

**REPORT OUTLINE FOR AREA PLANNING COMMITTEES****Report No. 2**

<b>Date of Meeting</b>	2 July 2015
<b>Application Number</b>	15/02283/FUL
<b>Site Address</b>	36 North Street Wilton SP2 0HJ
<b>Proposal</b>	Demolition of existing outbuildings and alterations to retained building fronting North Street. Construction and provision of 5 new flats, two new retail units, retention and alterations to existing retail unit and flat above
<b>Applicant</b>	Mr Rodney Neale
<b>Town/Parish Council</b>	WILTON
<b>Electoral Division</b>	WILTON AND LOWER WYLYE VALLEY
<b>Grid Ref</b>	409794 131368
<b>Type of application</b>	Full Planning
<b>Case Officer</b>	Lucy Minting

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

Councillor Peter Edge has called in the application for the following reasons:  
Environmental/highway impact

**1. Purpose of Report**

To consider the above application and the recommendation of the Area Development Manager that planning permission should be **REFUSED**

**2. Report Summary**

The main issues which are considered to be material in the determination of this application are listed below:

1. Principle
2. Flooding - Flood risk and whether the proposal would represent an acceptable form of development with particular regard to its flood zone location and the provisions of the NPPF
3. Flooding - Whether the development will exacerbate flood risk or result in a worsening of flood depths or flooding to property or infrastructure
4. Scale, design and impact to the character and appearance of the conservation area/setting of listed buildings
5. Residential amenity
6. Highway considerations
7. Archaeology
8. S106 obligations

The application has generated an objection from Wilton Town Council and 5 letters of representation

**3. Site Description**

The site is located on the corner of North Street and Churchill Court in Wilton. The site is within the Wilton Conservation Area, and is opposite a terrace of listed dwellings (Nos 55 -75 North Street).



There is a three storey red brick end of terraced building set right on the corner (back edge of pavement) with the 2<sup>nd</sup> floor level set within the roofspace with dormer windows to both front and rear elevations. There are single storey extensions to the rear.



View of Existing Site from Churchill Court

The design and access statement explains that historical maps of Wilton show that a building has been on the corner of this site pre 1877, whilst the single storey pitched and flat roof extensions were added sometime after 1939.

The single storey building is being temporarily used for display and storage as part of the ground floor shop on the ground floor, the first floor of the three storey building is vacant and there is a residential flat on the top floor.

The entire site is also located within Environment Agency flood zone 2 and partly within flood zone 3.

#### 4. Planning History

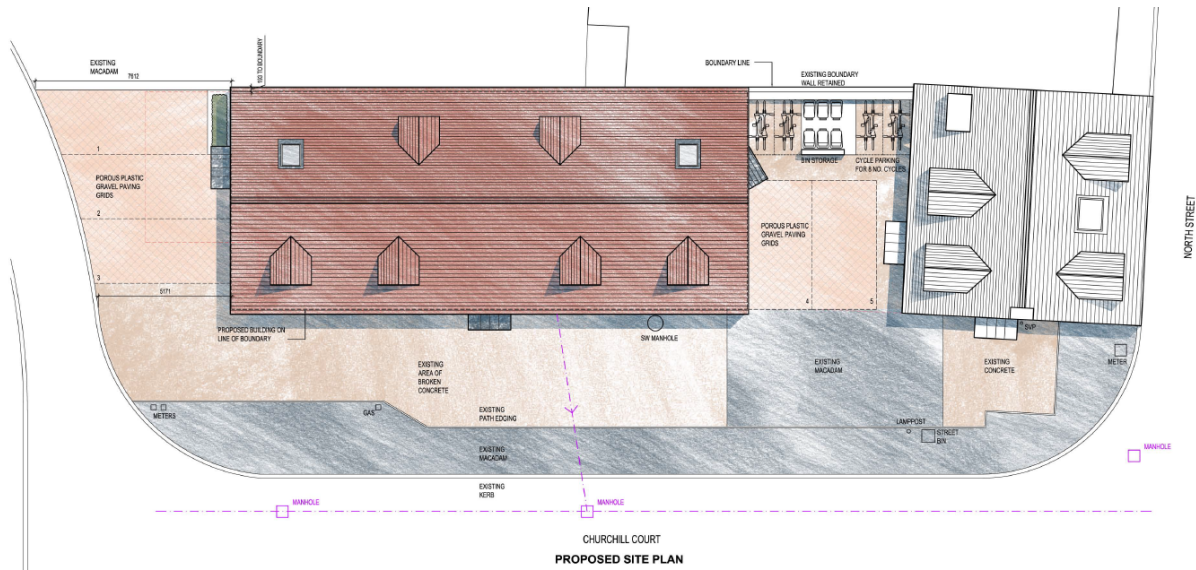
Application ref	Proposal	Decision
S/1993/1761	Proposed change of use from bakery to 4 no. Self-contained flats, 36 north street	Refused 16/02/1994
S/1994/0137	Convert old bakery into cellar and storage for club, 36 north street	Withdrawn
S/1994/0688	Change of use from b1 (business) to a1 (shop), 36 north street	Approved 22/06/1994
S/1998/0481	First floor extension, 36 north street	Approved 05/06/1998
S/2005/2020	Erection of 3 new dwellings (including demolition of existing building at rear of 36 north street)	Withdrawn
S/2005/2019	Erection of 3 new dwellings (including demolition of existing building at rear of 36 north street)	Withdrawn
S/2006/0146	Three new town houses including demolition of existing building, 36 north street	Withdrawn
S/2006/0147	Three new town houses including demolition of existing building, 36 north street (conservation area demolition approval)	Approved 21/03/2006
S/2006/1164	3 new town houses including demolition of existing building, 36 north street	Approved 21/07/2006

#### 5. The Proposal

It is proposed to demolish the rear single storey extension and replace this with a detached three storey building containing two retail units at ground floor, two 2 bedroom flats on the first floor and two 1 bedroom flats on the second floor (within the roofspace).

It is proposed to use the ground floor of the main three storey building on the corner as another retail unit, convert the first floor into a 2 bedroom flat and alterations to the 2<sup>nd</sup> floor, retaining a 2 bedroom flat.

The scheme includes provision of 5 off-street parking spaces, 8 cycle parking spaces and an area for bin storage.



*Extract from proposed site plan*

## 6. Local Planning Policy

The Wiltshire Core Strategy (WCS) - adopted by Full Council on the 20<sup>th</sup> January 2015:

Core Policy 1: Settlement Strategy

Core Policy 2: Delivery Strategy

Core Policy 33: Spatial Strategy: Wilton Community Area

Core Policy 41: Sustainable construction and low carbon energy

Core Policy 43: Providing affordable homes

Core Policy 57: Ensuring high quality design and place shaping

Core Policy 58: Ensuring the Conservation of the Historic Environment

Core Policy 64: Demand Management

Core Policy 67: Flood Risk

Saved policies of the Salisbury District Local Plan:

R2 (Open Space Provision)

Wiltshire Local Transport Plan 2011-2026:

Car Parking Strategy

Government Guidance:

National Planning Policy Framework (NPPF) March 2012

National Planning Policy Guidance (NPPG)

Supplementary Planning Guidance:

Adopted Supplementary Planning Document 'Creating Places Design Guide' April 2006

## 7. Summary of consultation responses

### Highways: Object

I recommend that this application be refused for the reason that the proposed development does not make adequate provision for the parking of vehicles within the site and would, therefore, encourage such vehicles to park on the highway in an area which is already

congested with on-street parking with consequent additional hazard to all users of the nearby roads.

**Environment Agency: Withdraw objection subject to conditions and informatives**

(Finished floor levels to be no lower than 53.10mAOD, scheme for water efficiency, and pollution prevention during construction)

However, earlier consultation response confirms that the proposals are subject to the Sequential Test in accordance with national planning policy. As a priority the applicant should work with the Local Planning Authority in demonstrating that this can be passed successfully and this is a process for the Local Planning Authority to oversee.

**Archaeology: Support subject to condition**

The site is of archaeological interest as it lies within the historic core of Wilton which dates back to at least the Saxon period. As the majority of the site contains standing buildings, I consider that field evaluation is problematic. It is recommended that a programme of archaeological works in the form of an archaeological watching brief is carried out as part of any development which can be conditioned.

**Wilton Town Council: Objects**

For the reasons of lack of adequate provision for parking, and the further reduction of retail space in Wilton (comments refer to earlier plans for office units)

**New Housing Team: No requirement for Affordable Housing Provision**

**Public Protection: No objections subject to conditions**

(Rooflights to two second floor flats should be sealed shut, hours of demolition/construction, dust management plan, no burning of waste during the demolition/construction phase)

**Conservation: No objections subject to conditions**

(All materials and window details by condition, including a pointed sample panel)

**Wiltshire Fire & Rescue Service:**

Comments relating to fire safety measures which could be included as an informative

**8. Publicity**

The application was advertised by press / site notice and neighbour consultation letters.

5 third party representations have been received summarised as follows:

- Site is in need of improvement but insufficient parking proposed in already over congested area.
- Will not offer an improvement to the general parking situation. The retail units will contribute to lack of parking available on North Street and surroundings and increased traffic to and from the premises.
- Occupants will use their own vehicles rather than rely on public transport or bicycles
- Disagree that Wilton Shopping Village will bring trade into Wilton Town
- Obstruction of private rights of way

- Noise from members leaving adjacent social club and whether this will be acceptable to future inhabitants.

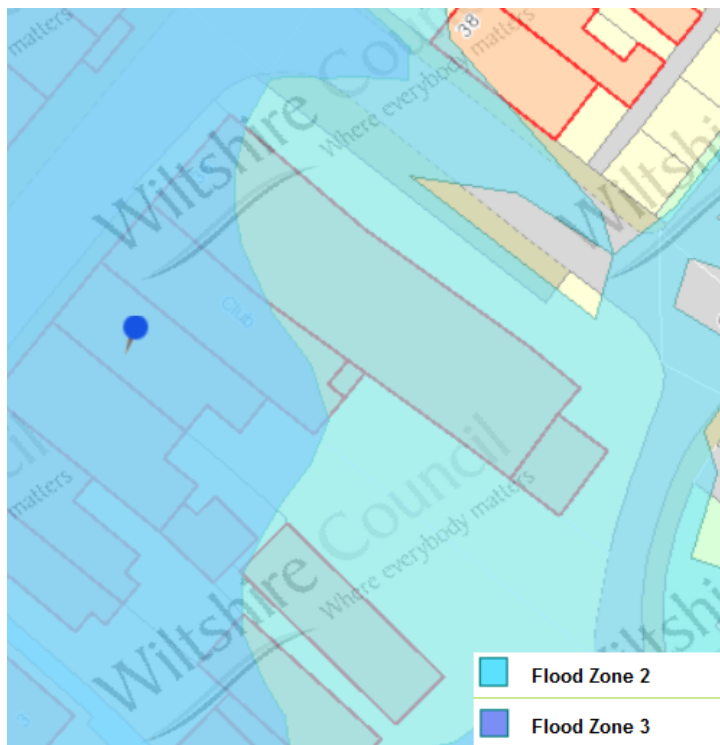
## 9. Planning Considerations

### 9.1 Principle of development

The National Planning Policy Framework (NPPF) came into force on 27th March 2012 and makes it clear that planning law (Section 70(2) of the Town and Country Planning Act 1990 and section 38(6) of the Planning and Compulsory Purchase Act 2004) requires applications for planning permission to be determined in accordance with the development plan unless material considerations indicate otherwise. Paragraph 12 of the NPPF confirms that the 'NPPF does not change the statutory status of the development plan as the starting point for decision making' and proposed development that is in accordance with an up-to-date Local Plan should be approved and proposed development that conflicts should be refused unless other material considerations indicate otherwise.

### 9.2 Flooding - *Flood risk and whether the proposal would represent an acceptable form of development with particular regard to its flood zone location and the provisions of the NPPF*

The Environment Agency (EA) is responsible for designating flood zones. There are 3 zones in total across the country. Flood Zone 3 shows the area that could be affected by flooding from a river by a flood that has a 1 per cent (1 in 100) or greater chance of happening each year. Flood Zone 2 includes outlying areas likely to be affected by a major flood, with up to a 0.1 per cent (1 in 1000) chance of occurring each year. Flood Zone 1 shows the area where flooding from rivers and the sea is very unlikely and where there is less than a 0.1 per cent (1 in 1000) chance of flooding occurring each year. The majority of England and Wales falls within this area. The entire site is within Flood Zone 2 (light blue) and part of the site in Flood Zone 3 (dark blue):



The NPPF states that residential (more vulnerable) development in areas at risk of flooding should be avoided by directing development away from areas at highest risk and when development is being considered in areas subject to flood risk, a Sequential Test needs to be undertaken and applied first. Paragraph 101 of the NPPF makes it clear that the aim of the Sequential Test is to steer new development to areas with the lowest probability of flooding and sites within flood zones 2 and 3 should not be developed with residential schemes ahead of all other sites in flood zone 1.

The Environment Agency (EA) has confirmed that the Sequential Test is a process for the Local Planning Authority to oversee and not the EA.

A Sequential Test has been submitted with the application and includes comment that the development would bring significant improvements to the site and provide wider sustainability benefits through visually enhancing the site and thereby increasing the potential for a pedestrian link to Wilton Shopping Village via Churchill Court to be provided in the future in order to increase footfall between Wilton and the shopping village and would pass the Exception Test set out in the NPPF.

The Exception Test, as set out in paragraph 102 of the NPPF, is a method to demonstrate and help ensure that flood risk to people and property will be managed satisfactorily, while allowing necessary development to go ahead in situations only where suitable sites at lower risk of flooding are not available (including considerations of wider sustainability benefits to the community that outweigh flood risk, re-use of a brownfield site and mitigation proposals).

Essentially, the two parts to the Exception Test require proposed development to show that it will provide wider sustainability benefits to the community that outweigh flood risk, and that it will be safe for its lifetime, without increasing flood risk elsewhere and where possible reduce flood risk overall.

The NPPF makes it quite clear that the Exception Test should only be applied once a Sequential Test has first shown that it is not possible for the development to be located in zones with a lower probability of flooding. That is not the case here.

The supporting text to Core Policy 67 of the Wiltshire Core Strategy states that the Strategic Housing Land Availability Assessment (SHLAA) demonstrates that there is sufficient land available in Flood Zone 1, the zone of least risk, to meet the proposed housing requirement of 42,000 new homes for the area. The Wiltshire Core Strategy therefore favours housing development in Flood Zone 1 over areas of higher risk as identified by the Strategic Flood Risk Assessment (SFRA).

Table C2 (Five year land supply) in Appendix C of the Wiltshire Core Strategy (Housing Trajectory) states that South Wiltshire has 5.59 years of deliverable supply.

As the local planning authority has identified a readily available and deliverable 5 year supply of housing land in Flood Zone 1, there is no need consider sites outside of Flood Zone 1 for residential development. This stance has been supported at appeal on other sites in Flood Zones 2/3 where the Planning Inspectors have concluded that there are sufficient alternative sites within Flood Zone 1 to accommodate residential development.

The applicant was advised at the pre-appn stage that because the council has a 5 year supply of housing and the proposed housing could be accommodated on sites within Flood Zone 1, the Sequential Test could not be passed; the proposal would be unacceptable and would not be supported by officers. The pre-appn response also confirmed that whilst no objections were raised in flood risk terms to the application which was approved under S/2006/1164 for 3 town houses on the site; subsequent government guidance has been

issued, introducing the sequential approach to site selection since 2008 and has been carried forward into the NPPF and since this previous permission has expired it unfortunately cannot be taken into account as a material consideration.

Notwithstanding this, a Sequential Test has been submitted with the application but this has only considered sites put forward in the Parish of Wilton in the Strategic Housing Land Availability Assessment (SHLAA) and not the whole of the local planning authority area and has discounted all of these on the basis that these other sites will not affect a visual improvement to this particular site.

The fact that the site is previously developed and the existing single storey buildings proposed to be replaced are not considered to contribute to the townscape of Wilton, would weigh in favour of the site at a NPPF Exception Test but as the scheme fails the initial Sequential Test; the Exception Test is not under consideration.

The applicant has not demonstrated that the site should be brought forward for housing development ahead of other sites in Flood Zone 1. The proposal would therefore represent an unacceptable form of development with particular regard to its flood zone location, the flood vulnerability of the residential development and the sequential test of the NPPF and the NPPG.

### **9.3 Flooding - *Whether the development will exacerbate flood risk or result in a worsening of flood depths or flooding to property or infrastructure***

In addition to needing to pass the Sequential Test, the NPPF (paragraph 102) also requires a site specific flood risk assessment to demonstrate that the development would be safe for its lifetime taking into account the vulnerability of its users, without increasing flood risk elsewhere and where possible reducing flood risk overall. The Environment Agency has raised no objections in this regard subject to conditions, although this does not override the need for the Sequential Test to be passed first.

Notwithstanding this 'in principle' objection to residential development; in considering the proposal against the current adopted policies; a judgement would also be necessary in terms of all the development impacts considered below.

### **9.4 Scale, design and impact to the character and appearance of the conservation area/setting of listed buildings**

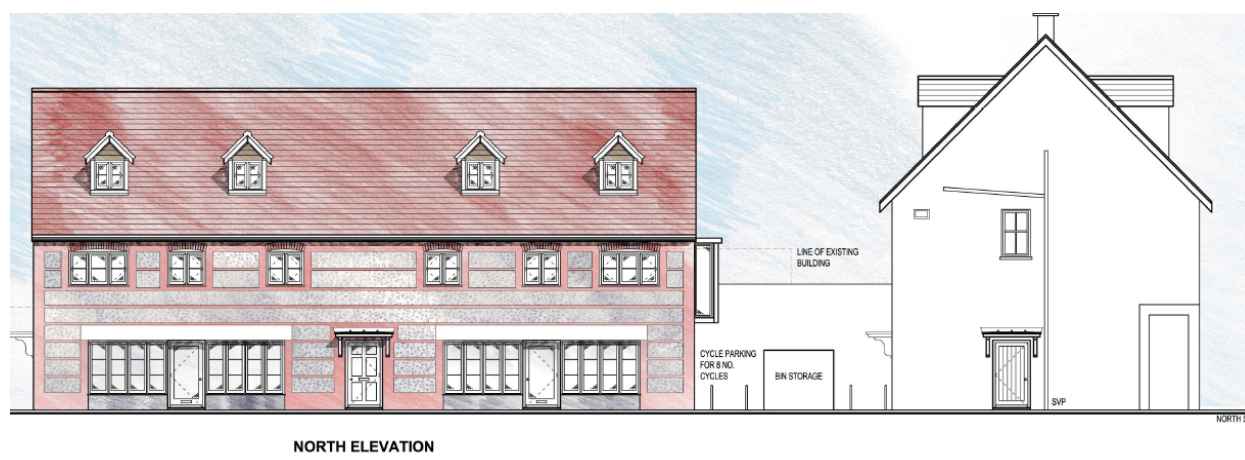
The National Planning Policy Framework sets out Central Government's planning policies. It states the purpose of the planning system is to contribute to the achievement of sustainable development. It defines core planning principles which include that planning should be genuinely plan-led, should always seek to secure high quality design.

Core Policy 57 of the WCS requires a high standard of design in all new developments through, in particular, enhancing local distinctiveness, retaining and enhancing existing important features, being sympathetic to and conserving historic buildings and landscapes, making efficient use of land, and ensuring compatibility of uses (including in terms of ensuring residential amenity is safeguarded).

The Planning (Listed Building and Conservation Areas) Act 1990 (sections 16, 66 & 72) requires proposals affecting listed buildings or their settings to seek to preserve the special interest of the buildings and their settings. The principal considerations are to ensure that new development protects the significance of listed buildings and their settings, and prevents harm to their significance. Proposals within conservation areas must preserve or enhance the character and appearance of the areas.



Core Strategy Policy CP58 'Ensuring the conservation of the historic environment' requires that 'designated heritage assets and their settings will be conserved, and where appropriate enhanced, in a manner appropriate to their significance.'



The area of new build is set to the rear of the three storey building fronting North Street and is not considered to have an impact upon the immediate setting of the terrace of listed buildings to the North.

The conservation officer has raised no objections to the demolition elements of the proposal and its impact on the Wilton Conservation Area and considers that the proposed new building could be an attractive addition to the streetscene subject to conditioning the materials and specifically a flintwork panel given the expanse of flint proposed and the pressure to use prefabricated flint panels which rarely have an appearance comparable to the quality of traditional flintwork.

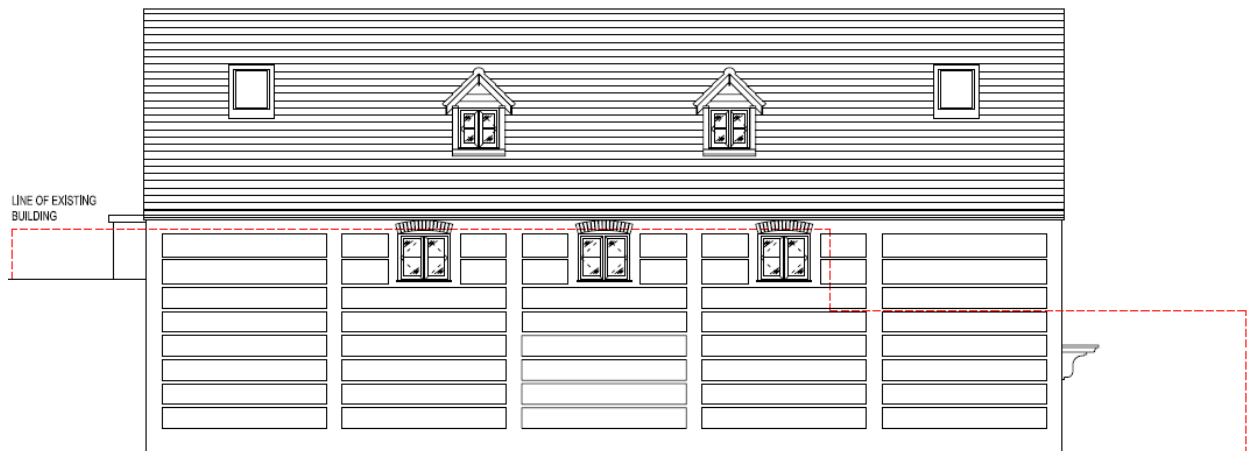
### 9.5 Impact on residential amenity

Policy CP57 requires that development should ensure the impact on the amenities of existing occupants is acceptable, and ensuring that appropriate levels of amenity are achievable within the development itself, and the NPPF's Core Planning Principles (paragraph 17) includes that planning should 'always seek to secure high quality design and a good standard of amenity for all existing and future occupants of land and buildings.'

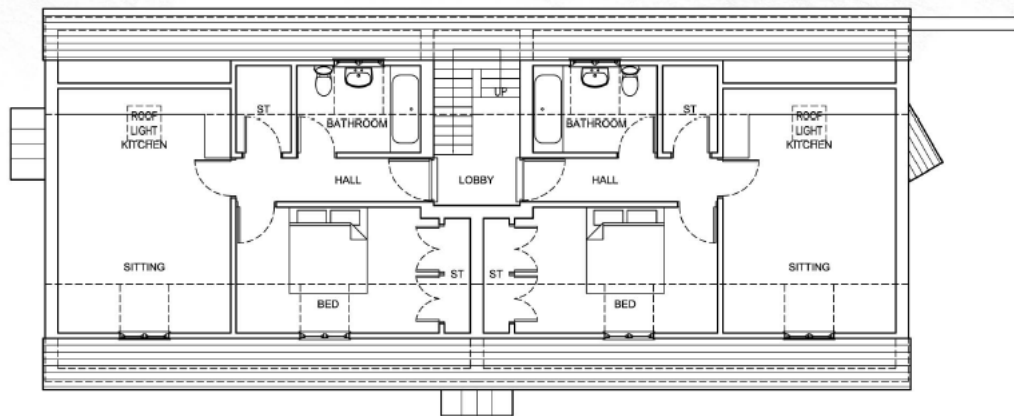
The south elevation of the proposed new build units abuts the yard area to the adjacent premises and third party concerns have been raised over impact to amenity from users of the adjoining social club use. The public protection team has also noted that the social club has condensing units on the rear of the building; that there are also some picnic benches and a smoking area where people would congregate to the rear of the premises.

However, the public protection team have advised that considering the design and layout of the proposed flats in the new building it is unlikely that noise from these sources will have an adverse impact within the dwellings. The bedrooms are all on the north elevation and the only windows on the southern elevation are roof lights on the second floor which lead into kitchen/sittingrooms. Public protection have recommended that these roof lights are not openable as when opened noise levels from outside may have an impact in these open plan habitable rooms which could give rise to complaints. There are two other windows into these rooms so it is considered that sealing the roof lights should be acceptable.

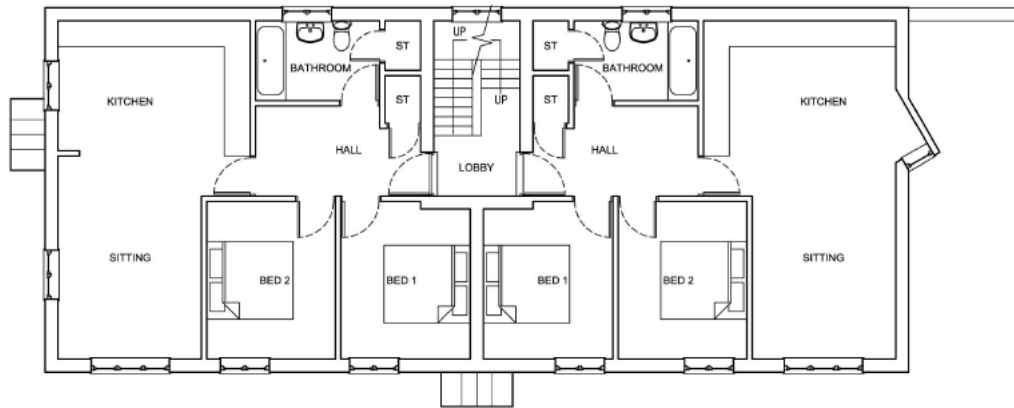
They have also advised that adequate sound proofing installation between the floors of the retail units and new dwellings will be covered under Building Regulations and have raised no objections to the scheme subject to conditions.



The proposed south elevation of new build units shown above has limited windows to first and second floor levels (the residential units). The floor plans of first and second floor flats in new build unit shows that these windows on the south elevation are to bathroom/stairwell and kitchen areas only.



**SECOND FLOOR PLAN**



**FIRST FLOOR PLAN**

The proposed new build faces the flank wall of No 38 North Street to the north, and given the limited windows on the south elevation, the principal windows are on the north elevation. However, No 38 only appears to have a landing window facing the proposed dwellings at first floor level with other secondary windows at ground floor and it is not considered that the development proposal would result in unacceptable overlooking impacts between existing and the proposed dwellings.

It is considered that subject to conditions, the proposed scheme will provide an acceptable standard of amenity for existing and future occupants.

### **9.6 Highway considerations**

The supporting text to Wiltshire Core Strategy Policy 64 refers to a parking study, commissioned by the council in January 2010, which included a comprehensive review of parking standards, charges and policy within both the plan area and neighbouring areas. The resulting LTP3 Car Parking Strategy was adopted by the council in February 2011 and includes policy PS6 – Residential parking standards and policy PS4 – Private non-residential standards. The parking standards for new dwellings are set out in the Wiltshire Local Transport Plan 2011-2026 – car parking strategy:

Table 7.1 Minimum parking standards (allocated parking)

Bedrooms	Minimum spaces
1	1 space
2 to 3	2 spaces
4+	3 spaces
Visitor parking	0.2 spaces per dwelling (unallocated)

Based on the current parking standards, the proposed scheme generates a need for 16 parking spaces, made up as follows:

New build 2 x 2 bed flats	4 spaces
New build 2 x 1 bed flats	2 spaces
New build retail units (2 x 65 sq.m)	4 spaces
Converted 2 x 2 bed flats	4 spaces
Existing retail unit (say 60 sq.m)	2 spaces
Total	16 spaces

Only 5 spaces are proposed, leaving a shortfall of 11 parking spaces which will need to be accommodated on the surrounding road network which is already heavily congested with on-street parking. The highways authority has recommended the application for refusal.

The site cannot accommodate any more parking spaces. Whilst the site is within walking distance of local shops, services and public transport and consideration can be given to relaxing parking standards in sustainable locations; it is considered that the shortfall is too great to be acceptable.

Third party objections also include concerns about impact to a right of way (an area of concrete hardstanding running between the north elevation of the proposed scheme and the pavement) which the agents explain is 'without title' having originally been used previously as a road serving some buildings behind North Street before the flats in Churchill Court and the new access road was constructed.

The red line of the application site originally excluded this area previously used as a road which has no title and as such certificate A had only been completed (the applicant being the owner of the red line application site). However, two of the new parking spaces will be accessed over this non-titled land and an amended red line plan was received including access from the site to the public highway (North Street) within the red line. As this land was non-titled an advertisement was placed in the Salisbury Journal and certificate D on the application form was completed, making the application 'valid' in accordance with the procedural requirements of a planning application.

Private issues between neighbours including private rights of access are Non Material Planning Considerations and as such are not a matter for the Local Planning Authority. Planning permission could not be reasonably refused if a proposal conflicted with those rights; although it may be a reason the applicant is unable to implement a scheme without third party consent.

## 9.7 Archaeology

Paragraph 128 of the National Planning Policy Framework states that "where a site on which development is proposed includes or has the potential to include heritage assets with archaeological interest, local planning authorities should require developers to submit an appropriate desk-based assessment and, where necessary, a field evaluation".

The Council's archaeologist has explained that the site is of archaeological interest although as the majority of the site has standing buildings, field evaluation is problematic and instead an approval could be conditioned to require an archaeological watching brief.

## 9.8 S106 obligations and CIL

The Community Infrastructure Levy (CIL) came into effect on the 18<sup>th</sup> May 2015; CIL will be charged on all liable development granted planning permission on or after this date and would therefore apply to this application. However, CIL is separate from the planning decision process, and is administered by a separate department. If the application were to be approved; the following informative would be added to any planning approval decision advising that the development would be subject to the Community Infrastructure Levy:

*The applicant is advised that the development hereby approved represents chargeable development under the Community Infrastructure Levy Regulations 2010 (as amended) and Wiltshire Council's CIL Charging Schedule. A separate Community Infrastructure Levy Liability Notice will be issued by the Local Planning Authority. Should you require further information with regards to CIL please refer to the Council's Website*  
[www.wiltshire.gov.uk/planninganddevelopment/planningpolicy/communityinfrastructuralevy](http://www.wiltshire.gov.uk/planninganddevelopment/planningpolicy/communityinfrastructuralevy)

The proposal results in a net gain of 5 residential units, which would have generated an off-site recreational open space contribution under saved policy R2 of the Salisbury District Local Plan. However, this is a tariff style 'pooled' contribution. Pooling restrictions that came into force on 6 April 2015 mean that Wiltshire Council cannot pool more than five planning obligations towards the same infrastructure type or project. This limit extends to all planning obligations entered into since 6 April 2010. As the Council has already pooled more than 5 planning obligations towards recreational open space, we cannot therefore require any further pooled recreational off site contributions.

Also, following the recent guidance issued by the DCLG (November 2014) Planning Contributions (Section 106 Planning Obligations), affordable housing and tariff-style contributions (including recreational open space) are no longer payable if the development site has 10 houses or fewer and a maximum combined gross floorspace of not more than 1000 sqm. The area of residential is approximately 500 sqm and therefore no affordable housing or tariff contributions are payable, although if the application were to be approved, CIL would apply.

## 10. Conclusion

The applicant has not demonstrated that the site should be brought forward for housing development ahead of other sites in Flood Zone 1. The proposal would therefore represent an unacceptable form of development with particular regard to its flood zone location, the flood vulnerability of the residential development and the sequential test of the NPPF and technical guidance to the NPPF.

The proposal does not include adequate provision on the site for the parking of vehicles in a satisfactory manner and does not accord with the current parking strategy (Wiltshire Local Transport Plan 2011-2026). The proposal would be likely to encourage the parking of vehicles on the public highway which would interrupt the free flow of traffic and prejudice the safety of road users.

### **RECOMMENDATION: REFUSE**

(1) The precautionary approach adopted by The National Planning Policy Framework is that the overall aim of decision-makers should be to steer new development to Flood Zone 1 and a 'Sequential Test' must be undertaken to see whether there are alternative lower risk sites that could accommodate the development. The proposal is for a 'more vulnerable' form of development proposed within Flood Zones 2 and 3. The NPPF makes clear that such development should be located in Flood Zone 1 unless it can be demonstrated that no such sites are available.

The council can demonstrate that there is a readily available and deliverable 5-year supply of housing land in Flood Zone 1, the zone of least risk, within the Local Planning Authority area to meet the housing development needs of the area. South Wiltshire has 5.59 years of deliverable housing land supply and therefore there is no urgent or immediate need for further housing to be permitted on this site to meet strategic requirements.

The applicant has not demonstrated that the site should be brought forward for housing development ahead of other sites in Flood Zone 1. The proposal would therefore represent an unacceptable form of development with particular regard to its flood zone location, the flood vulnerability of the residential development and the sequential test of the NPPF, NPPG and contrary to Core Policy 67 of the Wiltshire Core Strategy.

(2) The proposal does not include adequate provision on the site for the parking of vehicles in a satisfactory manner and does not accord with the current parking strategy (Wiltshire Local Transport Plan 2011-2026). The proposal would be likely to encourage the parking of vehicles on the public highway which would interrupt the free flow of traffic and prejudice the safety of road users at this point, contrary to Core Policy 64 of the Wiltshire Core Strategy, and policies PS4 and PS6 of the Local Transport Plan 3 Car Parking Strategy and guidance within the NPPF.