

**REPORT TO THE NORTHERN AREA  
PLANNING COMMITTEE**

Report No.

<b>Date of Meeting</b>	6 <sup>th</sup> June 2012		
<b>Application Number</b>	12/00889/FUL		
<b>Site Address</b>	Land adjacent to 8 Tern Close, Calne SN11 8NG		
<b>Proposal</b>	Two Dwellings & Associated Works (Revision to N/11/04061/FUL)		
<b>Applicant</b>	Mr R Bond		
<b>Town/Parish Council</b>	Calne		
<b>Electoral Division</b>	Calne Central	Unitary Member	Howard Marshall
<b>Grid Ref</b>	400628 170998		
<b>Type of application</b>	FULL		
<b>Case Officer</b>	Mandy Fyfe	01249 706638	mandy.fyfe@wiltshire.gov.uk

**Reason for the application being considered by Committee**

This application has been referred to the Northern Area Planning Committee by the Chairman of the Planning Committee having discussed this matter with the local member due to the great deal of interest from neighbours in Tern Close concerned with ridge heights and distances shown between adjacent buildings due to the gradient of the site.

**1. Purpose of Report**

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

Calne Town Council has objected

9 letters of objection

3 letters of support

1 letter of comment

**2. Main Issues**

The main issues in considering the application are:

- Principle of development Policies C3, H3 NE14 and CF3 of the adopted North Wiltshire Local Plan 2011
- Previous Planning History of the site
- Impact on the character and appearance of the area
- Affect on the privacy and amenity of existing neighbours and potential occupants
- The current proposal in the context of Inspector's decision (10/04562/FUL)
- Impact upon the Protected Trees
- Other matters

**3. Site Description**

The application site is approximately 0.0045ha and is situated at the eastern end of Tern Close between the terraces of Nos 5 to 7 and a pair of semi-detached dwellings of 8 & 9 Tern Close. The Close itself comprises of 23 terraced and semi-detached brick and concrete tiled dwellings. There is a block of garages and parking near the entrance to the Close. There are two areas of

grass; one at the front of the site and the application site which is a slightly sloping site rising from north to south. Beyond the application site is a footpath with a hedge behind backing onto open farmland. There are three trees on the site: an ornamental hawthorn and 2 common ash trees. The ash trees are the subject of a Tree Preservation Order.

<b>4. Relevant Planning History</b>		
<b>Application Number</b>	<b>Proposal</b>	<b>Decision</b>
<b>11/04061/FUL</b>	<b>Erection of two dwellings &amp; associated works</b>	<b>Withdrawn</b>
<b>10/04562/FUL</b>	<b>Erection of 2No semi-detached dwellings</b>	<b>Refused Appeal Dismissed</b>
<b>10/00340/FUL</b>	<b>Proposed detached house, double garage, access and fencing</b>	<b>Permitted</b>

## **5. Proposal**

The proposal is to erect a pair of semi-detached two storey 3-bed dwellings in the centre of the site. The dwellings would be constructed of facing brick with Redland 50 Double Roman Interlocking tiles with white UPVC joinery. No garages are proposed, just parking areas to the side of each unit with a central parking and turning area between the two protected ash trees and the front of the units. The plans show that the ground levels which slope from north to south would be reduced so that the majority of Unit 1 would be at ground level, but Unit 2 is shown being cut into the ground by 500mm. The footprint of the dwellings would be 8.8m deep by 5.9m wide each (giving an overall width of 11.8m.) The ridge height of the dwellings would be 7.1m high, but with the slight drop in level, the ridge height would appear as 6.6m. The eaves height would be 5.1m.

Details of the boundary fencing have been submitted indicating that along the northwest boundary there would be a 900mm high post and rail timber fence, whereas along the northeast and southeast boundaries and rear boundary there would be 1800mm high timber close boarded fences. The rear gardens of the units would face onto the communal footpath at the back of the site and have a depth of 7.1m and a width of 9.2m.

## **6. Consultations**

**Calne Town Council:** Object. In the light of the new photographic evidence which was made available to members at the meeting, members objected to the application on grounds of Local Plan Policy C3(i) and (iii).

**Highways:** *Original Comments:* Object on the grounds that the proposal does not demonstrate that suitable car parking and turning is available and would be likely to encourage parking on the highway with consequential highway issues in the vicinity. *Amended comments on amended plans:* I am now satisfied with the parking and turning illustrated for the two properties. Recommend no highway objection subject to a condition.

**Tree Officer:** Due to the lack of information supplied with regard to the trees on the site, I am unable to make any comments. I understand that no tree survey and Impact Assessment have been submitted to support this application. Until the assessment is submitted, I am unable to assess the impact this development will have on the TPO. From Dwg No: 2011-31-4 Rev B, the applicant intends to finish the private driveways in permeable Jubilee Infilta block paving. Please indicate whether this block paving will be encroaching on the Root Protection Areas (RPA) of these two ash trees. Due to the lack of information supplied with regard to the trees on site, I would

request that this application is refused. (The Trees Officer has been discussing these comments with the applicants agent)

**Public Open Space:** This development generates a need for £11,600 in offsite Open Space Contribution to be used to upgrade facilities at Anchor Road Calne.

**Environmental Health:** No adverse comments

**Ecology:** Consider that there is a low risk to reptiles. No objection in relation to ecology, but recommend that an informative be added.

**Wessex Water:** *Original comments:* It appears that the development proposals will affect existing public surface water sewer. Building over the existing public surface sewer will not be permitted without agreement from Wessex Water under Building Regulations. *Amended comments:* I can confirm that the developer of the site has been in contact with us to discuss their proposals and the following has been agreed in principle: (1) That the public surface sewer shown on our records crossing the site is redundant (CCTV has established that there are no live connections); (2) That the surface water sewer can therefore be abandoned to enable construction of the proposed dwellings. A formal legal de-vesting agreement will be required before any works can be undertaken to the sewer or any construction works within 3m of the sewer: (3) Surface water flows from the site can be discharged into the public surface water system at a flow rate to be agreed. A formal connection application will be required; (4) Foul flows from the site can be discharged to the public system; the exact point of connection is to be agreed and will again be subject to formal application.

## 7. Publicity

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

2 letters of support

1 letter requiring confirmation of the Committee date

9 letters objecting on the following grounds:

Summary of key relevant points raised:

- The land is used as a children' play area and should not be developed
- Has slow worms and other reptiles in the vicinity, this development could destroy their natural habitat.
- Concern that building works would destroy potentially endangered species and would like to ensure that proper investigations are taken and the results published to protect local wildlife
- The red brick wall covering our front windows will be very oppressive resulting in little natural daylight and will cause overshadowing at midday
- Loss of sunlight into 8 Tern Close would cast a long shadow over the garden
- New dwellings would overlook houses causing loss of privacy
- The proposed dwellings have a lower pitched roof, but are higher in the plot, so the roof is still the same height at Number 8
- Large utility vehicles already have to reverse up the Close due to the congestion in the road and development will result in further obstructions
- New gas main that runs through the centre of the site is said to be redundant, but within the expansion of Calne, it is more likely that it will be used in the future
- Additional pollution problems from exhaust fumes and household utilities
- Need to limit times of deliveries and work on site to prevent disturbance to neighbours
- Impact on water pressure from new development
- Development would prevent emergency vehicles from accessing rear of Tern Close which is used as an entry point for fields to east and land used for air ambulance to land
- Storm drain not shown on plans which is between the proposed dwellings and field

- Development is out of scale with the existing land available, both in terms of overall size and access required to accommodate them
- Proposed area already at maximum capacity with residents vehicles and this development will not only add to this but will also render at least 2 existing parking spaces unavailable

## 8. Planning Considerations

### Principle of development

The land is located wholly within the Settlement Framework Boundary of Calne and Policy H3 therefore applies. Policy H3 encourages proposals for residential development within the Framework boundaries. The principle of development has already been established through the approval of the previous scheme for one dwelling (10.00340/FUL refers).

Policy C3 requires that all development has to respect the local character and appearance of the area with regard to its design, size, scale, density, massing, materials, siting and layout. There is a further requirement that applies to this development that of avoiding creating developments with unacceptable low levels of privacy and amenities and avoiding the unacceptable loss of privacy and amenities to the detriment of the existing occupiers in the adjacent dwellings.

H3 deals with residential development within Framework Boundaries and stresses the importance of well designed development.

Finally Policy CF3 deals with provision of Public Open Space, as new housing development is required to make provision for open space either on-site or off-site by way of a financial contribution and legal agreement.

### Previous planning history of this site

An application for two dwellings on this site was submitted under 10.04562/FUL and this was refused for the following reasons:

1. The proposed development would by virtue of its scale, bulk and form result in a cramped form of development which would be detrimental to the open nature of Tern Close and out of character in the locality adversely affecting visual amenity in the street scene. As such the proposal would be contrary to Policies c3 of the adopted North Wiltshire Local Plan 2011, Planning Policy Statement 1: Delivering Sustainable Development and Planning Policy Statement 3 Housing.
2. The proposed development would by reason of its siting be overbearing, resulting in an unacceptable and oppressive outlook for the occupiers of Nos 6 and 8 Tern Close which would be detrimental to the amenities of the occupiers of this property. As such the proposal would be contrary to Policy C3 of the adopted North Wiltshire Local Plan 2011.
3. The application fails to provide a means of providing a contribution of public open space as required by Policy CF3 of the adopted North Wiltshire Local Plan 2011.

The subsequent Appeal was dismissed on the following grounds:

- (i) The effect that the development would have on the character and appearance of the surrounding residential area and
- (ii) The implications for the living conditions of neighbours with particular regard to overbearing.

With regard to the first issue in relation to the appeal proposal, the Inspector considered that whilst

*“there are blocks of two storey terraced housing in the vicinity of the site, their set-back, orientation and general space around them are such that Tern Close presently retains a very open and spacious ambience.*

*The approved scheme would impact to some extent upon the existing open nature of the site. However the proposed pair of semi-detached dwellings would be far wider than the approved development and would occupy most of the site frontage. Although the garage attached to the Plot 2 dwelling would have a flat roof, due to its height and bulk its physical impact would be far greater than a fence or wall as permitted, across the site. Notwithstanding the space that would remain to either side of the pair of houses, the perception of open land beyond the appeals site and the contribution that it makes to the spacious character of the area would be significantly reduced. Given the prominent position at the head of the cul-de-sac, the proposal due to its bulk and proximity to the side boundaries would appear visually dominant and out of keeping in the street scene.”*

*“Although the density of the approved scheme would be significantly less than that of the surrounding area, the desirability of making more efficient use of land in line with the advice set out in PPS3: Housing is strongly outweighed in this case by the harm which I have identified. I conclude that the development would materially detract from the spacious character and appearance of the surrounding area, contrary to North Wiltshire Local Plan Policy C3.”*

#### Affect on the privacy and amenity of existing neighbours and potential occupants

With regard to the second issue, the Inspector took the view that:

*“..the two storey side elevation of the proposed Plot 2 would be some 7.2m from the first floor bedroom window in the north side elevation of No 8 Tern Close. Notwithstanding the hipped roof design, at this separation distance the new house would have a significant overbearing impact on the outlook from No 8.”*

*“The front elevation of No 6 Tern Close would face the two storey side of the proposed Plot 1 at a distance of about 9.8m. The appellant acknowledges that the dwelling on Plot 2 would be closer to the boundary which faces the front of No 6 than the approved dwelling. He submits that since the appeal proposal has a shallower pitched roof and is slightly lower at the ridge, the line of sight from either ground or first floor windows from No 6 would not materially be different. Since the level of the land rises from north to south, the new building would sit at a higher level than No 6. Bearing in mind the differences in levels and the orientation of the respective dwellings, this change in siting of the proposed built environment would result in an oppressive outlook for the occupants of No 6. I conclude that the development would have an unacceptable adverse impact on the living conditions of neighbours contrary to North Wiltshire Local Plan Policy C3”.*

Last year an application was submitted by the current applicant for two dwellings & associated works (11.04061/FUL refers). The application was withdrawn as officers did not consider it overcame the Inspectors comments..

The principle material considerations to be taken into account in determining the current application are the extant planning permission (10/00340) and the Inspectors comments on the appeal proposal (10/04562)

With regard to the first issue on the character and appearance of the surrounding area, the current proposal does not propose attached garages to the gable ends of each of the dwellings. Nevertheless a block of some 11.8m wide across the plot sited centrally on a site that is only 18.6m wide would reduce the spacious character at the end of the Close.

Although it is acknowledged that the design of the units is more sympathetic to the dwellings in the existing Close, the depth of the roofscape compared to the elevations is deeper than the existing dwellings such as Number 8 which has a roof depth of less than 1m compared to the roof depth as proposed here of 2m.

Furthermore if the proposed block is compared to that dismissed at appeal, it is clear that what is currently proposed is materially higher than what was considered unacceptable in 2010. The current proposal has a higher roofline across the width of the entire 2 units compared to the appeal scheme that showed just the gable end of Unit 2 being higher. Thus the proposed ridge height would arguably have a greater impact and be visually dominant even without the garages to each side.

The appeal plan (which also showed a change in levels) shows that the ridge height for the gable end for Unit 2 would be 7.4m high, the remainder of the roof being 7m in height. The eaves for the gable end element are shown as 5.4m and for the rest of the roof are indicated as 5.5m high.

The current scheme show that the ridge line would be 7.1m as measured on the south side of the block closest to No 8 Tern Close, whereas measured on the other gable end it would be 7.5m high due to the change in levels. The eaves for the southern unit are measured as 5.1m whereas for the northern unit it would be 5.5m high.

The implications of this increased ridge height is not only that the proposal would have an impact on the spacious character of the open space, but also that the development would be visually dominant compared to the existing terraced properties.

This proposal fails to satisfactorily address the concerns detailed by the Inspector.

There are two elements of the second issue that concerned the Inspector. With regard to the impact of the development on 8 Tern Close, this dwelling has a side first floor bedroom window that looks out over the application site. As indicated above, the Inspector specifically referred to the separation distance between this north (side) elevation of No 8 and the gable end of the proposed Unit 2 of the appeal scheme. He found that at a distance of 7.2m that this separation distance would result in the new house having a significant overbearing impact on the outlook of No 8.

What is currently proposed would reduce this separation distance from 7.2m to 5m. Therefore if 7.2m was considered unacceptable to the Inspector, a reduction of 2.2m is likely to be even more objectionable. There is a further objection because of the proposed ensuite bathroom window proposed in the new gable end of unit 2 that would further reduce the privacy of both dwellings especially if the window was not fixed obscurely glazed.

The second part of the Inspectors concern is the effect that the development would have on the occupiers of No 6 Tern Close. This dwelling is one of a three terraced properties which are sited to the north of the application site. Unlike No 8 which has its eaves facing onto Tern Close, these properties are at right angles so that their front windows face south.

The distance as shown on the appeal plans show a separation distance of 9.8m and that this was unacceptable as it would result in an oppressive outlook to the occupants of No 6 due to the change in levels as the land rises from north to south and therefore the development would have an unacceptable adverse impact on the living conditions of the neighbours being contrary to Policy C3.

Under the current submission, the separation distance shown on the revised plans (received 22<sup>nd</sup> March 2012), the distance measures 11.8m from the front elevation of No 6 and the side gable end of Unit 1. Although another drawing submitted, the measurement is shown as 12.1m. (a discrepancy of 300mm between the two plans.) It is considered that even 11.8m is not sufficiently far away to prevent the some loss of light and increase the oppressive outlook for the occupants of No 6 which is exacerbated by the change in levels between the terraced dwellings and the proposal.

## Impact on the Protected Trees

Earlier this year the two ash trees in the northwest corner of the site were protected by a Tree Preservation Order made on 30<sup>th</sup> January 2012. They were protected during the processing of the previous scheme because concern was raised that the previous development did not show sufficient detail with regard to the tree's protection or how the change in levels proposed cross the site was going to affect their root protection areas (RPA).

The agent has confirmed “ *Both trees will remain as part of the proposals and will be protected during the construction period with the approved protection methods*”. However no formal tree survey or impact assessment has been submitted that shows in large scale how the root protection areas will be protected from both the changes in levels as proposed and the excavation works to construct the driveway/access through the site. This is the reason why the Tree and Landscape Officer has objected to the plans. However, the tree officer is in discussion with the agent and it is hoped that an update can be given prior to Committee.

## Other Matters

The agent has submitted revised highway plans that now show that 3No parking spaces within the site in addition to the spaces either side of the dwellings. A second plan shows the tracking that would be necessary to turn within the site. Highways have now accepted the revised plans as satisfactory and have withdrawn their objection subject to conditions.

With regard to the Public Open Space contribution, the agent confirmed that in his accompanying documents that his client will be prepared to enter into a Legal Agreement for the payment of £11,600 as required by the Open Space Team.

## **9. Conclusion**

The proposal is considered to be unacceptable because it does not overcome the Inspector's concerns and for those reasons, the Council is not in a position to negotiate any further. The recommendation can only be one of refusal.

## **10. Recommendation**

Planning Permission be REFUSED for the following reasons:

1. The proposed development would by virtue of its scale, bulk and form result in a cramped form of development which would be detrimental to the open nature of Tern Close and out of character in the locality adversely affecting the visual amenity of the street scene. As such the proposal would be contrary to Policy C3 of the adopted North Wiltshire Local Plan.
2. The proposed development by reason of its siting would be overbearing resulting in an unacceptable and oppressive outlook for the occupiers of Nos 6 and 8 Tern Close which would be detrimental to the amenities of the occupiers of these properties. As such the proposal would be contrary to Policy C3 of the adopted North Wiltshire Local Plan 2011.

## Informative

1. This decision relates to documents/plans submitted with the application, listed below.

Plan Ref: Dwg No: 2011 -31- 1 Rev B	Dated 22nd March 2012
Dwg No: 2011 -31- 2 Rev B	22nd March 2012
Dwg No: 2011 -31- 3 Rev B	22nd March 2012
Dwg No: 2011-31- 5 Rev B	22nd March 2012
Revised Dwg No: 2011 - 31 - 4 Rev C	10 <sup>th</sup> May 2012
Revised Dwg No: 2011 - 31 - 4 Rev C1	10 <sup>th</sup> May 2012

