on entering the village. This visual impact is further reduced by the use of hipped roofs at the end nearest the edge of the village. Although hipped roof details can appear contrived, in this instance, it must be balanced against the reduction in volume from a simple gabled roof and the fact that this detail is typical of thatched roofs and therefore in character with many of the existing village houses which are thatched.

9.11 The materials proposed respect the original building and would not harm the character or appearance of the conservation area. The timber galleried first floor access faces into the courtyard and this feature has reduced the need for a corridor within the building that would have increased the overall volume. It has been designed so that it is relatively simple in form with a long and linear emphasis. The relationship of the extension to the existing built form is considered sympathetic and respects the historic form of the original building.

9.12 Although an objection has been received suggesting that the building will have the appearance of a 'Motel', such types of buildings are usually of utilitarian design and located on main vehicular routes. It is acknowledged that the building will be used for tourist accommodation and as such it is inevitable that it will have the appearance of a small hotel or public house with guest accommodation. However, that is no different to the existing use which is for a similar type of accommodation, albeit on a slightly smaller scale.

9.13 Little Manor, a dwelling to the side/rear of The Dove Inn, is a Grade II Listed building. The current proposals would not alter the main public house building which is separated from the extension to the bed and breakfast accommodation and screens it from the Listed Building which is behind the public house. The proposals as such would have little or no impact on Little Manor and would not harm the character or setting of the listed building.

9.14 Thatched cob walls are a distinctive feature of this village and as such help define the character of the conservation area. The current proposals would not result in any loss of the historic cob wall. Indeed the character and appearance of the conservation area would be enhanced by the additional length of wall proposed. This would also serve to screen parked cars when viewed from the countryside beyond.

9.15 Any increase in the size of the public house and bed and breakfast facilities would be likely to increase its business and number of patrons and visitors. However, whilst this location would not normally be regarded as particularly sustainable, the site is located in the heart of the Wylve Valley, an acknowledged area visited by tourists. It is in that context and with the need to enhance the rural economy and provide rural employment that this application is considered acceptable. The proposals to increase the overnight accommodation and parking provision will undoubtedly enhance the future viability of the premises. Apart from the tourism potential, the need to preserve this important village facility is also recognised because it is a focal point for sustaining the social infrastructure of the community.

9.16 It is considered that the buildings are sufficiently far from nearby dwellings for there to be no harm to neighbouring amenity and Environmental Health have no objections.

9.17 Highways have been consulted and do not object. Despite the concerns of local residents about the potential hazard to highway safety and insufficient parking the views of the highway authority are supported. The existing car park is very small although there is currently an unauthorised area of vehicular parking. The proposals would result in a significant increase in parking provision. Cornicks Cottage, if it were to remain in residential use, would itself generate traffic and a need for parking.

Aside from this only five further ensuite bedrooms are being added which are unlikely to generate a significant amount of additional traffic. If all these rooms were to be occupied they would result in a maximum need for five extra parking spaces. There may be a need for additional staff to service seven more bedrooms if Cornicks Cottage is included, but even then in the context of the overall business this is very small and it can be assumed that some of the additional staff would live locally and not require their own transport.

9.18 It is recognised that during construction works there will be some disturbance to neighbours as a result of noise and fumes from manoeuvring vehicles but this is inevitable with any building works and will be transient.

9.19 Matters relation to surface water drainage and sewage disposal can be controlled by condition, as can details of lighting to prevent any unacceptable egress of light into the night sky to the detriment of the rural amenity. Although the parking area is shown on plans as a tarmac surface it is considered that a permeable surface in this location would not only soften its visual appearance but would also make it more adaptable to climate change and prevention of flooding. This too can be controlled by condition.

9.19 It has been suggested that the proposal would result in the removal of ancient hedge. There is a small section of hedge that would be removed but this forms part of the boundary treatment to Cornicks Cottage rather than ancient hedgerow.

9.20 These proposals will ensure the continued viability of these premises both to serve the local community and as a tourist facility that will help sustain the rural economy and there would be no harm to any interests of acknowledged importance and there are no planning objections to the proposals.

Recommendation: Permission

For the following reason(s):

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

Subject to the following condition(s):

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

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

- 2 Prior to the development hereby permitted being brought into use, the proposed access shall be constructed in accordance with the approved plans, drawing reference S4431/104B, and made available for use, and the existing vehicular accesses shall be stopped up and their use permanently abandoned.

Reason: In the interests of highway safety.

- 3 Prior to the development hereby permitted being brought into use, the parking spaces shown on drawing reference S4431/104B, together with the access thereto, shall be completed in accordance with the approved plans.

Reason: In the interest of amenity and highway safety.

- 4 Notwithstanding the approved plans, prior to the commencement of the works, details of the surface finishes of the courtyard, access, turning areas and parking spaces shall be agreed in

writing with the Local Planning Authority. Such surfaces shall be of a permeable finish and the first five metres of the access, measured from the edge of the carriageway, shall be consolidated and surfaced (not loose stone or gravel). The works shall be carried out in accordance with the approved details prior to the occupation of the additional bed and breakfast accommodation hereby approved and shall be maintained as such thereafter.

REASON: In the interests of sustainability and visual amenity.

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

- 5 No external lighting shall be installed on site until plans showing the type of light appliance, the height and position of fitting, illumination levels and light spillage have been submitted to and approved in writing by the Local Planning Authority. The lighting approved shall be installed and shall be maintained in accordance with the approved details.

REASON: In the interests of the amenities of the area and to minimise unnecessary light spillage above and outside the development site.

West Wiltshire District Plan 1st Alteration 2004 - POLICY: C35 and C38

- 6 No development shall commence on site until a scheme for the discharge of surface water from the site (including surface water from the parking spaces/access/driveway/gutters and rainwater pipes), incorporating sustainable drainage details, has been submitted to and approved in writing by the Local Planning Authority. The development shall be constructed in accordance with the approved surface water drainage scheme and the additional bed and breakfast accommodation shall not be occupied until the works are complete.

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

West Wiltshire District Plan 1st Alteration 2004 - POLICY: U2.

- 7 No development shall commence on site until details of the works for the disposal of sewerage have been submitted to and approved in writing by the Local Planning Authority. The development shall be constructed in accordance with the approved foul water drainage scheme and the additional bed and breakfast accommodation shall not be occupied until the works are complete.

REASON: To ensure that the proposal is provided with a satisfactory means of drainage.

West Wiltshire District Plan 1st Alteration 2004 - POLICY: U1a.

- 8 No development shall commence on site until details and samples of the materials to be used for the external walls, dormer windows and roofs, including the timber cladding, walkway, stairs and balustrade, have been submitted to and approved in writing by the Local Planning Authority. The development shall be carried out in accordance with the approved details and shall be completed prior to the first occupation of the additional bed and breakfast accommodation hereby approved.

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

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

- 9 No development shall commence on site until construction details and samples of the material finishes to be used for the new section of frontage boundary wall, which shall match the existing 'cob' wall in height, width and external appearance, have been submitted to and approved in writing by the Local Planning Authority. The development shall be carried out in accordance with the approved details and shall be completed prior to the additional bed and breakfast accommodation hereby approved being brought into use.

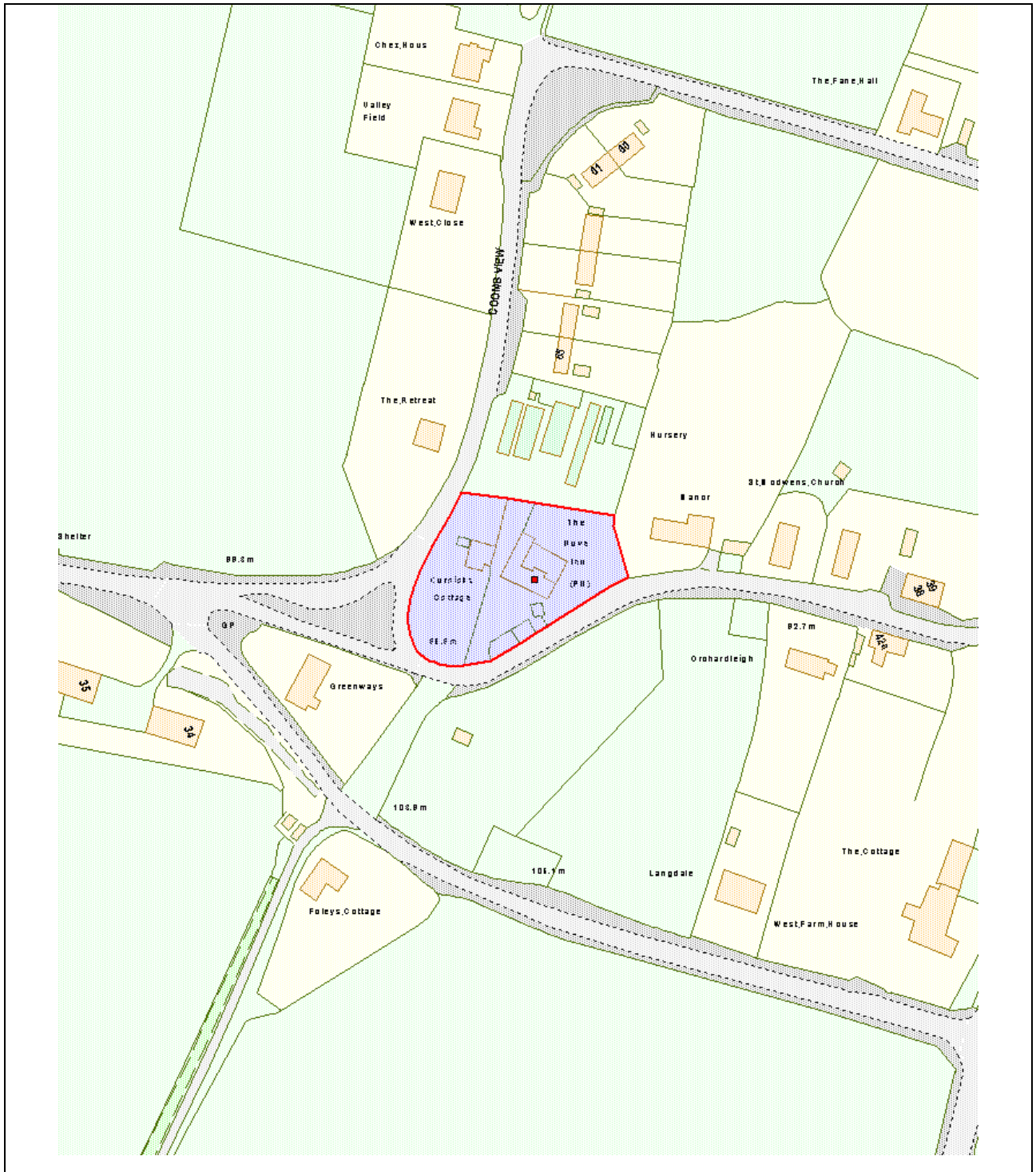
REASON: In the interests of visual amenity and the character and appearance of the area.

Informative(s):

- 1 You are advised that the proposal is not located within a sewered area and that Wessex Water state that there are no sewers in the vicinity. You are advised that the proposed development is within a Source Protection Zone and any surface water discharge will need to be in accordance with the Environment Agency guidelines.

There is a water main in the vicinity. It will be necessary to agree with Wessex Water a point of connection onto the system for the satisfactory supply of water. It is also important that you check with Wessex Water whether there are any uncharted mains within or very near to the site.

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



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

MSA: 100022961

RELEVANT APPLICATION PLANS

- Drawing : S4431/001 received on 20.01.2010
- Drawing : S4431/002 received on 20.01.2010
- Drawing : S4431/104 B received on 20.01.2010

Date of Meeting	10.03.2010		
Application Number	W/09/03641/FUL		
Site Address	Land Adjacent 28 Fairwood Road Dilton Marsh Wiltshire		
Proposal	Siting of a mobile home		
Applicant	Mr And Mrs Nick And Charlotte Flack		
Town/Parish Council	Dilton Marsh		
Electoral Division	Ethandune	Unitary Member:	Julie Swabey
Grid Ref	384687 151447		
Type of application	Full Plan		
Case Officer	Mr Matthew Perks	01225 770344 Ext 207 matthew.perks@wiltshire.gov.uk	

Reason for the application being considered by Committee

Councillor Swabey has requested that this item is brought to Committee to consider whether or not the dwelling complies with PPS 7 requirements in relation to housing an agricultural worker on site. There have furthermore been no objections from the Parish Council or neighbouring properties.

1. Purpose of Report

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

2. Main Issues

The proposal is retrospective, for a mobile home to be occupied on a personal basis for an indeterminate but temporary period in an area outside of any town or village policy limits. The main issue in this case is therefore whether or not it would be justified under the advice contained within Annex A of Planning Policy Statement 7 (Sustainable Development in Rural Areas) and Policy H19 of the West Wiltshire District Plan, 2004.

3. Site Description

The application site is a ±340m² portion of land under hardstanding within a larger yard occupied by various storage buildings of agricultural appearance. It is located immediately adjacent to, and to the north west of the curtilage to the dwelling at No 28 Fairwood Road. The mobile home is situated to the south of a cluster of sheds/storage buildings. To the south east, occupying a large proportion of the remainder of the parent property are the "Cuckoo's Rest Fishing Lakes", which were granted planning permission in 1996. Access is shared with the dwelling at No 28.

4. Relevant Planning History

96/00803/FUL: Excavation of fishing lake with wildlife conservation area and broadleaf plantations:
Permission: 08.08.1996

5. Proposal

This retrospective application is made for personal occupancy of the mobile home by two family members of the occupants to 28 Fairwood Road.

The agent advises that the occupation of the mobile home relates to employment of a family member in managing the fishing lakes business and the care of a beef cattle herd on the holding, and his partner who is employed elsewhere. Whilst a temporary period of occupancy is indicated in the supporting statement, no proposals in respect of a time limit are made.

The supporting documentation states that "...residential occupation of the mobile home commenced in February 2003.." and that a Certificate of Lawfulness application would be unlikely to succeed in this instance because of the change of use of the land, hence the full planning application.

6. Planning Policy

Wiltshire Structure Plan 2016

DP15 Development in Open Countryside

West Wiltshire District Plan - 1st Alteration 2004

C1 Development in the countryside

C38 Nuisance

H19 Development in the open countryside

PPS7 Sustainable Development in Rural Areas

7. Consultations

Town/ Parish council

The Dilton Marsh Parish Council has no objection, subject to temporary permission only and tying occupancy to immediate family members.

Highways

The highway officer had an initial concern with visibility at the access, but this was resolved following discussions with the applicant.

Agricultural Consultant

The Agricultural Consultant has advised that the rationale for the proposed temporary dwelling lies outside the scope of Annex A of PPS7 and therefore, in his view, the dwelling is not warranted under that guidance. The Consultant's full evaluation of the case is discussed in greater detail under the "Planning Considerations" section below.

8. Publicity

The application was advertised by site notice and neighbour notification.

Expiry date: 08.01.2010

No neighbour comments were received.

9. Planning Considerations

Notwithstanding the family ties of the occupants, the proposal is tantamount to the creation of a new dwelling in the open countryside since the mobile home is a unit separate from the main dwelling and has established a new residential use since 2003 on a separate curtilage, and would be capable (by definition of a "mobile home") of functioning as a self-contained entity.

The key Local Plan Policy relevant to this application is therefore Policy H19, whilst national guidance is provided in Planning Policy Statement 7 (Sustainable Development in Rural Areas). Whilst separate accommodation in the form of an annex or similar arrangements have been accepted in the past, this is in general in situations where annex accommodation linked to a dwelling within an existing residential curtilage is provided for family members.

The mobile home in this case would effectively extend the residential use beyond the existing residential curtilage and provide a separate accommodation unit some 20m distant from the main dwelling. This would not accord with Policy H19 of the West Wiltshire District Plan, 2004 which states that new dwellings in the countryside will not be permitted unless justified in connection with the essential needs of agriculture or forestry.

Neither Policy H19 nor PPS 7 generally permit the establishment of new dwelling units in the countryside. However, where there is proven need for residential accommodation in connection with an agricultural, forestry or other rural occupation enterprises, new dwellings can be considered, according to the advice contained in PPS7 but strict assessment criteria apply.

Annex A of PPS7 states inter alia that a "functional test" is fundamental to assessing new rural dwelling serving agricultural or other rural enterprises. This test requires that it be established whether or not it is essential for the proper functioning of the enterprise for one or more workers to be readily available at most times. PPS 7 indicates that such a requirement would arise where workers are needed to be on hand day and night as essential support for an enterprise to address emergency situations (Par 4). Whilst a description of the fishing activity on site states that the lakes are "...regularly fishes by up to 40 anglers at weekends..." with specific facilities for the mobility impaired, there is no further justification as to why this and the attendance to the herd should be considered to satisfy the functional need requirement for being on hand night and day on a permanent basis, especially where there is already an extended dwelling on the property. The Agricultural Consultant considered this in his report:-

The Consultant considered the details of the application and notes that the planning application is to station the dwelling for a temporary period at the application site. He advises that, in terms of guidance in paragraph 12 of Annex A of PPS7, a temporary dwelling is associated with a significant change of business practice for an existing unit, or in association with the establishment of a new unit. In this case neither change to the business nor a new unit is proposed.

In assessing the nature of the activity on site he does not consider that the business practice from the angling enterprise and the beef unit present an essential requirement for a worker to be readily available at most times. The requirement for the angling business is for land maintenance, security and the day to day management of the business. The requirement for the beef cattle is for day to day husbandry. In both cases, in his view, the requirements of the enterprises do not meet the functional test. In this context he further notes that there is already an existing dwelling on site.

The Consultant also notes that the planning application makes it clear that the proposal is for a dwelling to be occupied under a planning permission that is personal to the applicants, and that the occupation of the proposed dwelling would be in association with the existing permanent dwelling. The occupants of the proposed dwelling would use the bathroom and laundry facilities in the permanent dwelling.

The reason for the dwelling is furthermore to assist the applicants by providing them with accommodation whilst they endeavour to purchase a house away from the site. Once a suitable dwelling (away from the site) was purchased then their occupation of the proposed dwelling would cease. As the proposed planning permission would be personal to the applicants then that consent would also lapse once their occupation of the dwelling ended.

The consultant is of the view that the proposed subsequent occupation of a dwelling away from the site runs counter to any argument for functional need on the holding. In this context the opinion therefore is that the planning application and the supporting statements do not make any case for a functional need on the holding in association with the current business practice.

This rationale for the proposed temporary dwelling lies outside the scope of Annex A of PPS7. The proposed dwelling is therefore not warranted under Annex A of PPS7.

The site access is another planning consideration. Highway officers had initial concerns about the visibility at the access to the site where an increase in vehicular use would arise. This was however discussed between the applicant and the highway officer who concluded that this issue could be addressed satisfactorily. The impact of the proposal on the open countryside in terms of visual amenity and the need to protect the natural environment would be limited. The mobile home has a backdrop to the north of the existing sheds, and is not prominent to view from any local vantage points.

Finally, the supporting documents to the application hold the view that the relocation of the mobile home onto the residential curtilage and its occupation there whilst using some of the facilities in the main dwelling would constitute permitted development and therefore is a "fall back position" that could be adopted, albeit with negative effects on the neighbouring property at 26 Fairwood Road. Whilst it is accepted that the storage of the mobile home in the residential curtilage and occasional occupation would constitute an ancillary use, it becomes a matter of fact and degree as to whether or not the nature of the occupation would constitute full time use of the mobile home as a self-contained dwelling providing all the normal facilities for day to day living. Case law suggest that the LPA would need to consider the extent to which the mobile home is provided with services that would render it capable of being occupied as a self-contained dwelling occupied on a full-time basis before taking a final view. A self-contained unit tantamount to a dwelling would not be permitted development. This is a moot point however, where the application is for the location outside of the residential curtilage.

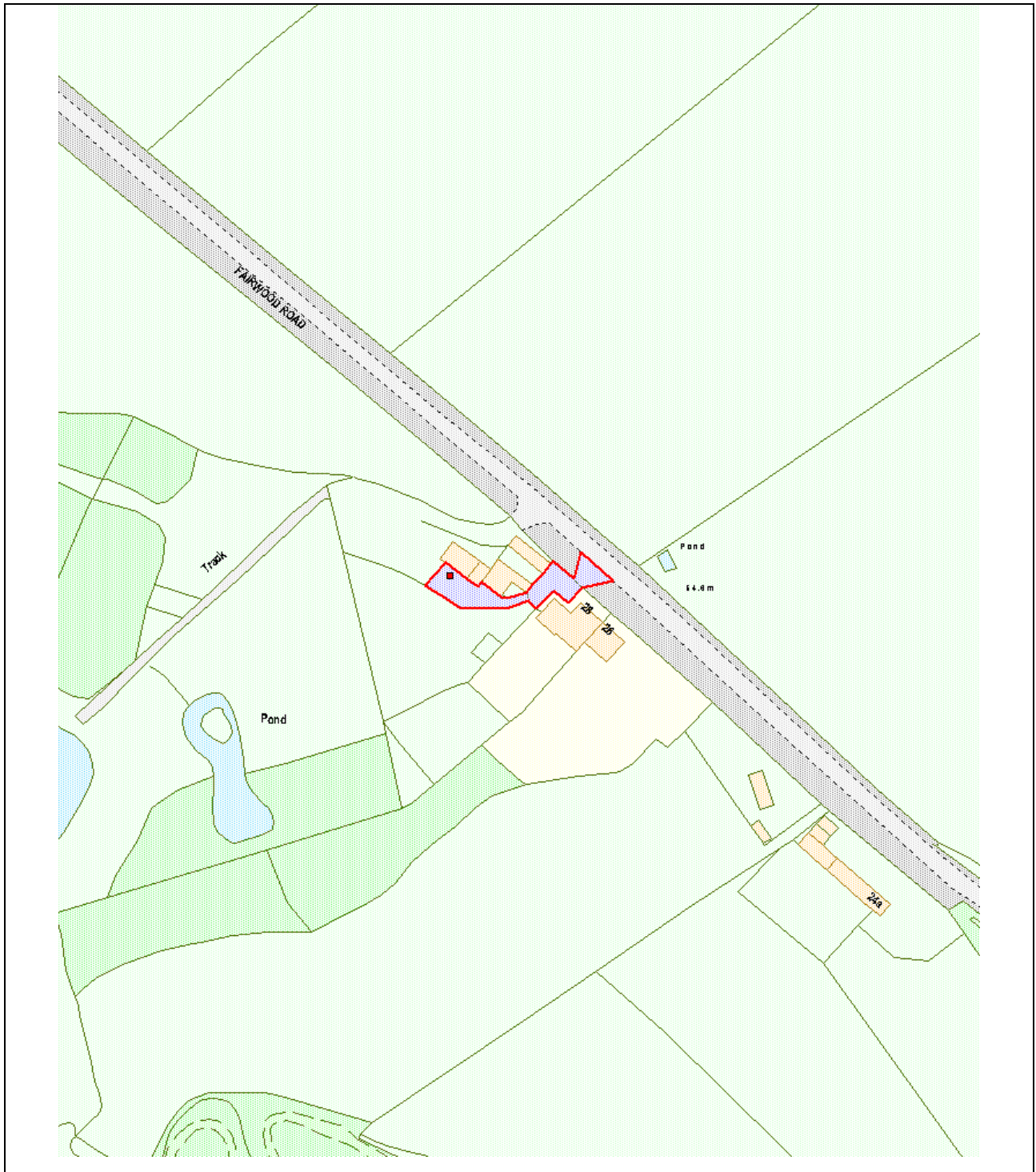
Based on the foregoing it is considered that the mobile home is not warranted under PPS7 criteria and that the application should be refused for that reason.

Recommendation: Refusal

For the following reason(s):

- 1 Annex A to Planning Policy Statement 7 (Sustainable Development in Rural Areas) advises that new residential accommodation can be permitted in the open countryside only where the nature and demands of the rural enterprise may make it essential for one or more persons to live at or very close to the site of their work. The planning application and the supporting statements do not make any case for a functional need on the holding in association with the current business practice, and the rationale for the proposed temporary dwelling lies outside the scope of Annex A of PPS7. The proposed dwelling is therefore not warranted under Annex A of PPS7.
- 2 The dwelling in the open countryside is not fully justified in connection with the essential needs of agriculture or other rural occupation where a functional need has not been demonstrated. This is contrary to policy H19 West Wiltshire District Plan 1st Alteration 2004.

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



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

MSA: 100022961

RELEVANT APPLICATION PLANS

Drawing : FLACK 1094 received on 10.12.2009

Drawing : FLACK 1093 received on 10.12.2009