

# AGENDA

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**Meeting:** Eastern Area Planning Committee

**Place:** The Assembly Room, The Town Hall, St. John's Street, Devizes,  
Wiltshire, SN10 1BN

**Date:** Thursday 2 December 2021

**Time:** 3.00 pm

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Please direct any enquiries on this Agenda to Stuart Figini, of Democratic Services, County Hall, Bythesea Road, Trowbridge, direct line 01225 718352 or email [stuart.figini@wiltshire.gov.uk](mailto:stuart.figini@wiltshire.gov.uk)

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## Membership:

Cllr Philip Whitehead (Chairman)  
Cllr Paul Oatway QPM (Vice-  
Chairman)  
Cllr Dr Brian Mathew  
Cllr Kelvin Nash

Cllr Sam Pearce-Kearney  
Cllr Tony Pickernell  
Cllr Iain Wallis  
Cllr Stuart Wheeler

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## Substitutes:

Cllr Mel Jacob  
Cllr Jerry Kunkler

Cllr James Sheppard  
Cllr Caroline Thomas

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## **Recording and Broadcasting Information**

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## **Public Participation**

Please see the agenda list on following pages for details of deadlines for submission of questions and statements for this meeting.

For extended details on meeting procedure, submission and scope of questions and other matters, please consult [Part 4 of the council's constitution](#).

The full constitution can be found at [this link](#).

For assistance on these and other matters please contact the officer named above for details

# AGENDA

## Part I

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

1 **Apologies**

To receive any apologies or substitutions for the meeting.

2 **Minutes of the Previous Meeting** (*Pages 7 - 14*)

To approve and sign as a correct record the minutes of the meeting held on 7 October 2021.

3 **Declarations of Interest**

To receive any declarations of disclosable interests or dispensations granted by the Standards Committee.

4 **Chairman's Announcements**

To receive any announcements through the Chair.

5 **Public Participation**

To ensure Wiltshire Council COVID-19 public health guidance is adhered to, a capacity limit for public attendance at this meeting will be in place. You must contact the officer named on this agenda no later than 5pm on Tuesday 30 November 2021 if you wish to attend this meeting. Places will be allocated on a first come first served basis and all requests may not be accommodated if there is high demand.

### **Statements**

Members of the public who wish to submit a statement in relation to an item on this agenda should submit this in writing to the officer named on this agenda no later than 5pm on Tuesday 30 November.

Submitted statements should:

- State whom the statement is from (including if representing another person or organisation);
- State clearly whether the statement is in objection to or support of the application;
- Be readable aloud in approximately three minutes (for members of the public and statutory consultees) and in four minutes (for parish council representatives – 1 per parish council).

Up to three objectors and three supporters are normally allowed for each item on the agenda, plus statutory consultees and parish councils.

Those submitting statements would be expected to attend the meeting to read

the statement themselves, or to provide a representative to read the statement on their behalf.

### **Questions**

To receive any questions from members of the public or members of the Council received in accordance with the constitution which excludes, in particular, questions on non-determined planning applications.

Those wishing to ask questions are required to give notice of any such questions electronically to the officer named on the front of this agenda no later than 5pm on Thursday 25 November 2021 in order to be guaranteed of a written response.

In order to receive a verbal response questions must be submitted no later than 5pm on Monday 29 November 2021.

Please contact the officer named on the front of this agenda for further advice. Questions may be asked without notice if the Chairman decides that the matter is urgent. Details of any questions received will be circulated to members prior to the meeting and made available at the meeting and on the Council's website. Questions and answers will normally be taken as read at the meeting.

## **6 Planning Appeals and Updates (Pages 15 - 16)**

To receive details of the completed and pending appeals, and any other updates as appropriate.

## **7 Planning Applications**

To consider and determine the following planning applications.

### **7a PL/2021/06348 - Rabley House Poulton nr. Marlborough SN8 2LW** (Pages 17 - 30)

Retrospective installation of stable windows and external door to tack room to existing barn and external lighting.

### **7b PL/2021/08195 - Rose Villa, Roundway, Devizes, SN10 2HY** (Pages 31 - 44)

Erection of a pair of semi-detached dwellings, car parking, access and associated works.

### **7c PL/2021/04650 - Land south of West Kennett Farm, East Kennett** (Pages 45 - 66)

Temporary Rural Worker Dwelling and Replacement Stabling.

### **7d PL/2021/07750 - Soley House, West Soley, Chilton Foliat, RG17** **0GW** (Pages 67 - 86)

Erection of a farm manager's annexe (gate house) to Soley House.

8

**Urgent items**

Any other items of business which, in the opinion of the Chairman, should be taken as a matter of urgency

**Part II**

*Items during whose consideration it is recommended that the public should be excluded because of the likelihood that exempt information would be disclosed*

**None**

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## Eastern Area Planning Committee

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**MINUTES OF THE EASTERN AREA PLANNING COMMITTEE MEETING HELD ON 7 OCTOBER 2021 AT WESSEX ROOM, CORN EXCHANGE, MARKET PLACE, DEVIZES, SN10 1HS.**

**Present:**

Cllr Philip Whitehead (Chairman), Cllr Paul Oatway QPM (Vice-Chairman), Cllr Dr Brian Mathew, Cllr Kelvin Nash, Cllr Sam Pearce-Kearney, Cllr Tony Pickernell, Cllr Iain Wallis and Cllr Stuart Wheeler

**Also Present:**

Cllr Caroline Thomas and Cllr Laura Mayes

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12. **Apologies**

There were no apologies.

13. **Minutes of the Previous Meeting**

The minutes of the meeting held on 15 July 2021 were presented for consideration and it was

**Resolved:**

**To approve and sign the minutes as a true and correct record.**

14. **Declarations of Interest**

There were no declarations of interest.

15. **Chairman's Announcements**

There were no Chairman's announcements.

16. **Public Participation**

The Chairman detailed the procedure for the meeting and the procedures for public participation which were set out at item 5 of the agenda.

17. **Planning Appeals and Updates**

**Resolved:**

**To note the report on completed and pending appeals.**

18. **Planning Applications**

The following planning application was considered:

19. **PL/2021/04596 West Winds, 72 Netherstreet, Bromham, Chippenham SN15 2DP**

**Public Participation**

Vikki Cattell spoke in objection to the application.

Chris Gray spoke on behalf of Nigel and Louisa Thomas in objection to the application.

Mike White spoke in objection to the application.

Tom Kent spoke on behalf of Richard Cosker (Agent) in support of the application.

Mike Butler, the applicant spoke in support of the application.

Nick Clark, Senior Planning Officer presented a report which recommended that planning permission be approved with conditions, for the outline application for demolition of bungalow and replacement with 2 detached dwellings and associated works to include change of use of land to form extended residential curtilage.

The officer stated that the main issue for consideration by the Committee was the principle of development. Matters of appearance, landscaping and scale were all reserved matters that would be covered by later applications.

The area covered by the application was shown to the Committee highlighting an area of farmland to the back of the existing bungalow which was included in the application for use as a garden. The indicative site layout plans were just an illustration to show 2 dwellings on the plot.

The officer advised that the site was outside the limits of development and therefore the application for 2 dwellings was contrary to the Wiltshire Core Strategy Development Plan and would usually be recommended for refusal. However, in this instance the officer explained that there were material considerations for the committee that supported approval. These were the shortfall in the five year housing land supply, the developed nature of the settlement with ribbons of housing along both sides of the street and the long history of redevelopment and infill along the street. The officer referred to the National Planning Policy Framework (NPPF) which advised that planning permission should be granted when an authority cannot demonstrate a five year supply of deliverable housing sites, unless the adverse impacts of the development significantly and demonstrably outweigh the benefits.

It was stated that there would be some limited economic benefits associated with the development. The impact on the character of the settlement and the



neighbouring amenities should be considered and there were detailed considerations of these within the agenda report. The density of dwellings and plot size would be very similar to those in the vicinity. On balance the officer felt that whilst there was an impact of an additional dwelling, the adverse impacts did not outweigh the benefits of the application, hence the recommendation to approve the application.

The Officer detailed representations received, there had been no objection from Bromham Parish Council, however, 20 objections to the application had been received.

In response to a technical question asked by the Committee the officer confirmed that if this application was approved, the applicant would have to submit a detailed reserved matters application, which would then need to be determined. Theoretically that could also come before the Committee depending on whether it was called in.

Members of the public then had the opportunity to present their views, as detailed above.

The unitary division member, Cllr Laura Mayes, spoke in objection to the application. Cllr Mayes urged the Committee to consider that the site was outside a defined settlement and therefore the application was contrary to the development plan; the application was contrary to core policies 1 and 2; the change of use of land from agricultural to residential was a concern; that a net gain of 1 dwelling was high in such a small place; if approved both new dwellings could be 2 storey; the site was big enough without the addition of agricultural land; the applicant owned land around the site and this could lead to further development.

In response to public statements the officer stated that the existing bungalow had a side garden and the proposed new boundary would put the garden in line with the neighbouring properties. It was not setting a precedent for the use of land at the rear for housing.

So that the Committee had something to debate the Chairman proposed a motion to approve the application, with the conditions stated at pages 26 – 29 of the agenda, as per the officer recommendation. This was seconded by Cllr Stuart Wheeler.

A debate followed where Members stated that they were in agreement with the officer's recommendation. Members referred to the Planning Inspectorate decision in 1976 where two houses immediately to the south of the application were allowed at appeal and referenced that the site was clearly within the envelope of development. Members reiterated that all matters of size and appearance would be decided later.

At the conclusion of the debate, it was,

**Resolved:**

**That planning permission be granted with the following conditions:**

- 1. The development hereby permitted shall be begun either before the expiration of three years from the date of this permission, or before the expiration of two years from the date of approval of the last of the reserved matters to be approved, whichever is the later.**

**REASON: To comply with the provisions of Section 92 of the Town and Country Planning Act 1990 as amended by the Planning and Compulsory Purchase Act 2004**

- 2. i) No development shall commence on site until details of the following matters (in respect of which approval is expressly reserved) have been submitted to, and approved in writing by, the local planning authority:**

- (a) The scale of the development;**
- (b) The layout of the development;**
- (c) The external appearance of the development;**
- (d) The landscaping of the site;**
- (e) The means of access to the site.**

**ii) The development shall be carried out in accordance with the approved details.**

**REASON: The application was made for outline planning permission and is granted to comply with the provisions of Section 92 of the Town and Country Planning Act 1990 and Article 5(1) of the Town and Country Planning (Development Management Procedure) (England) Order 2015.**

- 3. The details of the reserved matters, and the development hereby permitted shall be carried out in accordance with the following approved drawings and details:**

- Location Plan LOC\_1969-PLAN 1**
- Protected Species Survey report**

**The submission of the reserved matters application for the layout of the dwellings shall provide for both dwellings to front the highway at Netherstreet.**

**REASON: For the avoidance of doubt and to secure a development that is in**

keeping with the existing form of development in this part of Netherstreet.

4. i) No development (including works of demolition) shall commence until a Construction Management Plan has been submitted to and approved in writing by the local planning authority.

ii) The plan shall include details of the measures that will be taken to reduce and manage the emission of noise, vibration and dust during the construction phase of the development.

iii) It shall include details of the following:

- a) arrangements for lorries delivering to and collecting from the site,
- b) hours of working (including deliveries and collection of demolition waste),
- c) the loading and unloading of equipment and materials, and
- d) provision on the site for storage of materials and parking of construction staff and contractor vehicles.

iv) The demolition and construction work will be carried out fully in accordance with the so-approved Construction Management Plan at all times.

**REASON:** In the interests of neighbouring amenities and highway safety

5. Car and cycle parking provision to be detailed in the reserved matters application/ s shall be in accordance with the required standards set out in the Wiltshire LTP3 Car Parking Strategy.

**REASON:** Considering the limited road width along Netherstreet, in order to ensure off-street parking provision for the development in the interests of highway safety and convenience.

6. i) Prior to the first occupation of the development or the substantial completion of the development (whichever is the sooner) there shall have been submitted to and approved in writing by the local planning authority a scheme of hard and soft landscaping, the details of which shall include:-

- a) all hard and soft surfacing materials,
- b) means of enclosure, (including details of any existing fencing to be retained),
- c) a detailed planting specification showing all plant species, supply and planting sizes and planting densities

ii) All so-approved planting shall be carried out in the first planting and seeding season following the first occupation of either building

or the substantial completion of the development whichever is the sooner.

iii) All shrubs, trees and hedge planting shall be maintained free from weeds and shall be protected from damage by vermin and stock.

iv) 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.

v) All hard landscaping shall also be carried out in accordance with the approved details prior to the first 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

7. i) Demolition works shall be carried out in full accordance with recommendations of Section 5 of the approved Protected Species Survey report (21 Apr 2021).

ii) The dwellings shall not be first occupied until bat roosting and bird nesting facilities have been incorporated in the development in accordance with details first to have been submitted to and approved in writing by the local planning authority; such details to be in accordance with the recommendations of the approved Protected Species Survey report (21 Apr 2021).

**REASON**

In the interests of biodiversity

8. i) Prior to commencement of construction of the new dwellings there shall have been submitted to and approved in writing by the local planning authority full details of a surface water drainage scheme and maintenance requirements to be implemented on the site in respect of all buildings and new or replacement areas of hard standing.

ii) There shall be no occupation of the development until the so-approved drainage scheme has been implemented in full

iii) The drainage scheme shall thereafter be maintained in accordance with approved details.

**REASON**

In the interests of controlling flood risk and highway safety.

**INFORMATIVE**

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For the suggested soakaways, the information to be submitted under this condition must include:

- Ground investigations and infiltration testing in line with the requirements of the BRE Digest 365 and undertaken by a competent contractor are required to assess the feasibility of the proposed surface water drainage strategy.

- Sizing calculations, construction details and a maintenance plan

9. i) The development hereby permitted shall not be first brought into use until the area between the nearside carriageway edge and a line drawn 2.4m parallel thereto over the entire site frontage has been cleared of any obstruction to visibility at and above a height of 600mm above the nearside carriageway level.

ii) The above frontage visibility margin shall be maintained as such at all times thereafter.

**REASON:** In the interests of highway safety

- 10.i) The development hereby permitted shall not be first occupied until the first 5m of the access, measured from the edge of the carriageway and/or whole of the parking area, has been consolidated and surfaced (not loose stone or gravel).

ii) The access shall be maintained as such thereafter.

**REASON:** In the interests of highway safety

**INFORMATIVE**

The surfacing of the access must be in accordance with the details of hard landscaping and surface water drainage to be approved under the conditions above

20. **Urgent items**

There were no urgent items.

(Duration of meeting: 3.00 - 3.45 pm)

The Officer who has produced these minutes is Tara Shannon of Democratic Services, direct line 01225 718352, e-mail [tara.shannon@wiltshire.gov.uk](mailto:tara.shannon@wiltshire.gov.uk)

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**Wiltshire Council  
Eastern Area Planning Committee  
2<sup>nd</sup> December 2021**

Planning Appeals Received between 24/09/2021 and 19/11/2021

Application No	Site Location	Parish	Proposal	DEL or COMM	Appeal Type	Officer Recommend	Appeal Start Date	Overturn at Cttee
20/06557/OUT	Land west of Wilcot Road Pewsey, Wiltshire	Wilcot Huish and Oare	Outline planning permission for 50no dwellings, following demolition of existing buildings, with all matters apart from access reserved for future consideration.	DEL	Inquiry	Refuse	14/10/2021	No
20/11582/FUL	The Coach House Back Lane, Marlborough SN8 1JJ	Marlborough	New garage - retrospective application.	DEL	Householder Appeal	Refuse	08/10/2021	No
21/01561/OUT	Garage Court rear of 121-125 Brickley Lane Devizes, Wiltshire	Devizes	Redevelopment of vacant lock-up garages and associated hardstanding to provide 4 apartments and associated car parking	DEL	Written Representations	Refuse	19/10/2021	No
PL/2021/06554	Land west of Wilcot Road Pewsey	Pewsey	Outline planning permission for up to 30no. dwellings, with all matters apart from access reserved for future consideration.	DEL	Inquiry	Refuse	15/11/2021	No

Planning Appeals Decided between 24/09/2021 and 19/11/2021

Application No	Site Location	Parish	Proposal	DEL or COMM	Appeal Type	Officer Recommend	Appeal Decision	Decision Date	Costs Awarded?
20/06839/FUL	Boomerang Stables Crooked Soley Chilton Foliat Hungerford	Chilton Foliat	Redevelopment of equestrian premises for the erection of a detached house, outbuildings, gardens and related infrastructure.	DEL	Written Reps	Refuse	Dismissed	04/11/2021	None
20/07424/FUL	Rear Barn Land at Devizes Road Potterne, Devizes SN10 5LN	Potterne	Conversion and change of use from former storage building to single dwelling	EAPC	Written Reps	Refuse	Dismissed	22/10/2021	Appellant applied for Costs - REFUSED

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**REPORT TO EASTERN AREA PLANNING COMMITTEE**

Report No. 1

<b>Date of Meeting</b>	<b>2<sup>nd</sup> December 2021</b>
<b>Application Number</b>	<b>PL/2021/06348</b>
<b>Site Address</b>	<b>Rabley House Poulton nr. Marlborough SN8 2LW</b>
<b>Proposal</b>	<b>Retrospective installation of stable windows and external door to tack room to existing barn and external lighting</b>
<b>Applicant</b>	<b>Ms Alison Gill</b>
<b>Town/Parish Council</b>	<b>Mildenhall</b>
<b>Grid Ref</b>	
<b>Type of application</b>	<b>Full Planning Permission</b>
<b>Case Officer</b>	<b>Jennifer Allen</b>

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

This application has been brought before the Committee at the request of the Division Member, Councillor Thomas, should the application be recommended for approval, on the following grounds: a row of large windows has been inserted into a side wall; (ii) already built higher than spec and without cladding, as per planning conditions, to reduce its overbearing impact, leading to loss of privacy (clear line of sight into living and bedrooms) and material light spill as the windows are uncovered.

**1. Purpose of Report**

To consider the recommendation that the application for retrospective planning permission be granted subject to conditions.

**2. Report Summary**

The main issues to consider are:

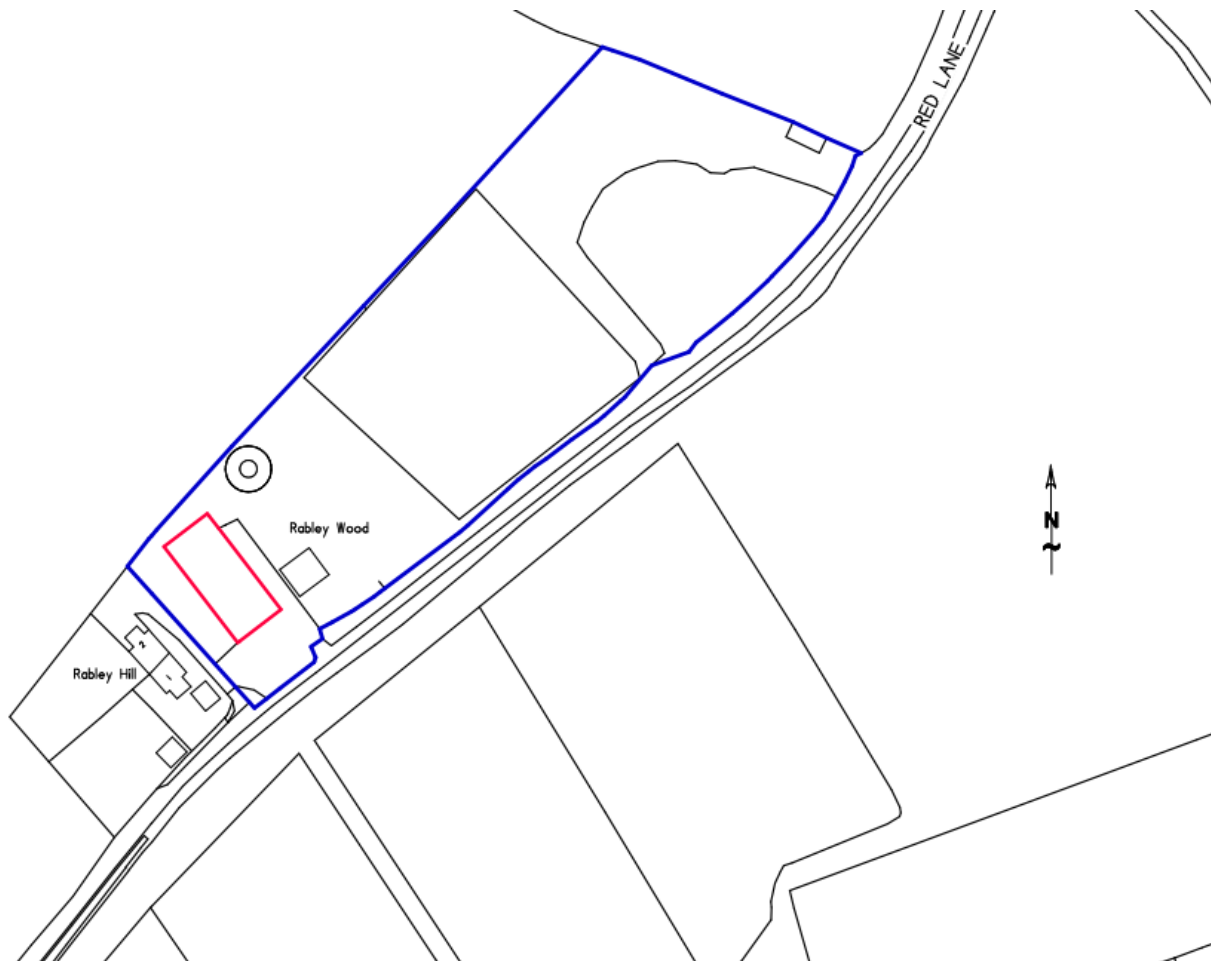
- Impact on visual amenity, including Area of Outstanding Natural Beauty, and design
- Impact on residential amenity

**3. Site Description**

The site is located on a hill to the north of Mildenhall and north-east of Marlborough, up a single-track lane within the North Wessex Downs Area of Outstanding Natural Beauty (AONB). The area is primarily agricultural fields with a few dwellings and buildings located within the local area. Adjacent to the site are a pair of semi-detached dwellings which face onto the southern boundary of the site, with an access

road to a garage between the boundary of the site and the frontages of the dwellings. The gardens associated with the cottages are to the rear of the dwellings, sloping down the hill.

The designated use of the barn that is the subject of this application is for equestrian purposes. It is orientated such that the gable end faces the road. It has gravel around the front and side. A single detached dwelling is located nearby, to the east of the barn. There is also a horse walker positioned against the rear boundary of the site. The boundaries are defined by fences and hedging of various heights and designs.



#### 4. Planning History

PL/2021/06351 - Construction of outdoor arena and access track – Approve with conditions – 23/09/2021

14/05870/REM - Equestrian workers dwelling (Reserved Matters application following 14/02549/OUT in relation to access, appearance, landscaping, layout and scale) – Approve with conditions – 08/08/2014

14/02549/OUT – Equestrian workers dwelling – Approve with conditions – 29/04/2014

14/02039/FUL – The erection of a replacement barn and horse walker – Approve with conditions – 29/04/2014

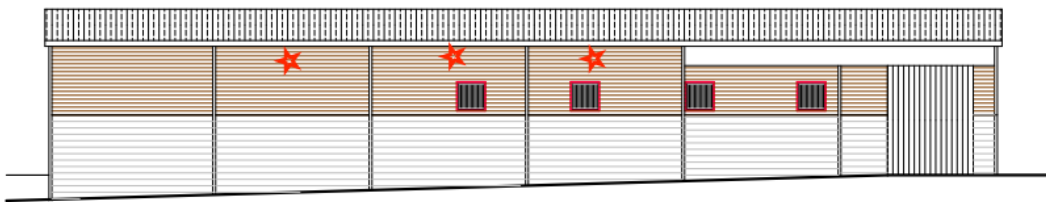
E/2012/1233/FUL - Demolition of existing barns 30 x 32m. Erection of single detached dwelling house. Use change from agricultural to residential.- Refused – 23/11/2012

K/39923/O – Outline application for stud buildings, to include two dwellings – Refused – 29/09/2000

K/83/0626 - Change of use poultry farm to craft workshop – Approve with conditions – 04/11/1983

## 5. The Proposal

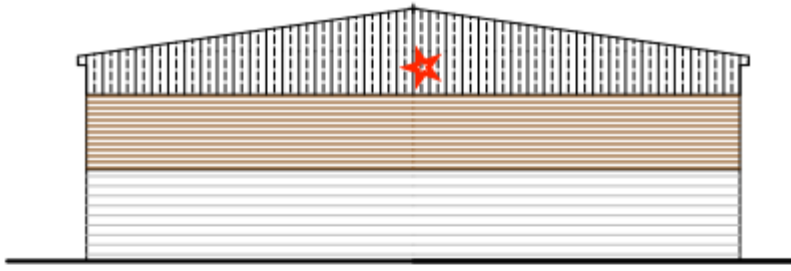
The application seeks retrospective planning permission for the insertion of windows and doors in the side elevations of the barn and the installation of external lighting. More specifically, this includes 7 windows and a door in the south-west elevation of the barn and 4 windows and a large door in the north-east elevation. Each window serves a stall within the barn. The external lighting is positioned on the front elevation; it comprises a single light above the entrance, three lights on the north-east elevation and a light on the rear gable. Each light is on a sensor.



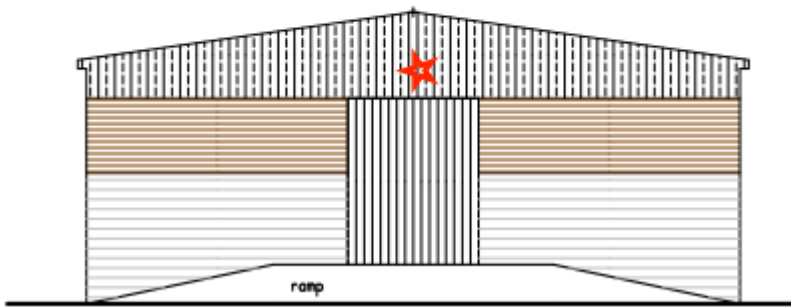
North East Elevation 1100



South West Elevation 1100



North West Elevation 1100



South East Elevation 1100

## 6. Planning Policy

National Planning Policy Framework 2021 namely:  
Section 12 Achieving well-designed places  
Section 15 Conserving and enhancing the natural environment

Wiltshire Core Strategy 2015:  
Core Policy 57 Ensuring high quality design and place shaping  
Core Policy 51 Landscaping

## 7. Consultations

### **Mildenhall Parish Council**

'Mildenhall Parish Council has been contacted by the residents of Rabley cottages several times and inspected the property. Councillors wish to object to the application on the following grounds.

This application has been a text book example of aggressive development circumventing the planning process from the beginning. Mildenhall Parish Council supported the residents in objecting to the original application. This was granted with the condition that no windows would be cut into the south west side directly overlooking the cottages. From the start the

building height was increased due to the raised floor creating an even more overbearing property close to the cottages. The Landscaping and cladding, though in the application and a condition of planning approval, have never happened resulting in an incongruous building dominating the properties.

The property was recently sold and contractors, with no warning, cut large windows into the south west wall directly overlooking the cottages. This is the subject of an Enforcement order and due to the disappointing state of inaction, an example given to a review of Wiltshire County Council Enforcement procedures.

Mildenhall PC comments are as follows:

1. The windows directly affect the privacy and amenity of the residents of Rabley cottages.
2. The light spill and light pollution during the winter months will be an unacceptable nuisance to the use of their properties particularly as the light will be prevalent early in the morning and late at night due to the nature of looking after horses particularly those that will be eventing and returning at late hours.
3. The application makes much of the need for light and ventilation for the welfare of horses demonstrating with handy diagrams. The windows could have been placed on the other side of the barn ie the north east side where they would not be a nuisance to the residents of Rabley cottages.
4. The new buyers of this property bought the barn as seen and would have been made aware of the planning conditions through the buying process. If not this is a sad case of Buyer Beware but not the subject of this Enforcement order and subsequent new application.
5. The application refers to this as an already established equestrian site. It is not. There has never been any equestrian activity or stabling of horses here. It was purely a speculative development by former land owner Mr Bull.
6. The application refers to the cladding of the building being subject to this application. That is, if approval is not given to the windows the building will not be clad. Cladding was a condition of the planning approval for the first application. This is a threatening tone towards both WCC and the residents of Rabley cottages for something that was already agreed.
7. There has been no attempt to communicate with the residents of Rabley cottages or suggest actions or behaviour which might alleviate their distress, for example the fitting of shutters, agreed times for the windows to be open etc.
8. Mildenhall PC objects to this application in the strongest terms and seeks the help and advice of the Planning Committee in upholding standards of planning in Wiltshire. The Parish Councillors feel that the current windows are unacceptable and need to be moved to the other side of the barn and the wall returned to its opaque state. The application makes much of the profitable nature of the equestrian business and its contribution to the local economy. Restoring the current wall, cladding the building correctly, landscaping and installing windows facing the other side should therefore not be financial considerations for the new owners. Property owners should not be allowed to flout planning officer's decisions in this way.'

**Highways Officer:**

'Given the distance of the barn from the adjacent highway I am happy that the external lighting is not likely to be a distraction to passing motorists and as such I am happy to offer no highway objection.'

**Public Protection Officer:**

'The proposal is wholly retrospective for the installation of stable windows and external door to tack room to existing barn and external lighting at the Rabley House stables. Concerns related to impact on amenity from external lighting in a predominantly dark sky.

There is one sensor light facing the road which is not in my opinion especially intrusive. There are several sensor lights facing the applicant's property. It was a clear night when I visited, and I was able to see and appreciate the stars even with the lights on. It is not unreasonable to have security lighting on a stables. I have no adverse comments on this application.'

**AONB Unit:**

No representations received.

**8. Publicity**

The application was advertised by way of neighbour notification.

Expiry date: 13 August 2021, 27 August 2021 & 28 October 2021

Summary of points raised:

Twenty-seven letters of representation received - 25 object; 2 in support. Comments relate to:

- Loss of privacy
- Lack of screening
- Light spill
- Works should not be approved by default
- Windows are a poor solution to ventilating a barn
- Noise disturbance
- Planning conditions not adhered to
- Impact on AONB
- Impact on countryside
- Height of the barn
- Other options for ventilation
- Abuse of planning system
- Council's lack of control over the development
- Original permission not finished
- Applicant's response does not address issues raised
- Floor levels of the barn
- Photographs showing light spill from internal lights
- Vehicle movements in the evening

## 9. Planning Considerations

### *Site History*

Prior to the existing arrangement, the site contained three barns. In 2014, planning permission was granted (under refs.14/05870/REM, 14/02549/OUT and 14/02039/FUL) for the demolition of the original barns and the erection of the barn that is now on the site, along with a horse walker and an equestrian worker's dwelling. The barn was granted planning permission to be used for equestrian purposes in association with the site's use as a stud farm. As the barn is used for equestrian as opposed to agricultural purposes, it does not benefit from permitted development rights to make alterations to the building. The windows therefore require planning permission, hence this application has been submitted. In addition, lights have been installed on the exterior of the building. As these were restricted by a condition imposed on planning permission ref. 14/02039/FU and therefore do not have the benefit of planning permission, they have been added to the plans.

There is an enforcement case open in respect of the window openings and lack of cladding to the barn.

Earlier this year, planning permission was granted for an outside arena and walkway within the neighbouring paddock.

### *Design*

Seven windows and a single door have been inserted in the south-west elevation of the barn and four windows and a large door have been installed in the north-east elevation of the building. Each of the windows serves a horse stall. The single door provides external access to the tack room. The large door is of a similar design to that approved under the original scheme. The openings are 1m by 1m in size, with galvanised steel 'windows' that have vertical bars. It is considered that the windows are acceptable additions to the barn in design terms, in keeping with the designated use of the building.







Five external lights have been installed on the building. These are sensor spotlights positioned above the doors on the front elevation, the rear gable end of the building and three along the north-east elevation, illuminating the area between the dwelling and the barn. The lights are small additions to the elevations of the building and as such they have not harmed the character or appearance of the building.

#### *Visual Amenity including AONB*

It is also considered that the development the insertion of windows and the installation of the five lights has not adversely impacted upon the rural character of the area. The equestrian character of the barn has been retained. The window openings do not impact on the scenic quality of the AONB and, although the openings allow more light from the internal lighting to



spill out, the level is not considered to be significant enough to warrant the refusal of planning permission. The external lights are activated by sensors, therefore, they are not on all the time. The degree of light spill is therefore minimised and is not considered to harm the scenic quality of the AONB. The lights were installed in breach of a condition on planning permission ref. 14/02039/FUL. However, it is considered reasonable for safety reasons and given the use of the site to allow this amount/type of lighting. The need for external lighting for security and safety purposes is compliant with the Guide to Good External Lighting produced by the North Wessex Downs AONB Unit. To ensure that no further lighting is installed without prior approval, a condition can be imposed in the event that planning permission is granted.

### *Residential Amenity*

Concerns have been raised regarding the impact the windows have in terms of loss of privacy, light spill and the overbearing impact of the building.

Dealing first with the overbearing impact of the building, the footprint and floor levels of the barn were required to be submitted for approval under condition 3 of planning permission ref. 14/02039/FUL. The details were approved on 19 May 2015. The slab level agreed resulted in the building being higher than approved under the previous application. The barn appears to have been built in accordance with the approved slab details. It is acknowledged that there is a higher level combined with the change in ground levels between the application site and the neighbouring dwellings, however, in view of the distance between the barn and the dwellings (approximately 17 metres), it is not considered that this constitutes an overbearing impact. In any event, these details have been approved so this matter is not for consideration here.

Notwithstanding the above, the change in ground levels between the site and residential properties has resulted in the openings inserted in the south-west elevation facing towards the neighbouring properties. However, the openings are lower than the first-floor windows of the neighbouring properties and due to the existence of the boundary fence, views of the ground floor windows cannot be obtained. These windows are required for ventilation purposes and not for looking out of in the traditional sense, although it is acknowledged that a person within a stall could look out of the opening. It is considered that overlooking from these openings would be restricted to the front of the adjoining properties over which the neighbouring dwellings have a right of way, for both vehicles and pedestrian use of these properties. As such, there would be no significant increase in the amount of overlooking. The perception of being overlooked is also a material consideration, however, considering the degree of separation between the windows and the neighbouring properties (being over 10 metres) and the use of the barn, it is considered that any potential impact on privacy is not sufficient to warrant the refusal of planning permission on neighbour amenity grounds in this instance. The Design and Access Statement submitted with the application refers to the intention to insert obscurely-glazed windows in the south-west elevation to help alleviate privacy concerns. In the interests of neighbourliness, it is deemed reasonable to impose a condition requiring obscure glazing be inserted into the windows in the south-west elevation which should be retained as such thereafter.

Concerns regarding light spill have also been raised. The light spill referred to comes from the internal lights through vents under the eaves and the openings. There is little the local planning authority (LPA) can do regarding the level of internal lighting within the barn as this is outside of the planning remit. The LPA has sought to reduce the degree of impact on the neighbouring properties, asking the applicant to consider installing shutters or other form of screening. The applicant has indicated that shutters are not a feasible option due to the potential impact on the horses within the stables. They are prepared to consider planting

hedging along the boundary to screen the barn from the properties. As such, a condition should be imposed in the event of planning permission being granted requiring a landscaping scheme to be submitted for approval and implemented in the next planting season, with any plants that fail required to be replaced. This would have the additional benefit of softening the appearance of the barn within the wider landscape and enhancing biodiversity.

It is not considered that the sensor security lighting, being on the gable ends and on the north-east elevation of the barn have a significant harmful impact on the amenities of the occupiers of the neighbouring properties due to their positioning and distance from the dwellings.

#### *Other considerations*

Comments have been made regarding the 2014 application not being completed in terms of the installation of cladding. There is no time constraint on when development should be finished, only on when development should commence i.e. within 3 years of the date that planning permission was granted. As the development was started within the three-year time period, the applicants can finish the cladding at their own discretion.

Comments have also been made regarding the LPA's handling of this site, in terms of the monitoring of the development. This not a matter for consideration under this planning application. The application is has been assessed against planning policy and material planning consideration and a recommendation is made to grant planning permission.

## **10. Conclusion**

It is considered that the works that have been undertaken to the barn are acceptable in planning terms. It is acknowledged there is a degree of impact on the neighbours but not to such an extent as to warrant the refusal of planning permission, particularly if the suggested conditions are imposed..

## **RECOMMENDATION**

That the application be APPROVED subject to the following conditions and informatives.

### **Conditions**

1. Within 3 months of the date of the decision, a landscaping scheme shall be submitted to and approved in writing by the local planning authority which shall includes details (species, planting sizes and densities) of a hedge to be planted along the site boundary.

REASON: The application contained insufficient information to enable this matter to be considered prior to granting planning permission and the matter is required to be agreed with the Local Planning Authority to ensure a satisfactory landscaped setting for the development and the protection of existing important landscape features.

2. All soft landscaping comprised in the approved details of landscaping shall be carried out in the first planting and seeding season following the decision date. 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 and the protection of existing important landscape features.

3. Within 6 months of the decision date, the windows in the south-west elevation hereby permitted shall be glazed with obscure glass only to an obscurity level of no less than level 4 and shall be maintained with obscure glazing in perpetuity.

REASON: In the interests of residential amenity and privacy.

4. Other than the lighting hereby approved, no other form of lighting shall be installed on the site.

REASON: In the interests of preserve the special qualities of the AONB and in the interests of residential amenity.

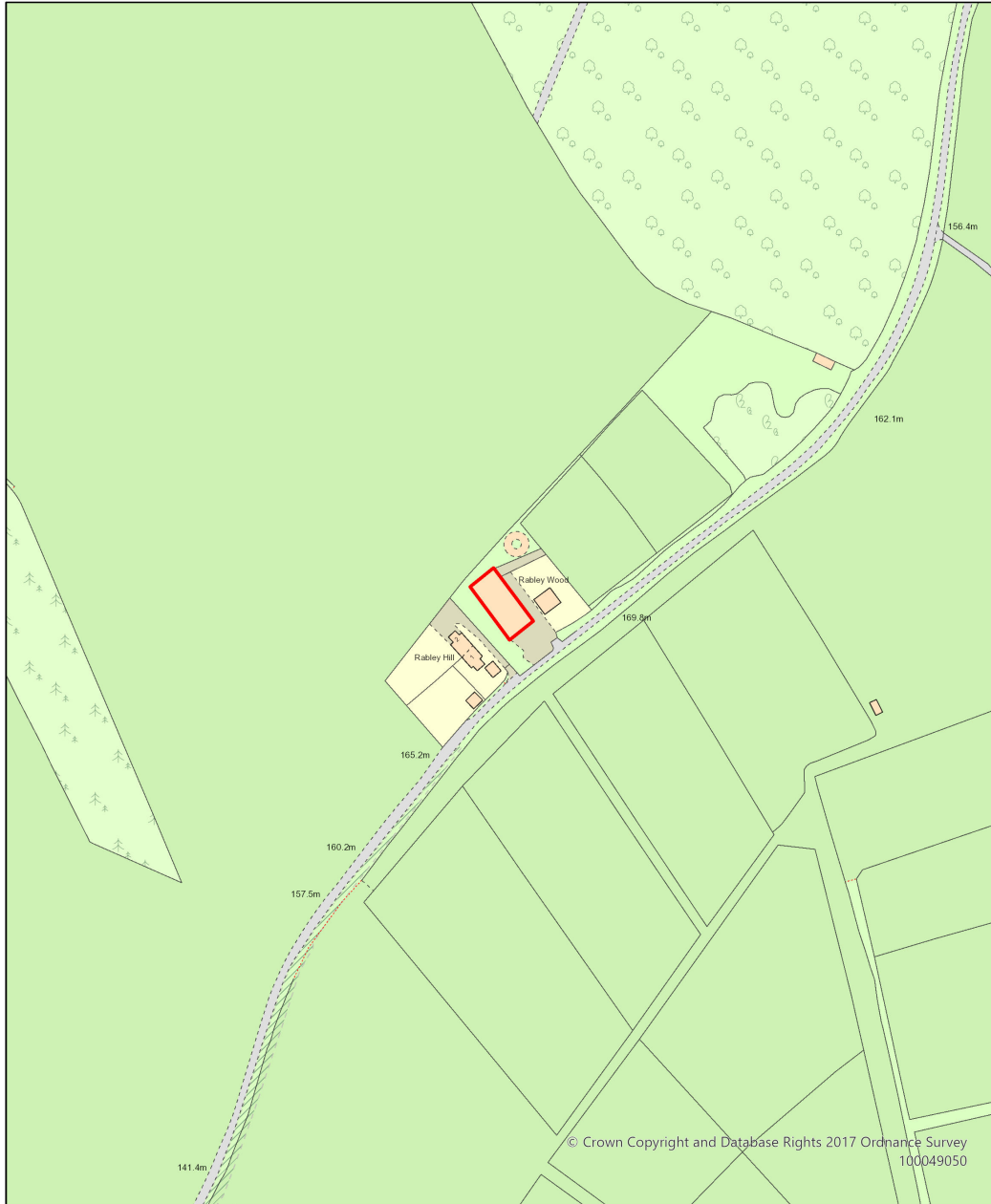
5. INFORMATIVE:

The applicant's attention is also drawn to the conditions imposed on planning permission refs. 14/05870/REM, 14/02549/OUT, 14/02039/FUL and PL/2021/06351 which remain valid.

6. INFORMATIVE: The development hereby permitted has been assessed against the following approved plans and documents:

21/2107-3 Elevations etc received on 30 September 2021  
21/2107-1 Location Plan received on 22 June 2021  
21/2107-2 Site/Block plan received on 22 June 2021  
Application form received on 22 June 2021  
Barn Design and Access Statement received on 21 July 2021

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## REPORT FOR EASTERN AREA PLANNING COMMITTEE

Report No. 2

<b>Date of Meeting</b>	2nd December 2021
<b>Application Number</b>	PL/2021/08195
<b>Site Address</b>	Rose Villa, Roundway, Devizes, SN10 2HY
<b>Proposal</b>	Erection of a pair of semi-detached dwellings, car parking, access and associated works.
<b>Applicant</b>	Mr Chris Combe
<b>Town/Parish Council</b>	DEVIZES
<b>Electoral Division</b>	Cllr Laura Mayes
<b>Grid Ref</b>	<b>401466 163189</b>
<b>Type of application</b>	Full Planning
<b>Case Officer</b>	Jonathan James

### Reason for the application being considered by Committee

The application has been called-in by Cllr Laura Mayes, to enable the positive contributions that the scheme would have in delivering housing within the village to be discussed.

#### 1. Purpose of Report

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

#### 2. Report Summary

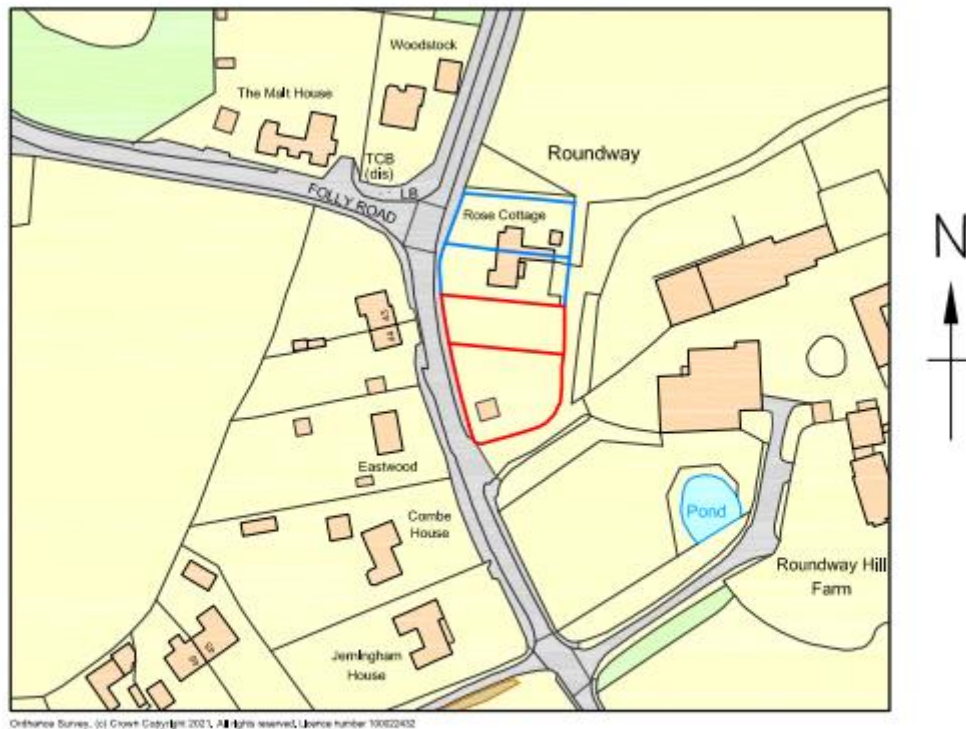
There are concerns regarding the location of the site, in a location that would be wholly reliant on the private motor car for access to everyday facilities, job opportunities and services and would be contrary to the requirements of both local and national policy in directing development to sustainable locations. The development would also have an urbanising effect on the rural character of the area. There are no benefits that would outweigh this harm.

#### 3. Site Description

The site is located in the hamlet of Roundway and comprises the garden of 'Rose Villa', an existing semi-detached house set within a very generous plot. The area has a distinct rural

character, with a single track road running through the hamlet and properties set within generous, spacious plots. These enhance the appearance of the area.

Access into the site exists at present, off the adjoining highway through Roundway from the south. There is an existing garage associated with the main dwelling at the southern end of the garden and further parking to the rear of the existing dwelling, to the east of the site.



LOCATION PLAN

Scale 1:1250

#### 4. Planning History

16/08498/OUT Outline application relating to access for redevelopment of land by the erection of three two-storey dwellings with garages and associated works

The site relating to application 16/08498/OUT lies approximately 210 metres to the north of the site to which this application relates. The scheme was for the erection of three new dwellings within this rural area. The application was refused for two reasons – firstly, it was contrary to the policies of the development plan and NPPF, as it would involve the construction of new dwellings in an unsustainable location; and secondly, there would be a negative impact on the rural character of the area.

This decision was appealed and subsequently dismissed by the Planning Inspectorate for the following reasons: detrimental impact on the character of the area; and the unacceptable siting of this type of development in an unsustainable location. The Inspector clarified that there are three elements to sustainability, namely an economic, social and environmental



component. The Inspector determined that the scheme had failed on the environmental aspect as it would harm the rural character and appearance of the area and that its location was also unsustainable as occupiers would be reliant on the use of the private car for access to everyday services, facilities and employment. It is considered that the location of these sites within Roundway means that the issues relevant to these proposals are very similar. The appeal decision is therefore a material consideration in the determination of the application.

## 5. The Proposal

The application is for the erection of a pair of semi-detached dwellings, car parking, access and associated works, within the garden of Rose Villa.

*Proposed scheme:*



## 6. Local Planning Policy

### Wiltshire Core Strategy 2015 (WCS):

- Core Policy 1 – Settlement Strategy. This identifies settlements where sustainable development will take place, with a settlement hierarchy running from Principal Settlements through market towns and local service centres to large and small villages. Roundway would be considered a hamlet set within the countryside.
- Core Policy 2 – Delivery Strategy – in order to deliver the sustainable development envisaged in CP1, CP2 sets out the delivery strategy.
- Core Policy 12 – Spatial Strategy: Devizes Community Area – clarifies that development in the Devizes Community Area should be in accordance with the Settlement Strategy as set out in Core Policy 1. Defines those settlements that are considered either large or small village; Roundway does not fall within either definition.
- Core Policy 51 – Landscape – seeks to protect, conserve and where possible enhance landscape character.
- Core Policy 57 – requires high quality design and place shaping
- Core Policy 58 – Ensuring the conservation of the historic environment.
- Core Policy 60 – Sustainable transport
- Core Policy 61 – Transport and new development
- Core Policy 64 – Demand management – private non-residential parking standards.

National Planning Policy Framework (NPPF, 2021)

National Design Guide, Planning practice guidance for beautiful, enduring and successful places (NDG) (2019)

Wiltshire Local Transport Plan 2011 – 2026: Car Parking Strategy (2015)

## 7. Summary of consultation responses

Devizes Town Council – Objects, noting that the whole of Roundway village is outside the development boundaries shown on the Core Strategy and the Devizes Neighbourhood Plan, and the proposal is therefore in conflict with those policies. Furthermore, as the site is on the outer boundary of Devizes, part of a largely undeveloped frontage along the eastern side of Folly Road, such development could set a pattern for significant further development along there, harming the rural character of the hamlet.

WC Highways – Comments: the applicant suggests a new access point is to be created but the information provided does not provide any layout drawing for the access and parking areas. Please ask the applicant to provide this information to enable me to make a more informed response.

WC Archaeology – Comments: the site is located within the historic medieval core of Roundway which is located in a wider area populated by later prehistoric and Romano-British field systems and settlements. There is every chance that further, as yet unrecorded archaeological features dating from these periods will survive as sub-surface features within the footprint of the proposed development. Historic map evidence shows indicates that the site has not been subject to any modern development and so if any archaeology does

survive here, then it will be relatively well-preserved. I would therefore advise that all groundworks associated with the construction of the two houses and their associated car parking areas and access roads be monitored by qualified archaeologists, with this monitoring secured via a condition to be attached to any planning permission issued.

## **8. Publicity**

The application has been advertised by letter to local residents and by site notice. Third party representations have been received and are summarised as follows:

### Third party comments:

**CPRE** - The whole of Roundway village is outside the development boundaries shown on the Core Strategy and the Devizes Neighbourhood Plan. The proposal therefore conflicts with policies CP2 of the Core Strategy ('development will not be permitted outside the defined limits of development') and H1 of the Neighbourhood Plan (to similar effect). The site is part of a largely undeveloped frontage along the E side of Folly Road. There are only 2 houses along the entire Folly Road-Roundway Hill Lane E side, including Rose Villa. This, and other undeveloped stretches of frontage in Roundway, could accommodate a significant number of new houses on a similar spatial pattern, which would harm the rural character of the hamlet and aggravate existing dangerous road conditions. Roundway is a small hamlet with no facilities whatsoever, and any/all housing is likely to be dependent on transport by car.

### **Neighbour comments:**

*Whilst I have no objection to this proposal, I am interested in Section 13 of the application, regarding Foul Sewage disposal. Main sewer has been ticked, and it has been marked as unknown regarding connection to the existing drainage system. As far as I am aware, no properties in Roundway Village are connected to mains sewage disposal. I suspect that the majority of residents would welcome the option of connecting to mains sewage disposal. Is this something that would be considered in light of this building application?*

## **9. Planning Considerations**

### 9.1 Principle of Development

The site is located in Roundway which does not fall within any of the settlement definitions identified by the Wiltshire Core Strategy (WCS) (2015); accordingly, and in terms of planning policy, the site is taken to be in the countryside.

Section 38(6) of the Planning and Compulsory Purchase Act 2004 requires that proposals be determined in accordance with the development plan unless material considerations indicate otherwise. In this case, the development plan comprises the Wiltshire Core Strategy (WCS) (2015), the saved policies of the Kennet Local Plan (KLP) (2004) and the Devizes Area Neighbourhood Plan (NP) (2015).

Fundamentally, the application is for the erection of two new dwellings in the countryside, contrary to the policies of the local development plan and neighbourhood plan for delivering sustainable housing.

In the interests of promoting sustainable development and the protection of the countryside the policies of the WCS (2015) seek to restrict all new residential development to locations within the Limits of Development defined for the towns and villages. The WCS includes a settlement strategy, Core Policy 1 'Settlement Strategy' and Core Policy 2 'Delivery Strategy' outline that there is a presumption in favour of sustainable development within the Principal Settlements, Market Towns, Local Service Centres and Large Villages and development should be restricted to within the limits of development other than in exceptional circumstances as set out within the relevant core policies contained within the plan. There are no exceptional circumstances that would suggest a departure from the development plan. Core Policy 60 Sustainable Transport supports the premise for development within sustainable locations. The policies of the WCS (2015) are consistent with the NPPF (2021) in terms of delivering sustainable development.

Extracts from the Devizes Neighbourhood Plan (2015) (DNP) for the area clarify that *public transport is variable in frequency, dependent largely on subsidies and is relatively expensive, while in some instances, it is non-existent, especially after 6pm and on Sundays. It remains virtually a minimal service, which is a poor second choice after the car. There is often much congestion on the main narrow country lanes. The nearest train station is approximately 10 miles away and bus services to these are restricted or, in the case of Pewsey, non-existent. The increased school travel incurred when schools are not within walking distance, can only add to the stress on traffic flow. The GP Surgeries are over-loaded, with waiting times of up to three weeks for routine appointments. Accessing many treatments, including minor injuries, still involves a journey of anything from 10 to nearly 30 miles in a public-transport-poor area. There are local concerns that the Devizes Area infrastructure is seriously overstretched and that infrastructure development should be a priority over housing development. The main constraints on development are spatial, congestion, poor air quality, limited access to medical services and increasingly limited employment opportunities.* It is clear from the evidence contained within the DNP that the area offers poor infrastructure and that inhabitants are likely to be reliant on travel by private car for access to everyday facilities and services. This site, being located well outside of the Limits of Development of Devizes, in a rural location, is clearly an unsustainable location for the erection of two new dwellings.

The Neighbourhood Plan housing site selection policy expands the terms of the previous limits of development to allow that: All future development in the Devizes area must be confined to land within the existing settlement framework boundary except where it is a demonstrably sustainable site (as measured by the other criteria and policies of the Neighbourhood Plan) and within the urban core (1600m of the town centre). The DNP supports that the limits of development should be maintained as in accordance with the WCS and the former KLP. The site in question fails to meet the requirements as set out within the DNP for sustainable locations and is also not an allocated site for development.

Core policy principles of the DNP include the requirement to minimise urban sprawl, secure a strong and complementary relationship with existing infrastructure and to reflect the views and preferences of the local community. It is considered that the site's location within the countryside, off substandard highways and contrary to the requirements of the DNP, clearly fails these tests. The Devizes vision statement identifies that the town should grow in a manner which enables its residents to live a sustainable lifestyle, with a reduced need to travel.

Policy H1 of the DNP (2015) identifies that for the purposes of the Neighbourhood Plan, the Settlement Framework Boundary defines the limits within which sustainable development should take place. Development on the edges of towns and villages will be broadly controlled in line with Core Policy 3 (Delivery Strategy). However, the principal pressure on the landscape arising from new development is the erosion of the separate identity, character, visual and functional amenity of settlements and their setting, and impacts on the open countryside. Para. 5.68 of the WCS (2015) clarifies that specific issues to be addressed in planning for the Devizes Community Area includes the rural identity of Roundway Parish as an important part of the landscape setting which helps to define the character of Devizes.

The WCS defines a “*Sustainable Location*” as a location or site for housing that is close to employment, schools, shops, parks, civic buildings and other services and amenities; is accessible by existing roads and close to existing public transport services; can be linked easily to existing infrastructure for roads, water, waste, and utilities; has low flood risk; and avoids sensitive features of the natural environment. With reference to the Planning Inspectorates conclusion in planning appeal APP/Y3940/W/17/3174323, the site referred to within the planning history, it was concluded that users of the site would be reliant on motorised transport and that the proposed use of the site would not be in an accessible location. Nothing has changed since this last determination and Roundway is still considered an unsustainable location for this type of development proposed.

Policy 60 of the WCS (2015) relates to the need to reduce travel, particularly by the private car and makes clear that development should be located in sustainable locations; this is supported by the requirements of paragraph 105 of the NPPF (2021). As such the development is considered contrary to Core Policies 1, 2, 12 and 60 of the WCS (2015), Policy H1 of the DNP (2015) and with the principle of sustainable development as defined by the NPPF.

## 9.2 Visual Impact

The site lies in Roundway, within the garden area of Rose Villa, the setting of which is distinctly rural in character. Existing residential properties within the area are set within generous plots which are generally bounded by mature hedgerow interspersed with trees, set along a minor road. Despite the influence of the nearby dwellings, the area surrounding the site has a significant countryside feel by virtue of the nearby fields and more importantly the roadside hedgerows and narrow lane. The site has a largely open interior with trees and hedgerow to its boundaries, these making a positive contribution to the rural qualities of the locality.

The Wiltshire Core Strategy identifies the need to protect the distinct character and identity of the villages and settlements in Wiltshire. Core Policy 57 and the NPPF seek to encourage high quality design in new development and Core Policy 51 ‘Landscape’ seeks to ensure new developments do not have a harmful impact upon landscape character. Para. 5.68 of the WCS (2015) clarifies that specific issues to be addressed in planning for the Devizes Community Area includes the rural identity of Roundway Parish as an important part of the landscape setting which helps to define the character of Devizes. It is recognised that the principle threats and issues considered important to landscape quality in this character area are the influence of built development on the fringes of Devizes and other settlements.

It is considered that the proposed erection of two new dwellings with associated parking and paraphernalia would have an urbanising effect on this rural location to the detriment of the character of the area. The existing dwelling is set within a generous plot which is typical for the density of development within this rural location. It is considered that the erection of two dwellings within the garden curtilage of the existing dwelling would be overdevelopment of this site and create an overly urban character in this countryside location. Whilst it is acknowledged that there are existing dwellings nearby, it is considered that this development would further erode the rural character of the area through the intensification of the built form on the site and the pressures that this development would bring with the long-term management of the site.

On balance, it is considered that the erection of two new dwellings and associated paraphernalia are considered to have a detrimental impact on the rural character of the area and would therefore be contrary to Core Policy 51 and Core Policy 57 of the WCS (2015) and with the NPPF (2021).

### 9.3 Impact on Heritage Assets

In terms of the historic environment, the primary consideration is the duty placed on the Council under sections 16 and 66 of the Planning (Listed Building and Conservation Areas) Act 1990, to have special regard to the desirability of preserving the building or its setting or any features of special architectural or historic interest which it possesses. Comments received from the County Archaeologist state that there is likely to be heritage contained within the sub-surface of the soil.

However, no objections to the scheme are raised and the further investigation and monitoring recognised by the Archaeologist can be reasonably conditioned in the event that planning permission is granted.

### 9.4 Highway Safety Impact / Parking

Core Policy 61 - Transport and New Development - seeks to ensure that new development is capable of being served by safe access to the highway network. Core Policy 64 seeks to ensure that parking standards are met as set out in the Council's adopted standards. The NPPF (2021) states that an application should only be refused on highway grounds if "*there would be an unacceptable impact on highway safety, or the residual cumulative impacts on the road network would be severe*".

Comments received from the Council's Highway Officer identify that the submission does not provide any layout drawing for the access and parking areas and requests this information to enable an informed response. The applicant has been notified that there is insufficient information relating to this matter and has been offered the opportunity to provide further detail on this matter. However, the submission of further detail on the lack of information relating to highway matters does not overcome the principle concerns relating to this scheme.

Paragraph 109 of the NPPF clarifies that Development should only be prevented or refused on highways grounds if there would be an unacceptable impact on highway safety, or the residual cumulative impacts on the road network would be severe.

Based on highway comments there is currently insufficient information to allow for a proper assessment on this matter. It is therefore considered that the proposal has failed to demonstrate that the proposed units and host dwelling will be served by safe access and adequate parking in line with the requirements of local and national policies. As such the scheme is considered to fail to meet the relevant criteria of Core Policies 60, 61 and 64 of the WCS (2015) and the WLTP (2011 – 2026) Car Parking Strategy (2015) and with the relevant sections in the NPPF (2021).

#### 9.5 Other matters

Comments received query the opportunity to connect other houses to a mains foul sewer. No comments have been received from Wessex Water on this matter and the detailed aspects of foul drainage will be picked up under separate legislation via the building regulations.

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

There are three aspects of sustainable development, an economic, social and environmental role, to which the NPPF identifies that there is a presumption in favour of sustainable development. This is seen as a golden thread running through the decision making process and that local planning authorities should approve development in accord with the development plan without delay.

It is acknowledged that the Council cannot demonstrate a five year supply of housing land, as such, under the terms of paragraph 11 of the Framework, the relevant development plan policies are deemed to be out-of-date. It therefore follows to consider the benefits of the scheme against its adverse impacts in light of the Framework's policies.

It is acknowledged that there is some positive weight to be given to economic benefits through the likely local employment that may be generated by the development proposed for a limited period of time. As are there likely to be some social benefits through the provision of two new dwellings within the local housing market. However, given the likely cost of such units of this size, within an attractive rural location, the social benefits would be restricted to those on a higher income and would not likely benefit lower income families and would certainly not add to the affordable housing market within this area.

There are no perceivable environmental benefits identified; the intensification of use of the land including the addition of built form would negatively impact on the environment. There has also been no offer of enhancements to boost environmental benefits at this site either. In addition, the increase in traffic movements to and from the site could lead to an increase in air pollution, an identified key issue in the DNP and WCS for this area and the harm to the rural character of this area is irreversible.

It is considered that the proposal conflicts not just with the spatial strategy of where new housing should be located, but would also have a harmful impact on the rural character of the area. The site is located in what is construed as countryside in an unsustainable location. There is no reasonable access to local services and facilities and the proposed new dwellings would result in a car dependant development in order to access most services and

facilities due to alternative transportation methods not being attractive enough to encourage non-car use.

The scheme would be contrary to the Framework's aim to promote sustainable transport. Also, as it would be set away from the nearest services, the houses would not be located so as to maintain or enhance the vitality of rural communities. Moreover, it would be contrary to the Framework's provisions which seek to ensure development is sympathetic to the local context and recognises the intrinsic character of the countryside. It is considered that the adverse impacts of the development would significantly and demonstrably outweigh its benefits when considered against the Framework, consequently, the presumption in favour of sustainable development as set out in paragraph 11 (NPPF) does not apply.

It is considered that any limited public benefit that may occur if this development were approved, would not outweigh the harm that would be caused by allowing a development that in this particular location would cause harm to the character of the area, in an unsustainable location and on a site that has not been brought forward for development by the local community. Overall, this is not sustainable development. On balance it is considered that the proposed development would be contrary to the policies of the Wiltshire Core Strategy (2015) and guidance set out in the National Planning Policy Framework (2021).

## **RECOMMENDATION**

That planning permission be REFUSED for the following reasons:

1. The proposed development, due to the position of the site within the 'open countryside', would conflict with the settlement strategy of the Wiltshire Core Strategy. The site is within a location that has limited access to local services and public transport facilities and future occupants would need to travel by car to reach services, facilities and employment opportunities. The proposed development is therefore deemed to be unsustainable and would conflict with the Council's plan-led approach to sustainable development. There are no exceptional circumstances which justify the approval of the proposed development and no objective evidence to demonstrate it would meet an identified housing need of the settlement or meet the criteria identified by Core Policy 2. In light of the above, the proposed development is considered to conflict with Core Policies 1 'Settlement Strategy', 2 'Delivery Strategy', 12 'Spatial Strategy: Devizes Community Area'; 60 'Sustainable Transport' and 61 'Transport and New Development' of the Wiltshire Core Strategy, and with Central Government policy contained within the National Planning Policy Framework; in particular, Chapters 2 'Achieving Sustainable Development', 4 'Decision-making', 5 'Delivering a Sufficient Supply of Homes', and 9 'Promoting Sustainable Transport'.



2. The proposed development, by reason of its location, layout, scale and appearance, would have a harmful impact on the character and appearance of the site and the locally distinctive character of the settlement. The proposed dwelling would result in the loss of the rural character and appearance of the site. The scheme would constitute an inappropriate form of development, which would be detrimental to the visual amenity of the area contrary to Wiltshire Core Strategy (2015) Core Policy 51 and Core Policy 57 and the requirements of good design as set out in the National Planning Policy Framework (2021).
  
3. The proposal has failed to demonstrate that the proposed units and host dwelling will be served by safe access and adequate parking in line with the requirements of local and national policies. As such the scheme is considered to fail to meet the relevant criteria of Core Policies 60, 61 and 64 of the WCS (2015) and the WLTP (2011 – 2026) Car Parking Strategy (2015) and with the relevant sections in the NPPF (2021).
  
4. **INFORMATIVE TO APPLICANT:** Notwithstanding reasons for refusal 1 and 2, reason for refusal 5 may be overcome in the event of the applicant providing sufficient detail to demonstrate that the site can be adequately served with safe access and sufficient parking. The reason for refusal is necessary in the event that there is an appeal or resubmission of an application and that this issue is satisfactorily resolved during that process or through the submission of another application.

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## REPORT FOR EASTERN AREA PLANNING COMMITTEE

Report No. 3

<b>Date of Meeting</b>	2 <sup>nd</sup> December 2021
<b>Application Number</b>	PL/2021/04650
<b>Site Address</b>	Land south of West Kennett Farm, East Kennett
<b>Proposal</b>	Temporary Rural Worker Dwelling and Replacement Stabling
<b>Applicant</b>	Dr E Seidel
<b>Town/Parish Council</b>	FYFIELD & WEST OVERTON
<b>Electoral Division</b>	West Selkley (Cllr Davies)
<b>Grid Ref</b>	SU 11286 67804
<b>Type of application</b>	Full Planning
<b>Case Officer</b>	Ruaridh O'Donoghue

### Reason for the application being considered by Committee

The application is called to committee at the request of Councillor Davies, due to concerns over the visual impact of the development on the surrounding area (World Heritage Site (WHS) and North Wessex Downs Area of Outstanding Beauty (AONB) and the environmental or highways impacts it would have.

#### 1. Purpose of Report

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

#### 2. Report Summary

The main issues to be considered are:

- The principle of a new countryside dwelling in this isolated position, with particular regard to the functional need and financial 'tests' established in former PPG7 Annex A which appeal inspectors have satisfied to use as a framework for establishing the justification for such dwellings (CP 48);
- Whether the scheme constitutes high quality design (CP 57);
- Whether the scheme would have an acceptable landscape impact (CP 51);
- Whether the scheme would impact upon any attributes of Outstanding Universal Value within the Avebury WHS (CP 69);
- Whether the proposal will have an acceptable impact upon any Archaeology on the site; and,
- Whether the proposal would have a negative effect upon highway safety, including if there is sufficient parking for the proposed development (CP 61 and 64); and

### 3. Site Description

The application concerns land off byway EKEN2 which is located to the south of West Kennet and to the north-west of East Kennet. The byway can be accessed via Gunsite Road. The site is adjoined on all sides by agricultural land. It is considered to be open countryside.

The site and its surroundings lie within the North Wessex Downs AONB and Avebury WHS.

Below is a location map that shows the context of the site.

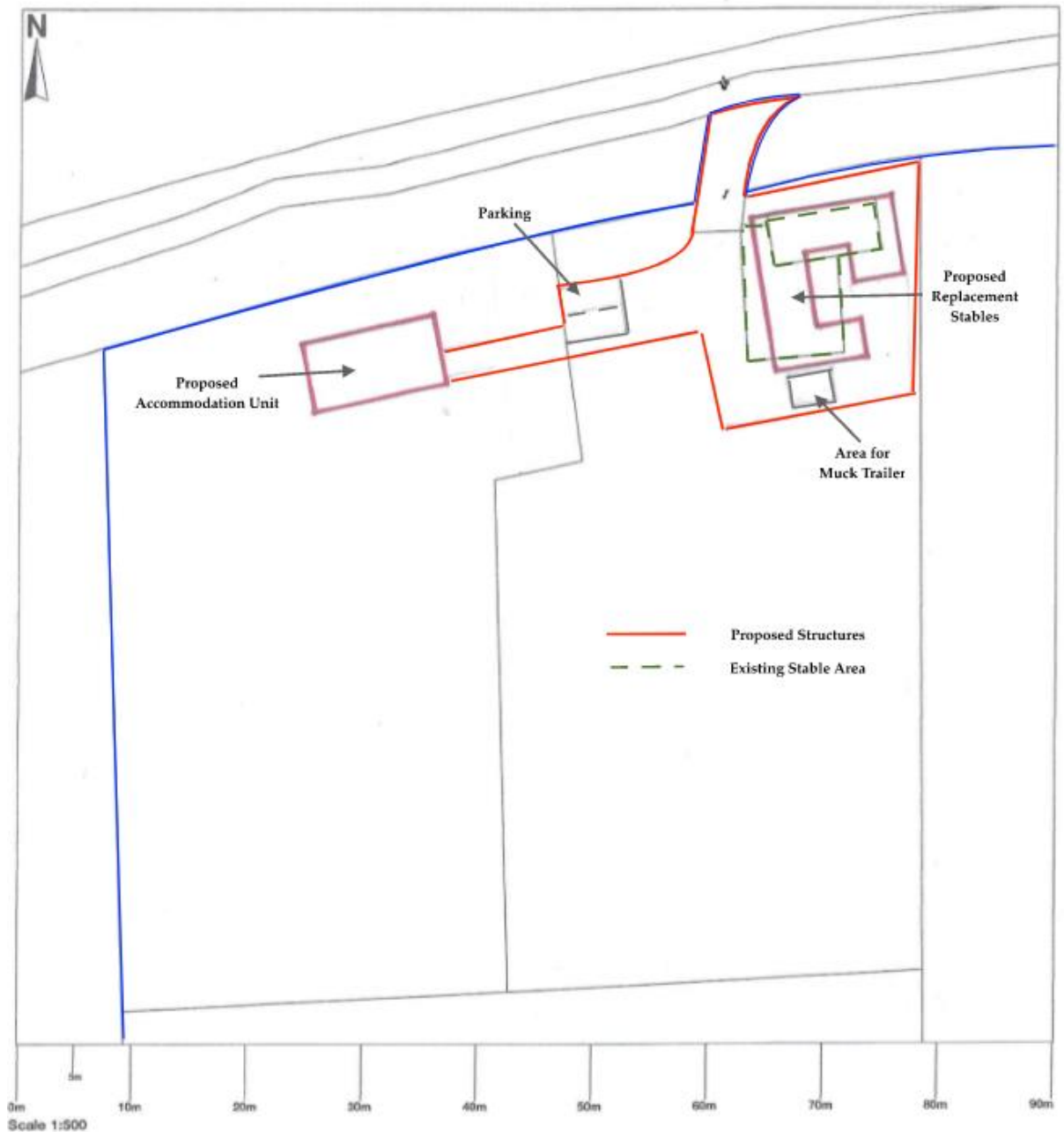


#### 4. The Proposal

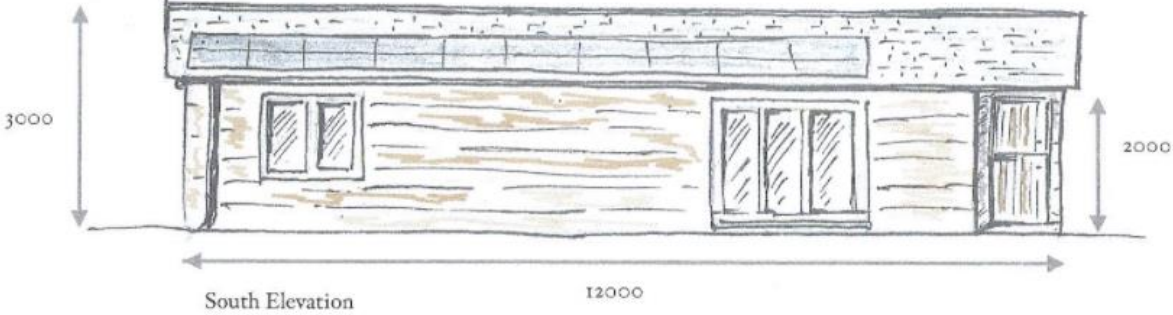
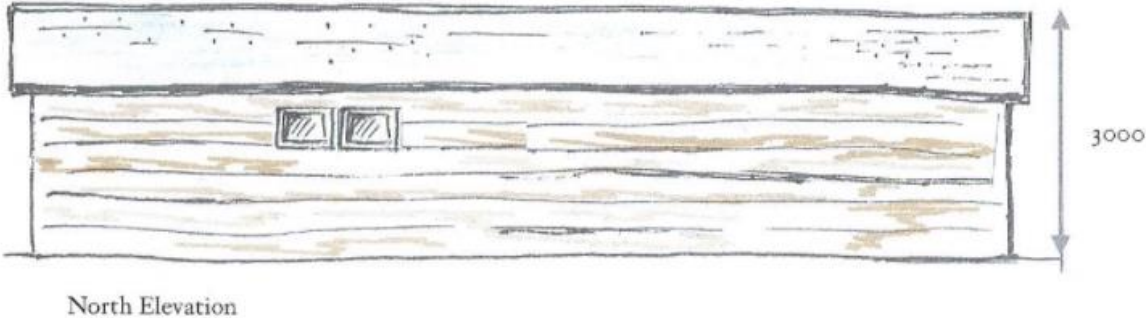
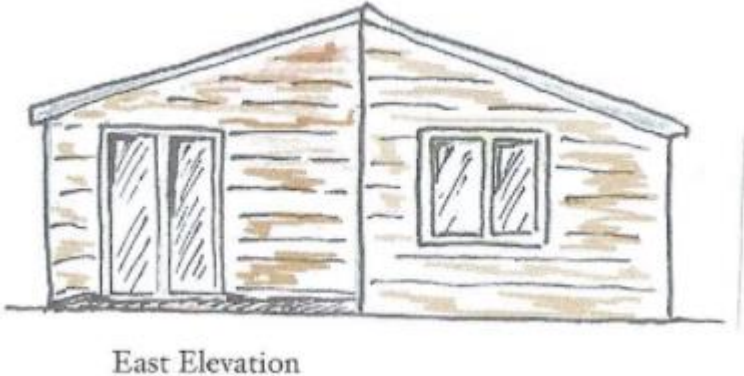
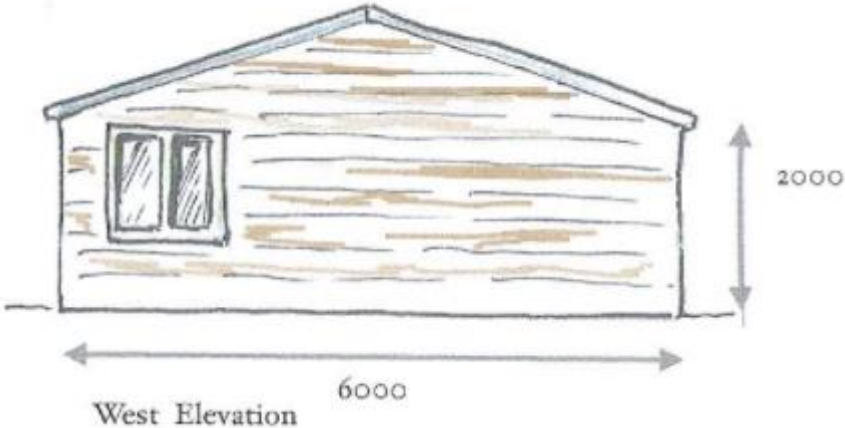
The application proposes the erection of a temporary rural worker's dwelling and replacement stabling.

Below are the proposed floor plans and elevations of the scheme.

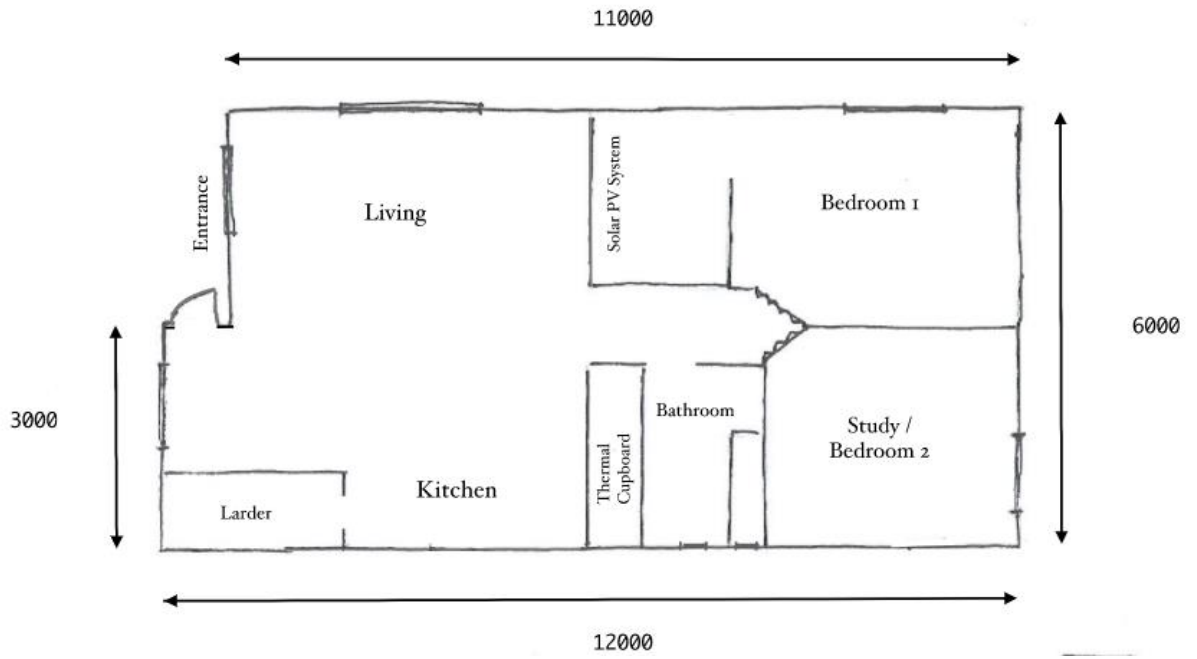
### Block Plan Land South of West Kennet Farm



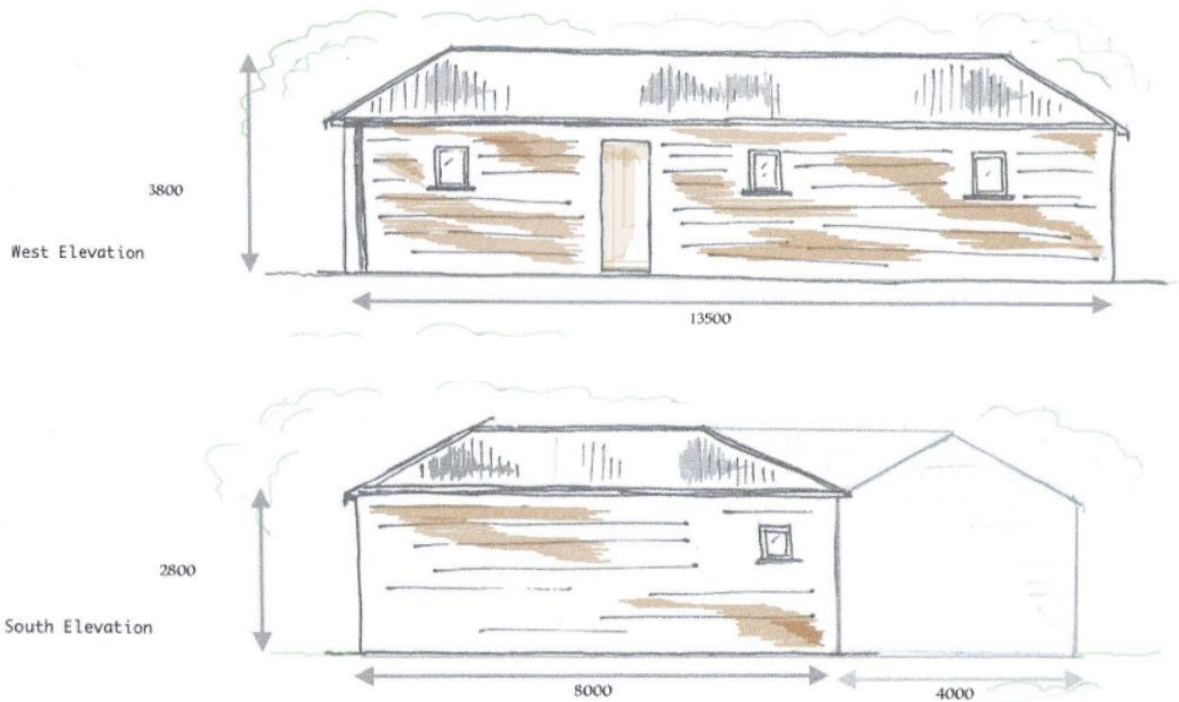
Dwelling Elevations and Plans

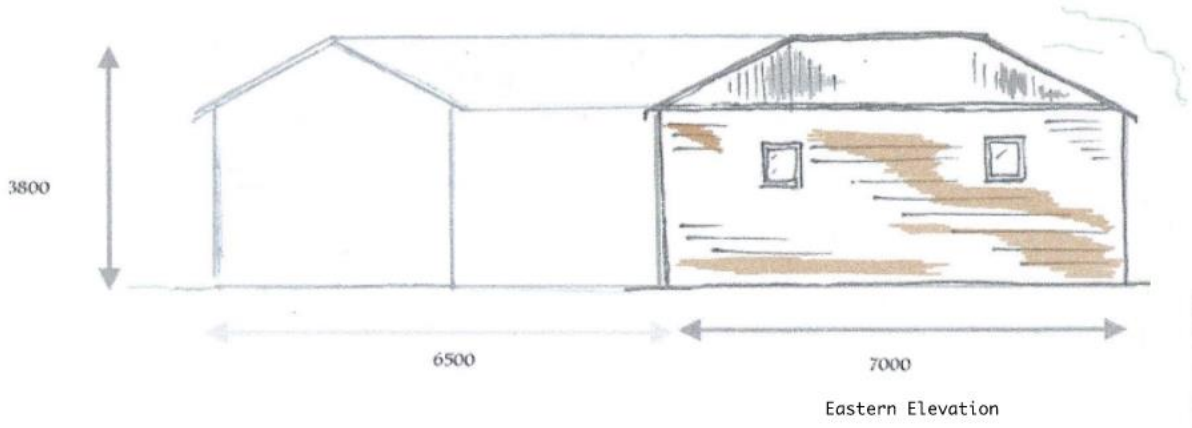
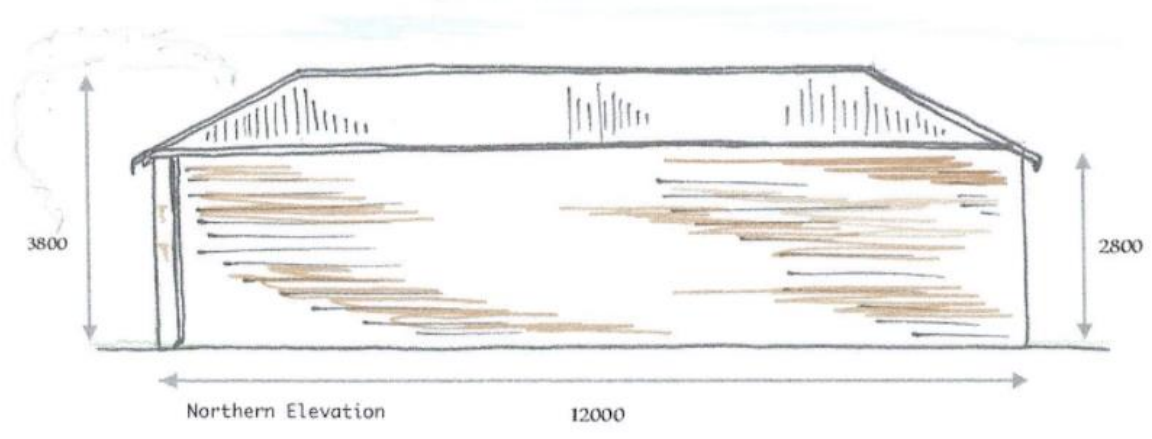


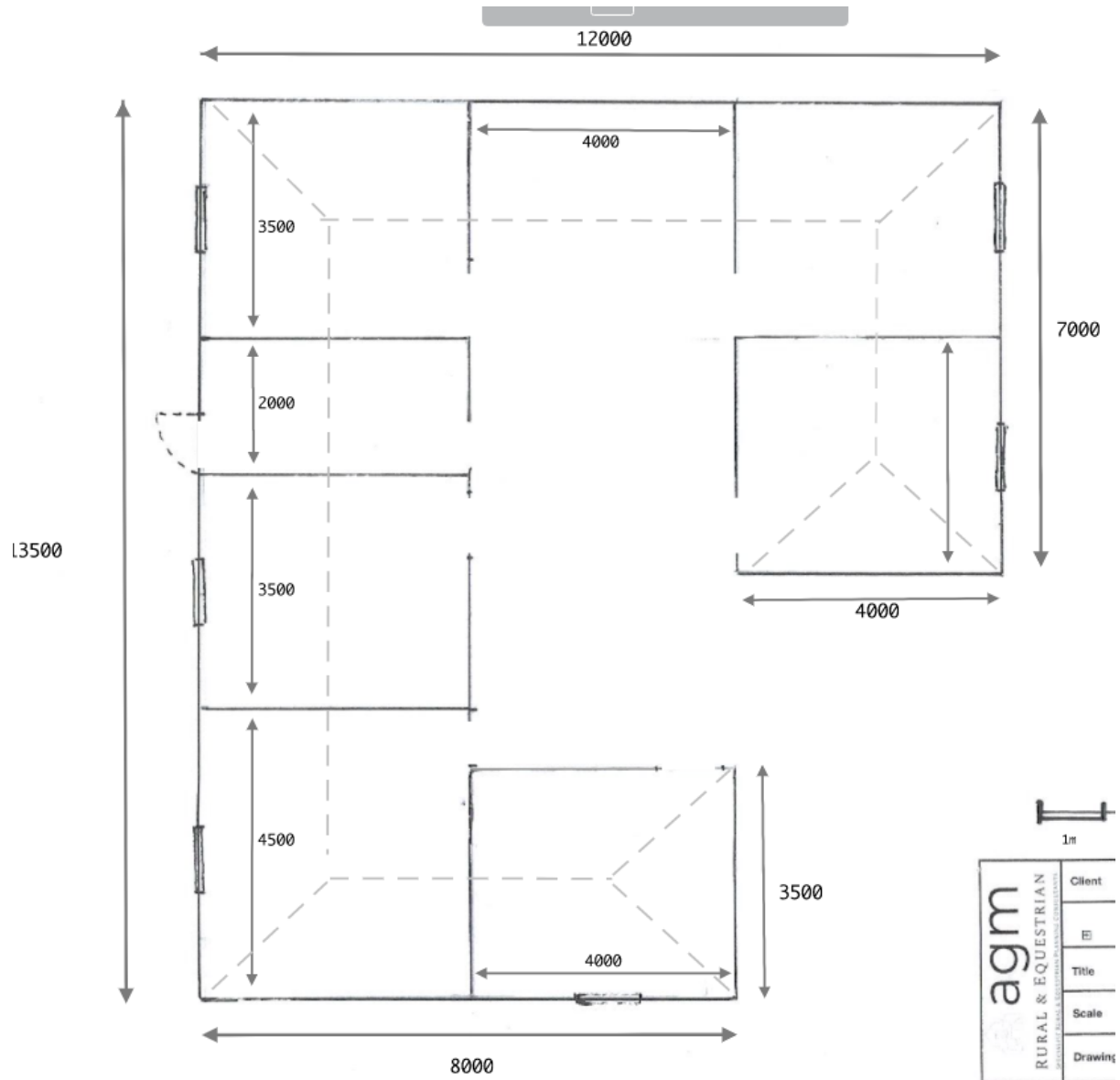





### Stable Elevations and Plans







 <b>agm</b> RURAL & EQUESTRIAN <small>ARCHITECTURE &amp; INTERIOR DESIGN</small>	Client
	E
	Title
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## 5. Local Planning Policy

### Wiltshire Core Strategy 2015 (WCS):

- CP 1 – Settlement Strategy
- CP 2 – Delivery Strategy
- CP 14 – Marlborough Community Area Strategy
- CP 48 – Supporting Rural Life
- CP 51 – Landscape
- CP 57 – Ensuring High Quality Design and Place Shaping
- CP 59 – The Stonehenge, Avebury and Associated Sites World Heritage Site and its Setting
- CP 61 – Transport and New Development
- CP 64 – Demand Management

### National Planning Policy Framework 2019 (NPPF)

Section 85 of the Countryside and Rights of Way Act 2000: requires the Local Planning Authority to 'have regard to the purpose of conserving and enhancing the natural beauty of the area of outstanding natural beauty'.

### Wiltshire Landscape Character Assessment (2005)

## 6. Relevant Planning History

No relevant planning history pertaining to the site.

## 7. Summary of consultation responses

### Avebury Parish Council

'At a full council meeting held on 1 June 2021, Avebury Parish Council resolved to object to the above application ref: PL/2021/04650 for the following reasons:

Whilst the Parish Council has no objection to the replacement stabling, it does object to the erection of a new dwelling designed for accommodation because it would represent a significant increase in adverse environmental impact.

The Parish Council was dismayed that approval was not sought from the planning authority before going ahead with the work.

The Parish Council understands that the dwelling is fully sustainable i.e. off-grid but draws attention to the fact that the only access is from a byway open to all traffic that is in a poor state of repair and likely to degrade further during winter months, limiting access by other users.

The Parish Council further notes that:

1. This is a retrospective application for a dwelling in a rural setting within a highly sensitive area, namely the UNESCO-inscribed Avebury and Stonehenge WHS and the North Wessex AONB.
2. There would be an adverse effect on the setting of nearby heritage assets including the West Kennet palisaded enclosures and long barrow.
3. Granting even temporary permission could set a precedent for future illicit developments in the WHS.

### East Kennet Parish Council

'Due to Covid restrictions we were unable to hold an Extraordinary Village Meeting to discuss planning application PL/2021/04650. However we conducted an online survey which resulted in a majority of 62.50% AGAINST the planning application.

Below is a sample of the reasons given:

- \* It has a significant impact on the Avebury and Stonehenge World Heritage Site and North Wessex AONB.
- \* The development includes a permanent residence that was constructed prior to the submission of the planning application. If approved, this will set a dangerous precedent that will see a proliferation of similar developments in the area.
- \* Previously, a much smaller scale development on this site has been refused planning permission.
- \* Access to the site is via a byway (open to all traffic) that is already heavily rutted and prone to flooding.
- \* This building is in an Area of outstanding natural beauty and will open flood gates to everyone building on fields here. Also it is clearly not temporary and is a full time home. This is a blatant attempt to manipulate planning laws.
- \* A new build in the World heritage site, the complete lack of normal planning procedures and the setting of precedents to the detriment of the area.
- \* Building was built without planning and despite a council order to stop building they ignored the instructions. Previously planning permission has been refused in this area. It is also outside the village building plan.
- \* It was built before planning was obtained and it is clearly a dwelling and not just stables making a mockery of planning rules.
- \* I feel that this cannot be allowed. Firstly the application is in an AONB, a Conservation area and a World Heritage Site. They have also put up this building without consultation and now want to turn it into temporary accommodation. The description of the proposed use of the building and also the expansion of the existing building for a business, where there are alternatives which they could pursue by renting a stable yard makes me think that temporary will then become permanent. The fact that it would appear that they have also started this building without permission is of concern. For that and other reasons like churning up the byway with vehicles, rubbish, and many other factors this cannot be allowed to proceed.'

### Wiltshire Council Highways

'Based on the information provided I wish to make the following comments:

1. The location is remote and completely reliant on the use of a private vehicle. As such an objection on the unsustainability of the proposal should be raised.
2. The location of the property on a By way will mean that refuse vehicles are unable to access the plot and as such the resident will be reliant on managing their own waste, this is not ideal.

3. The main access is over a By-Way the applicant will need to be able to demonstrate that they have vehicle rights over the route and that the PROW Team are accepting of the additional vehicle use.
4. In terms of vehicle movements I am minded that though narrow on balance the adjacent network should be able to accommodate the movements associated with a single dwelling .
5. The construction vehicles will have a big impact on the road network in terms of capacity and surfacing and as such a CMS should be provided with pre-condition surveys and a full outline of types, sizes and numbers of vehicles. (I note comments suggest that this is a retrospective application, if this is the case then the applicant will need to discuss with the PROW Team the making good of any damage which occurred through the construction. As well as conversation with the Area Highway Office to consider and put right any damage on the adopted Gunsite Road).

In summary the location is not suitable in terms of policy for a dwelling , the number of vehicle movements associated with a single dwelling are low, though the PROW is not necessarily suitable for a significant number of movements in a year , based on the information provided I am mindful that there is likely to be a reduction in movements associated with the stabling because the applicant will be living there and as such I am not minded to raise an objection.

As such based on the information provided by the applicant, I am minded that there is not likely to be a significant detrimental effect on the By-Way (BOAT).

Subject to a strong CMS I am raising no highway objection.'

#### CPRE

'CPRE objects to this retrospective application for a dwelling which is almost complete, and replacement stabling, in a sensitive location in the open countryside of the World Heritage Site and the North Wessex Downs AONB.

We note that there is no concomitant application for a change to equestrian and/or business use of the site. Core Policy 48 (Supporting rural life) states: "Proposals for accommodation to meet the needs of employment essential to the countryside should be supported by functional and financial evidence." This information has not been convincingly provided.

A recent inspection of the site evidenced that the new dwelling and its "eco-friendly" features are very prominent in views from the Byway. Again, the proposal appears contrary to CP48 which states that such proposals "will be supported where the development will not be to the detriment of the local environment". The local environment in this case is acknowledged to be of particular scenic value.

On the day of our visit to the site, there had been no significant rainfall for many days but the track giving access to it, Byway EKEN 2, was in places under mud and water. It would appear that the damage to the surface of the PROW has been exacerbated by 4x4s and heavy goods vehicles attending the site. We question its use as the only access to the development and that there is no information given concerning the maintenance of the Byway, particularly with additional vehicular use. Given its condition, it is hard to imagine it as suitable for injured animals to be driven in trailers or led along it from the highway.

The Design & Access Statement suggests that the proposed use of the facilities is 'solely private to the applicants', which does not chime with statements made by the applicants that they are seeking to operate a business from the site.

It is also unclear precisely what is being applied for. The temporary dwelling is for full-time private and business use. It is unspecified whether the intention would be to use the dwelling on a permanent basis or for a fixed (temporary) period. The replacement stabling application appears to be contingent on permission for the dwelling.

The proposed stable block provides six stables and a very small tack/feed room, but the application fails to state where and how bedding and hay for a significant number of horses would be stored.

We can find no information about services to the site, other than rainwater harvesting, which would clearly be inadequate for the number of horses anticipated, who will need approximately 50 litres a day each, plus water for washing/hosing down. How is electricity to be provided for the accommodation and stable yard?

Despite Thames Water's view that "if the developer follows the sequential approach to the disposal of surface water we would have no objection", there are no indications as to water supply to and drainage on a sloping site. The area around the bridge over the Kennet and entrance to the byway is subject to river and groundwater flooding: this again indicates that the proposal is impractical for year-round access for cars and trailers. It also raises – along with the condition of the byway – concerns about emergency access.

There is no archaeological evaluation of the site. It would be appropriate for one to be undertaken, given the sensitivity of the World Heritage Site.

Finally, we see no clear evidence that the proposal would meet any of the provisions of NPPF para 79.

We hope that the Council will refuse this application.'

#### Thames water

##### *Waste Comments:*

Thames Water recognises this catchment is subject to high infiltration flows during certain groundwater conditions. The scale of the proposed development doesn't materially affect the sewer network and as such we have no objection, however care needs to be taken when designing new networks to ensure they don't surcharge and cause flooding. In the longer term Thames Water, along with other partners, are working on a strategy to reduce groundwater entering the sewer networks.

Thames Water recognises this catchment is subject to high infiltration flows during certain groundwater conditions. The developer should liaise with the LLFA to agree an appropriate sustainable surface water strategy following the sequential approach before considering connection to the public sewer network. The scale of the proposed development doesn't materially affect the sewer network and as such we have no objection, however care needs to be taken when designing new networks to ensure they don't surcharge and cause flooding. In the longer term Thames Water, along with other partners, are working on a strategy to reduce groundwater entering the sewer network.

With regard to SURFACE WATER drainage, Thames Water would advise that if the developer follows the sequential approach to the disposal of surface water we would have no objection. Management of surface water from new developments should follow Policy SI 13 Sustainable drainage of the London Plan 2021. Where the developer proposes to discharge to a public sewer, prior approval from Thames Water Developer Services will be required. Should you require further information please refer to our website. <https://eur02.safelinks.protection.outlook.com/?url=https%3A%2F%2Fdevelop>

[rs.thameswater.co.uk%2FDeveloping-a-large-site%2FApply-and-pay-for-services%2FWastewater-services&data=04%7C01%7CDevelopmentmanagement%40wiltshire.gov.uk%7Ce4f9b5e138ee40e06e4f08d919d104af%7C5546e75e3be14813b0ff26651ea2fe19%7C0%7C0%7C637569207780379424%7CUnknown%7CTWFpbGZsb3d8eyJWljiMC4wLjA%7CwMDAiLCJQIjoiV2luMzliLCJBTil6lk1haWwiLCJXVCI6Mn0%3D%7C1000&sdta=Qjyvs4TLQCUHrf5vqyaAyaEHQqoYCyNUE6FGKbuM8jM%3D&reserved=0.](https://www.thameswater.co.uk/Developing-a-large-site/Apply-and-pay-for-services/Wastewater-services&data=04%7C01%7CDevelopmentmanagement%40wiltshire.gov.uk%7Ce4f9b5e138ee40e06e4f08d919d104af%7C5546e75e3be14813b0ff26651ea2fe19%7C0%7C0%7C637569207780379424%7CUnknown%7CTWFpbGZsb3d8eyJWljiMC4wLjA%7CwMDAiLCJQIjoiV2luMzliLCJBTil6lk1haWwiLCJXVCI6Mn0%3D%7C1000&sdta=Qjyvs4TLQCUHrf5vqyaAyaEHQqoYCyNUE6FGKbuM8jM%3D&reserved=0.)

Thames Water would advise that with regard to WASTE WATER NETWORK and SEWAGE TREATMENT WORKS infrastructure capacity, we would not have any objection to the above planning application, based on the information provided.

*Water Comments:*

If you are planning on using mains water for construction purposes, it's important you let Thames Water know before you start using it, to avoid potential fines for improper usage. More information and how to apply can be found online at [thameswater.co.uk/buildingwater](https://www.thameswater.co.uk/buildingwater).

On the basis of information provided, Thames Water would advise that with regard to water network and water treatment infrastructure capacity, we would not have any objection to the above planning application. Thames Water recommends the following informative be attached to this planning permission. Thames Water will aim to provide customers with a minimum pressure of 10m head (approx 1 bar) and a flow rate of 9 litres/minute at the point where it leaves Thames Waters pipes. The developer should take account of this minimum pressure in the design of the proposed development.'

Archaeology

'The site is located within the Stonehenge and Avebury World Heritage Site and so I would ask you to consult with the World Heritage Site Officer, Sarah Askham on this application as a matter of course.

The site is located in an area of very high archaeological potential with extensive late Neolithic funerary monuments located to the north west and south west of the site and with the Bronze Age round barrows located with the north west and south. There is a very high possibility of groundworks associated with the construction of the replacement stabling and the temporary rural worker dwelling exposing and impacting upon hitherto unrecorded archaeological features (possibly of high value) that date from the later prehistoric era. I note from the supporting documentation that no effort has been made to address cultural heritage issues, something I find surprising considering the celebrated nature of the local archaeological resource.

I would therefore advise that the footprint of the temporary accommodation and those parts of the replacement stables that are currently not beneath standing buildings, be investigated for archaeological remains prior to the determination of this application. This work would consist of a geophysical survey of the whole development area, followed by the excavation of the accommodation and stable footprints by qualified archaeologists, following the standards and guidelines for archaeological excavation as set out by the Chartered institute for Archaeologists (CIfA). I would advise the applicant to engage the services of an archaeological consultant to prepare a Written Scheme of Investigation (WSI), setting out how the geophysical survey and the excavations will be carried out and how the results of this work are to be published. This WSI should be presented to Wiltshire Council Archaeology Service (WCAS) for review and approval before any fieldwork takes place.



Were planning permission to be given for this proposed development, I would also advise that once the current stables are demolished, the remaining footprint of the new stabling should also be made the subject of an excavation, this excavation to be secured via a condition to be attached to the granted permission. Such a condition would be worded thus:

'No development shall commence within the area indicated by application PL/2021/04650 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.'

The costs of this work are to be borne by the applicant.'

## 8. Publicity

The application was advertised for a period of 21 days. As a result of this exercise, objections have been received from 4 individuals. The principal comments put forward are highlighted below:

- The access is along the Byway both for horse boxes, residents and visitors which is unsatisfactory. The Byway has been in a dreadful condition for many years and has materially deteriorated during the current building work.
- It is contrary to regulations governing AONB and World Heritage Sites and if approved would make a nonsense of the council's past decisions in relation to this area (eg rejected applications 17/04754/FUL and K/57333F).
- What happens if business fails – what happens to the approved dwelling?
- It is close to the West Kennett palisades and other neolithic features.
- Allowing this development and associated expansion sends the wrong message to other landowners and If this is allowed there is scope for further expansion of the site with little accountability to Wiltshire planning.
- My objections to the above planning application are as follows:
- It sets a dangerous precedent, The building looks like a main residence and not a workshop and should be firmly dealt with as there are plenty of field owners who would love to build residential units/log cabins in the area.
- Retrospective application and the total disregard for the planning process and the authorities.
- A very sensitive area within the AONB and WHS.
- The building is fully plumbed and not mobile.
- It is a 2/3 bed dwelling not a workshop.
- Public right of way is parked on by the applicants all the time, blocking it.
- No need for the business here – could be located elsewhere
- Anyone would be able to set up an animal sanctuary with a log cabin if this gets approved.

In addition to the above, 1 letter of support has been received, stating the following:

- They run a legitimate business based on their land holding in East Kennet and have demand of their services relating to horse rehabilitation and management.

- The site within the AONB and beyond the built environs of East Kennet is well hidden with access via a muddy by way used by walkers, the odd cyclists and very occasional farm vehicle.
- The nature of the design and scale of the accommodation building means that it has minimal impact on the surrounding land and doesn't need to draw on mains utility services. It is well screened by existing hedges and trees and has to be particularly looked for to find it.
- The replacement stable block will replace a dilapidated existing unit and will improve on what is currently at the site.
- Together the accommodation and plans for the replacement stable will secure continued employment and make provision for quality equine rehabilitation which is important in this rural area.
- In short this fits in with guidance from both local plans and the national planning framework and the objectives of the AONB.

## 9. Planning Considerations

### Principle of Development

The proposed dwelling would be situated in the open countryside where under Core Policy 1 and 2 there is a presumption against new residential development outside of the defined Limits of Development of the settlements unless it meets one of the exception policies within the WCS. In this case, the relevant policy would be Core Policy 48. This policy states that new dwellings in the open countryside are permissible subject to them being required to meet the essential needs of a rural worker who is required to live permanently at or near their place of work to ensure the proper functioning of the business. However, this need must be supported by functional and financial evidence. In addition to this policy, paragraph 80 of the NPPF states:

*“Local planning authorities should avoid new isolated homes in the countryside unless there are special circumstances such as the essential need for a rural worker to live permanently at or near their place of work in the countryside”*

The applicants have explained how the business will operate on the site and exactly why the need arises for a dwelling on site in the Design and Access Statement. Officers are satisfied that the reasons for the dwelling are genuine and meet with policy requirements. For example, being within earshot of the stables to tend to sick and injured horses is a standard functional justification for requiring an equestrian worker's dwelling (emphasised more in this case given the nature of the business will be tending to sick horses as part of remedial and holistic treatment).

Although it has been suggested that the business could be operated elsewhere, this is the extent of the applicant's land ownership. They do not own land elsewhere and as such, the local planning authority (LPA) cannot simply use this as justification to refuse an application. Furthermore, the applicants have built up a client base in the locality which provides for a viable business. A location such as this is within the heart of an area which is steeped in 'horsiculture' with many other equestrian enterprises nearby.

### Design / Visual Impact

The site lies within the AONB where planning policy places great weight on conserving its landscape and scenic beauty which has the highest status of protection in relation to these matters (paragraph 176 of the NPPF). It is appreciated that there have been a number of objections surrounding the impact to the landscape of the area and wider AONB as a result of the proposal.

The existing stables are somewhat dilapidated and of no architectural merit. As such, there is no objection to their removal. However, that does not automatically mean replacement stables are an appropriate response to the sensitive landscape in which they would sit. That said, when taking account of the scale of the proposed stables, they will not be too dissimilar from the existing. They will also be of higher quality design. Couple this with the existing screening that the site benefits from and it is considered that they would not cause significant adverse impacts upon the AONB.

More specifically, the land in question is already in equestrian use and, as stated above, contains a block of stables on it. It would be hard to suggest that the proposed stables, on broadly the same footprint, would alter the character of this part of the landscape to a harmful extent as the make-up of the site and its landscape components are not changing. As such, with regards landscape character, your officers consider the scheme not to have any adverse effects.

In respect of visual effects, similar conclusions are drawn to the above. The character of the site will remain broadly the same and is one which is part and parcel of the countryside (notably in this area where there is a diverse and rich equestrian community). Therefore, users of the nearby BOAT would, when able to see into the site (which is limited), not be faced with an unsurprising feature i.e. stables are a common appearance in the countryside. Taking account of topography and existing vegetation and buildings, views into the site from other public vantage points are very limited. Accordingly, the visual effect upon the AONB is very localised and one that does not amount to significant harm – to suggest that would be implying that its visual envelope extends far beyond the application site. Accordingly, the proposed stable block is considered to comply with the requirements of Core Policy 51.

The design of the stables is fairly standard with an appropriate form and choice of materials. Its scale and height are in keeping with the existing structure it is intending to replace and respectful of the context of the site. The site itself is large enough to accommodate the stable block without the appearance of overdevelopment. Officers conclude that the stable block is in broad accordance with the requirements of Core Policy 57 of the WCS.

With regard to the dwelling, the application before the Council is to consider the visual impact of a temporary structure. In respect of the temporary nature of the existing structure on the site, the applicant has submitted a statement regarding the mobility of the it and that its sizes meet the definitions stipulated within the Section 13(1) of the Caravan Sites Act 1968. Officers are satisfied that it is a mobile structure and does not constitute a building operation. That aside, whilst this is a temporary permission, it is still prudent to consider the implications beyond the temporary 3-year period i.e. the visual impacts if an application were to be made for a permanent dwelling on the site at a later date should the business case still arise.

In this case, the structure is sympathetic to its rural surrounds in terms of height, scale and materials, and is positioned within the corner of the field such that it can take advantage of the boundary screening. Whilst the character of this part of the site will indeed change with residential use that is not necessarily to a harmful extent. The components that make up the character of this part of landscape have not been removed or eroded to accommodate this temporary dwelling, and it will be possible to control certain aspects via condition to ensure the land does not take on an overtly domestic nature. As such, the temporary dwelling will not have an adverse impact on the landscape character of this part of the AONB.

Although elements of the dwelling are visible from the BOAT, these are mostly limited to the point where access is attained into the site and thus are very localised. For the most part, the BOAT is well apportioned with vegetation, and the lie of the land (the BOAT is slightly sunken below the application site) seek to restrict/greatly reduce the intervisibility between it and the dwelling. As with the stables, from more distance views, buildings, topography, and vegetation will limit the dwellings visibility. Although, where visible, a dwelling may seem out of place, in conjunction with an equestrian business containing a stables and paddocks, it will not be uncommon or surprising feature within a wider landscape where similar dwellings can be found. Overall, therefore, the temporary dwelling will not have significant adverse visual effects.

Based on the above assessment, it is reasonable to assume that a permanent dwelling could be accommodated on the site without adverse impacts. The design of course is critical, but, assuming a similar style log cabin was constructed on the site of a comparable scale then one would assume the impacts would be broadly the same. Such matters could be controlled through subsequent applications made on the site and by the submission of a robust landscaping plan.

In respect of the design of the dwelling, it is a mobile structure and as such, does not constitute a building operation that need be assessed under our design policy. Information has been supplied by the applicant to confirm this. Your officers do not disagree with this assessment. That said, its log cabin style design is perhaps more sympathetic to the context of the site than the all too familiar standard metal clad mobile home. There are no issues to consider here against the criteria of Core Policy 57 of the WCS. The use of the land for residential purposes associated with the equestrian business proposed in this application is not considered to cause conflict with Core Policies 51 or 57 given the fact that no domestic curtilage is provided (the red line plan is drawn tightly around the dwelling, path and parking spaces). However, for the avoidance of doubt, permitted development rights are to be removed for sheds, fences, outbuildings etc. by way of condition, in the interests of visual amenity.

The proposal is therefore considered to protect / conserve landscape character in accordance with the requirements of Core Policy 51 of the WCS and Section 85 of the Countryside and Rights of Way Act 2000. The scheme is also considered to be in broad accordance with the requirements of Core Policy 57 of the WCS and is thus of acceptable design.

#### Neighbour Amenity

There are no neighbours in close proximity to the site that stand to be affected by the proposal. The nearest dwelling is over 400m away.

#### Highways Safety / Parking

With regard to the location, if deemed acceptable as a rural worker's dwelling, this cancels out the objection on the grounds of sustainability as such uses are permitted in the open countryside.

In relation to traffic movements along the Byway Open to All Traffic (BOAT), the applicants have stated on page 11 of their Design and Access Statement that the estimated no. of movements a year is currently 3,807. If the applicants are able to attain planning permission for a dwelling on the site, then this figure drops to 1,617 movements a year as they are no longer having to travel to the site a few times a day to tend to the horses.

The existing use is one in which the LPA cannot control and results in a far greater number of vehicles entering and exiting the site and driving along the BOAT than the proposed

use would. This is what one would consider as the fall-back position i.e. the use that could occur on the site without the need for planning permission.

The NPPF states at paragraph 109 that:

*“Development should only be prevented or refused on highways grounds if there would be an unacceptable impact on highway safety, or the residual cumulative impacts on the road network would be severe.”*

With a significant reduction in vehicle movements along the BOAT, it would be difficult to suggest that the proposed use would have a greater impact upon it, or indeed, the surrounding highway network. It is because of the reduction in trip numbers that the local highway authority are raising no objections to the scheme.

Whilst it is noted by locals that the applicants park their cars on the BOAT, the granting of planning permission would not sanction/authorise this. Obstruction of a public right of way is a matter controlled through other legislation outside of the planning remit.

#### World Heritage Site

The site lies in a secluded position with limited intervisibility between it and the wider area due to the topography and the existing dense boundary vegetation. It contains no individual monuments (both designated or non-designated) that may contribute to the archaeological or monumental significance of the WHS. The submitted World Heritage Site Impact Assessment states that:

*“It is considered that the Site forms part of the wider landscape of the WHS. The field containing the Site is assessed to offer a negligible contribution to the OUV of the WHS due to its secluded nature, very small scale in relation to the whole WHS, and its lack of any known archaeological or monumental component.”*

Officers are inclined to agree with this statement about the site’s contribution to the WHS.

Taking account of the above, the dwelling will not be readily visible from outside of its immediate field setting. It is a single storey structure with no foundations fixing it to the ground and constructed from materials that are harmonious with its surrounds. The ‘eco’ design means that it does not require connection to utilities which further reduces its impact upon the WHS. It is considered that the temporary dwelling would not have a harmful impact upon the WHS or any components within it that are of Outstanding Universal Value.

The proposed stables are very similar in scale and form to the existing ones. As such, they will not present much of a differing impact to the World Heritage Site and therefore, it can be concluded that the status quo will remain in this regard. It would be difficult to argue the case otherwise.

Furthermore, it is noted that the WHS does contain other equestrian facilities – a notable one being the racing stables at Beckhampton. As such, equestrian-related activities with associated small-scale buildings would not be introducing a use within the WHS that is not already present.

#### Archaeology

The site is in an archaeologically sensitive area and as such, archaeological investigation should have taken place prior to ground disturbance works. As the dwelling has already been built, groundwork has already taken place and any damage to below ground assets will have already occurred. Accordingly, having discussed the matter with the County

Archaeologist, it is no longer considered necessary to insist upon investigatory works for the dwelling.

With regard to the replacement stables, should the concrete slab the current ones sit on be removed and replaced, or simply enlarged, then it would be expected that archaeological investigation should take place. This could be conditioned in line with the County Archaeologist's recommendations. Should no ground disturbance work be occurring (i.e. the stables can be constructed entirely on the current concrete slab), then such works would not be necessary.

#### Issues Raised by Third Parties

Unless future plans are included in the application documentation then worries or hearsay about possible future expansion or alternative uses of the application site are not a material planning consideration. In any event, such uses would be subject to planning controls and would be determined on the planning merits of the case at the time.

Precedent should not be over-emphasised. Allowing this use and buildings to be located on this parcel of land does not automatically pave the way for other fields around East and West Kennet to be built upon. Every application is determined based upon its individual planning merits.

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

In principle, the application meets the requirements of Core Policy 48 in that there is a functional and financial justification for the dwelling. In addition, support is mustered from paragraph 84 of the NPPF which seeks to ensure a prosperous rural economy. As such, there is no 'in principle' objection to the development.

Officers consider the design of the scheme to be in broad accordance with the requirements of Core Policy 57 of the WCS – the dwelling itself being temporary and the stables being of similar appearance and scale to the existing ones on the site. A reason for refusal would therefore not be warranted on design grounds.

Overall, the visual impact of the scheme upon the AONB landscape would not be significant. This conclusion is drawn when taking account of existing planting, the undulating topography, and the limited public vantage points of the site. Landscape character would thus be reserved in accordance with Core Policy 51 of the WCS.

For similar reasons as above, and the fact the site itself does not contain any archaeological or monumental features, it is not considered that the scheme would harm the Avebury World Heritage Site or any of its attributes of Outstanding Universal Value to an extent that would justify refusing planning permission. Therefore, the scheme is considered to comply with Core Policy 59 of the WCS.

Whilst accepting that access onto the site from the BOAT is not the most suitable, given the proposal will result in far fewer vehicle movements than at present, the local highway authority has not objected to the scheme. Officers consider that the development accords with Core Policy 61 of the WCS and that a reason for refusal would be difficult to substantiate.

## RECOMMENDATION

That the application be APPROVED subject to the following conditions:

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

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

2. The mobile home hereby permitted shall be removed and the land restored to its former condition within 3 years of the date of this permission.

REASON: In the interests of the landscape character and appearance of the AONB and World Heritage Site and in order to secure the restoration of the land upon removal of a building for which permission can be justified only on the basis of a special temporary equestrian need.

3. The development hereby permitted shall be carried out in accordance with the following approved plans and documents:

- Dwg Ref: Application Form
- Dwg Ref: Location Plan 1:2500
- Dwg Ref: Proposed Site Plan 1:500
- Dwg Ref: AGMRE – 001 Proposed Accommodation Elevations
- Dwg Ref: AGMRE – 002 Proposed Accommodation Unit Floor Plan
- Dwg Ref: AGMRE – 003 Proposed Stable Elevations 1
- Dwg Ref: AGMRE – 004 Proposed Stable Elevations 2
- Dwg Ref: AGMRE – 005 Proposed Stable Floor Plan

REASON: For the avoidance of doubt and in the interests of proper planning.

4. No further 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;
  - h) measures for the protection of the natural environment; and,
  - i) hours of construction, including deliveries.

has been submitted to, and approved in writing by, the Local Planning Authority. The approved Statement shall be complied with in full throughout the construction period. The development shall not be carried out other than in accordance with the approved construction method statement.

REASON: To minimise detrimental effects upon the Public Right of Way that is used to access the site.

5. Once the current stables are demolished, the remaining footprint of the new stabling shall be made the subject of excavation prior to its erection. This shall include:
  - 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.

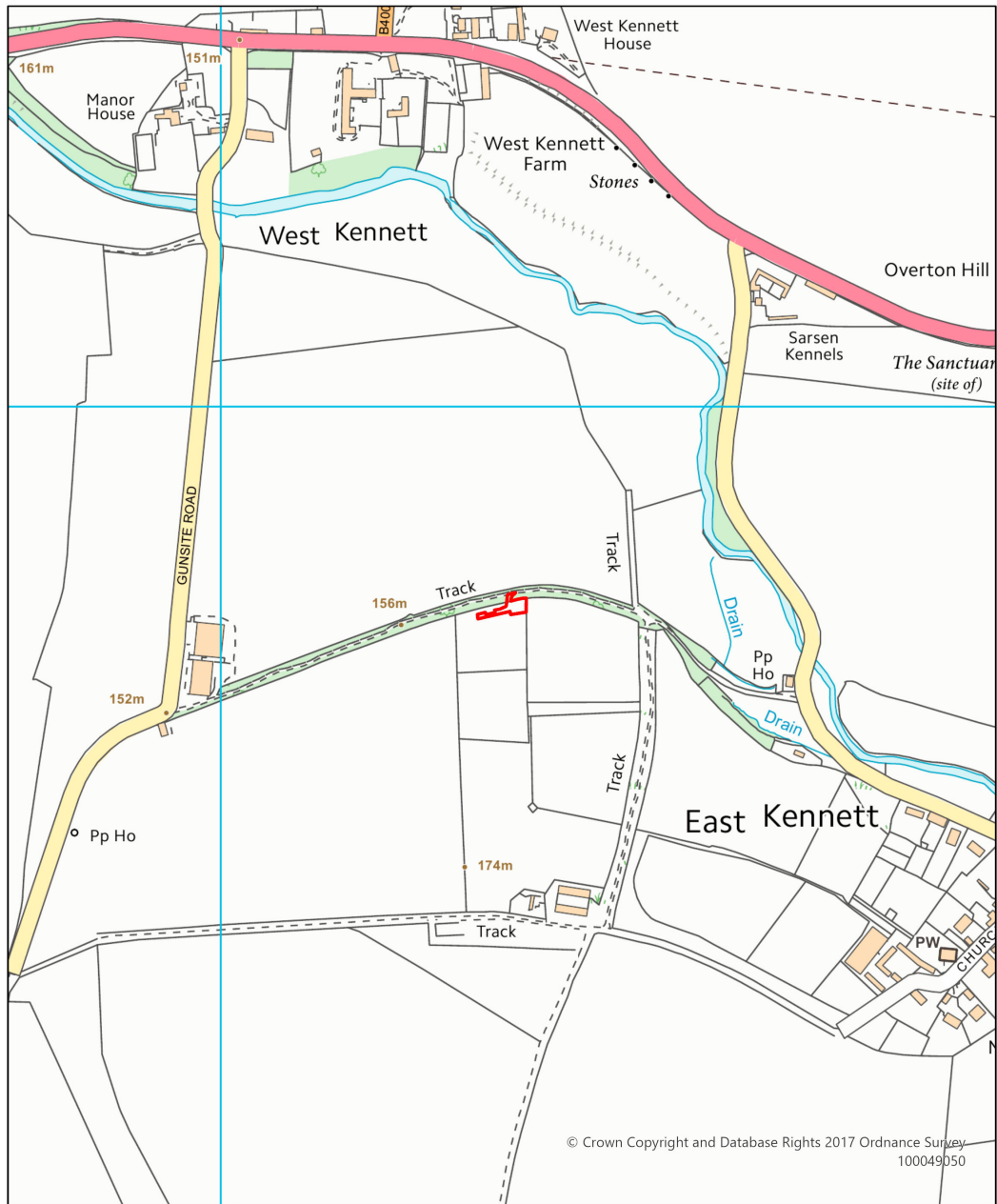
6. The occupation of the accommodation hereby permitted shall be limited to a person solely or mainly working, or last working, in the training/keeping/breeding of horses, in agriculture or in forestry in the locality, or a widow or widower of such a person, and to any resident dependants.

REASON: The site is in an area where residential development for purposes other than the essential needs of agriculture or forestry is not normally permitted and this permission is only granted on the basis of an essential need for a new dwelling/residential accommodation in this location having been demonstrated.

7. Notwithstanding the provisions of the Town and Country Planning (General Permitted Development) (England) Order 2015 (as amended by the Town and Country Planning (General Permitted Development) (Amendment) (No.3) (England) Order 2020 (or any Order revoking or re-enacting or amending that Order with or without modification), no buildings or structures, or gate, wall, fence or other means of enclosure, other than those shown on the approved plans, shall be erected or placed anywhere on the site on the approved plans.

REASON: To safeguard the character and appearance of the area which is within the North Wessex Downs AONB and Avebury World Heritage Site.





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## REPORT FOR EASTERN AREA PLANNING COMMITTEE

Report No. 4

<b>Date of Meeting</b>	2 <sup>nd</sup> December 2021
<b>Application Number</b>	PL/2021/07750
<b>Site Address</b>	Soley House, West Soley, Chilton Foliat, RG17 0GW
<b>Proposal</b>	Erection of a farm manager's annexe (gate house) to Soley House
<b>Applicant</b>	Mr Adrian Gott
<b>Town/Parish Council</b>	CHILTON FOLIAT
<b>Electoral Division</b>	Aldbourn & Ramsbury (Cllr Sheppard)
<b>Grid Ref</b>	SU 31080 72289
<b>Type of application</b>	Full Planning
<b>Case Officer</b>	Ruaridh O'Donoghue

### Reason for the application being considered by Committee

The application is called to committee at the request of Councillor Sheppard, to allow for discussion over the principle of providing of a gate house/farm manager's dwelling at Soley House.

#### 1. Purpose of Report

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

#### 2. Report Summary

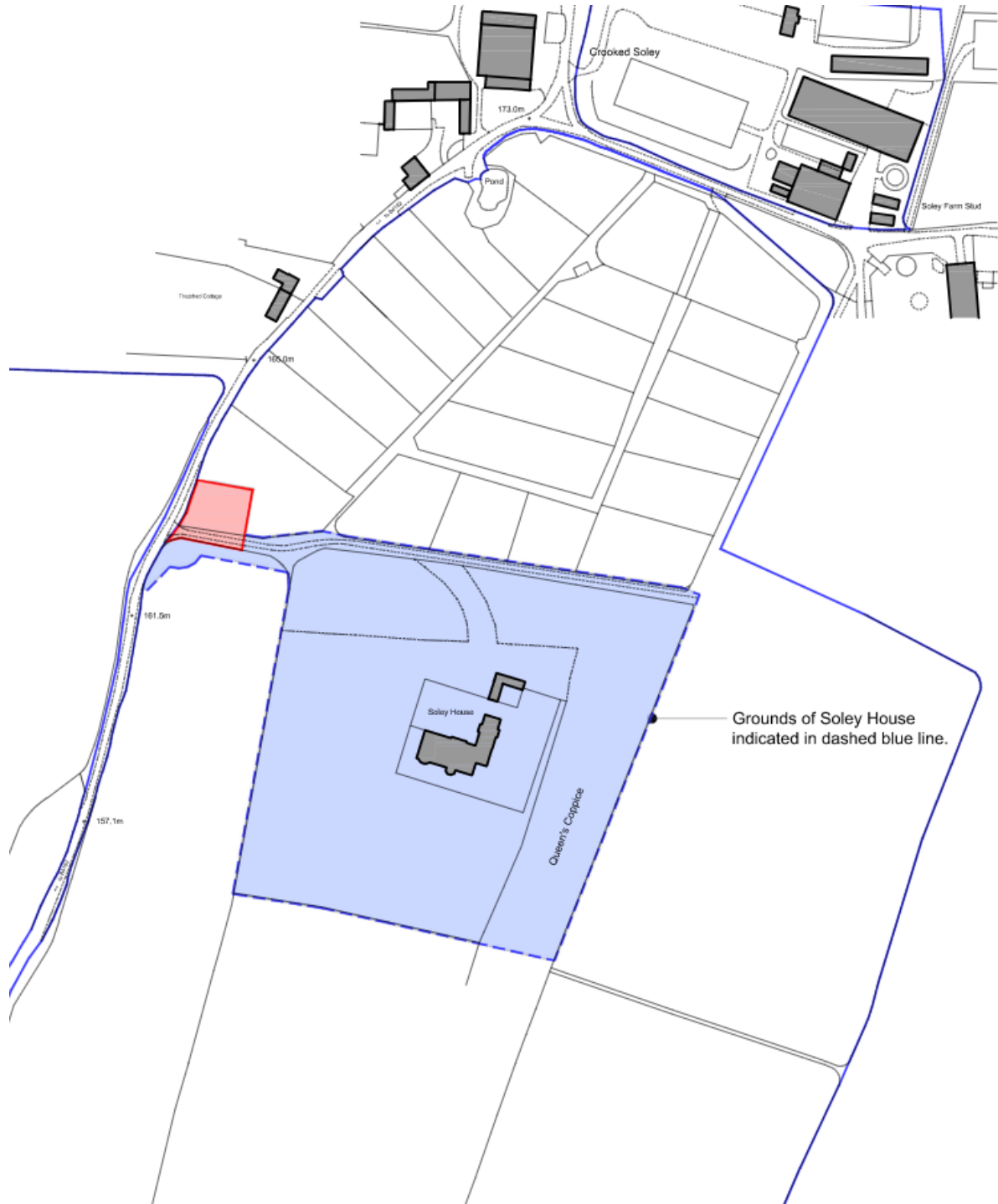
The main issues to be considered are:

- The principle of a new countryside dwelling in this isolated position, with particular regard to the functional need and financial 'tests' established in former PPG7 Annex A which appeal inspectors have satisfied to use as a framework for establishing the justification for such dwellings (CP 48);
- Whether the scheme constitutes high quality design (CP 57);
- Whether the scheme would have an acceptable landscape impact (CP 51); and,
- Whether the proposal would have a negative effect upon highway safety, including if there is sufficient parking for the proposed development (CP 61 and 64); and

#### 3. Site Description

The application relates to Soley House, near Chilton Foliat. The property is a large, detached dwelling with extensive grounds lying within the open countryside in the North Wessex Downs Area of Outstanding Natural Beauty.

Below is a location map that shows the context of the site.



#### 4. The Proposal

The application seeks full planning permission for the erection of a farm manager's annexe (gate house) to Soley House.

The Design and Access Statement by Harrison Pitt Architects explains that the annexe is intended to be a security feature to Soley House with modest living accommodation. It is said "The building is to have a traditional appearance and present a good first impression to visitors to Soley House" and the "The applicant wishes to create a first impression appropriate to the scale and stateliness of Soley House".

The dwelling is to be constructed out of knapped flint and brick with a thatched roof. It will be served by two parking spaces taken off the main drive to Soley House.

Below is the proposed site plan showing the gatehouse in conjunction with the approved re-designed driveway entrance, and elevations and plans of the proposed dwelling.



**GATE HOUSE ELEVATIONS**



East Elevation



South Elevation

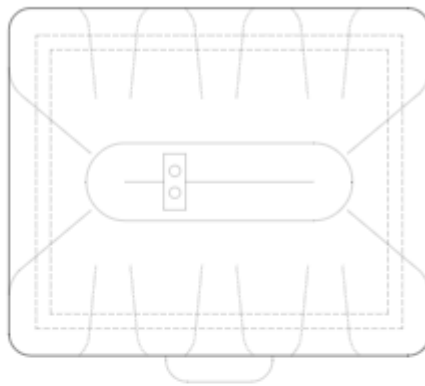


North Elevation



West Elevation

**GATE HOUSE PLANS**



Roof Plan



First Floor



Ground Floor

## 5. Local Planning Policy

### Wiltshire Core Strategy 2015 (WCS):

- CP 1 – Settlement Strategy
- CP 2 – Delivery Strategy
- CP 14 – Marlborough Community Area Strategy
- CP 48 – Supporting Rural Life
- CP 50 – Biodiversity and Geodiversity
- CP 51 – Landscape
- CP 57 – Ensuring High Quality Design and Place Shaping
- CP 60 – Sustainable Transport
- CP 61 – Transport and New Development
- CP 64 – Demand Management

### National Planning Policy Framework 2019 (NPPF)

Section 85 of the Countryside and Rights of Way Act 2000: requires the Local Planning Authority to 'have regard to the purpose of conserving and enhancing the natural beauty of the area of outstanding natural beauty'.

### Wiltshire Landscape Character Assessment (2005)

The Kennet Landscape Conservation Strategy Supplementary Planning Guidance (May 2005) and associated Landscape Character Assessment (1999).

The North Wessex Downs Area of Outstanding Natural Beauty Management Plan 2014 – 2019.

Wiltshire Local Transport Plan 2011 – 2016: Car Parking Strategy (March 2011).

## 6. Relevant Planning History

In October 2000, planning permission was granted to build a new principal house at Soley Farm Stud near Chilton Foliat (ref: K/38538). This permission was subject to an equestrian occupancy condition. At the time planning permission was granted, an additional occupancy restriction was imposed by way of a Section 106 legal agreement. The scheme was re-applied for in June 2002 (ref: K/41551), with the same occupancy condition imposed, and the same restrictions applied by way of another Section 106 legal agreement.

In August 2016, an application was made for a certificate of lawfulness (ref: 16/07161/CLE) for the occupation of Soley House in breach of condition 2 of planning permission ref K/41551 (equestrian occupancy tie) for a period more than 10 years. This was approved in September 2016 as the Council had no evidence to the contrary to refute the claims made by the applicant. The certificate of lawfulness permitted the use of the dwelling without any occupancy restrictions. However, the Section 106 agreement was still in force and unrestricted occupancy of the dwelling would still constitute a breach of the legal agreement despite the approval of the certificate of lawfulness application. As such, an application was made under Section 106A of the Town and Country Planning Act 1990 to discharge the agreement because it no longer served a useful planning purpose. The application was approved by the Council September 2018.

The application property is therefore an open C3 'Dwellinghouse' use without any occupancy restrictions. The dwelling does however benefit from ancillary accommodation in the form of two self-contained flats granted in October 2002 (application reference K/43897). The planning permission was for two staff flats with a condition of the planning permission restricting the occupation of the flats "for purposes ancillary to the residential use of the new dwelling at Soley Farm granted permission under K/041551". It is understood that the planning permission was implemented and that the flats are currently occupied.

In December 2010, planning permission was granted for a new indoor swimming pool building with associated facilities (application reference E/10/1481/FUL). In January 2015, planning permission (application reference 14/05045/FUL) was granted for a new building to provide ancillary accommodation. The planning permission was for a new building to provide ancillary accommodation in the grounds of the property to the north-west of the dwellinghouse. The building had 3 bedrooms and all the facilities for day-to-day living, occupying a footprint of some 240m<sup>2</sup>. An associated Section 106 agreement, dated 8<sup>th</sup> January 2015, specifies that the Annexe shall not be occupied "other than in conjunction with the House as ancillary accommodation".



*Planning permission 14/05045/FUL approved Site Plan*

The local planning authority was notified via letter on 6 August 2015 that planning permission reference 14/05045/FUL has been implemented. It was however established during recent discussions that planning permission E/10/1481/FUL commenced via some part foundation works and therefore remains extant. The works however pre-date planning permission 14/05045/FUL which the Council considers has expired.

A pre-application enquiry ref 19/08471/PREAPP was submitted in 2019 for the construction of a Gate Lodge for Soley House and improvement to the existing access



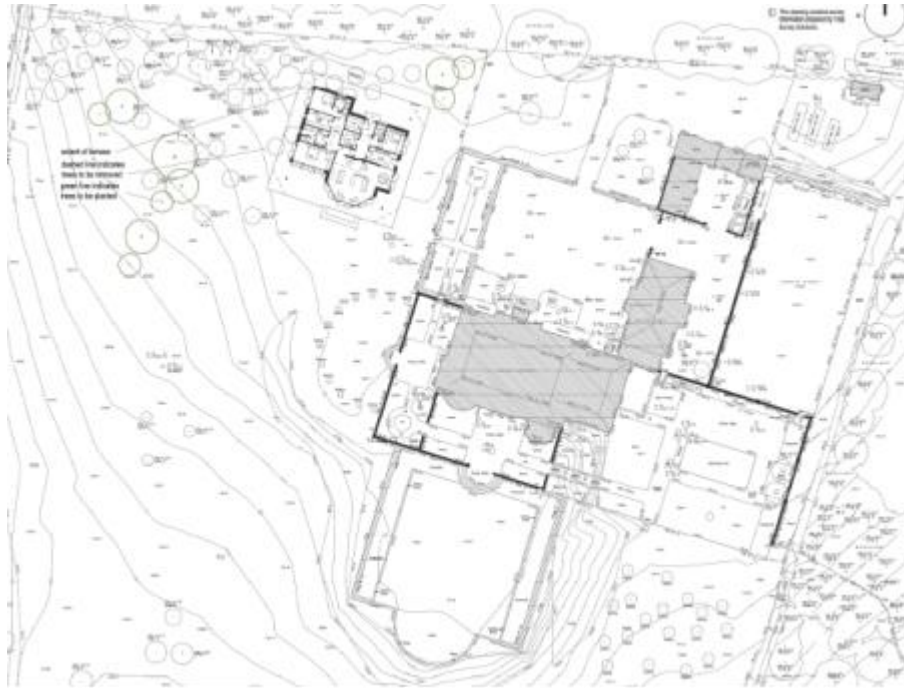
arrangements, as shown in Proposed Block Plan below. The proposal was subsequently the subject of planning application 19/12159/FUL.



*Proposed Block Plan*

The application, ref 19/12159/FUL, was amended following discussions with the applicant and his advisors in relation to the proposed Gate Lodge and the planning history of the property. The updated application sought planning permission only to reconfigure and improve the access and gateway to the property. The application was granted planning permission on the 18<sup>th</sup> May 2020.

In October 2020 planning permission was granted for a “new building to provide ancillary accommodation” within the residential grounds of Soley House (application reference 20/04295/FUL). The permission was, in essence, the same as planning permission 14/05045/FUL, which the Council considered had expired but was a key material planning consideration when considering the proposal afresh.



Planning permission 20/04295/FUL - Approved Site Plan

The new planning permission, ref 20/04295/FUL, was subject to a legal agreement which had the following occupancy restrictions: -

1. Not to occupy the Annexe other than in conjunction with the House as ancillary accommodation and not to sell, lease or otherwise dispose of the Annexe unless such sale, lease or disposal shall include the sale, lease or disposal of the Land and the House and every part thereof
2. Not cause or permit any separate curtilage to be formed around the Annexe
3. The Owner shall provide to the Council on demand copies of any documents or other evidence as the Council may reasonably require to satisfy itself as to the nature of any occupation of the Land, Annexe and House.

In October 2020 an application ref 20/09234/FUL was also submitted for the erection of an annexe to Soley House. Following officer concerns around the principle of providing a dwelling for a security manager to reside in within the open countryside, the application was withdrawn.

## 7. Summary of consultation responses

### Wiltshire Council Highways

'The details of the application suggest that the house is to be linked with the business use of Soley House. The current access has limited visibility and as such is substandard. However, based on the position that the proposed dwelling will be linked to the main use of the house, meaning that some vehicle movements will be mitigated I am happy to allow the minimal increase of vehicle movements at the access and in turn raise no highway objection.'

#### Wiltshire Council Agricultural Consultant

Whilst the full report from the Council's Agricultural Consultant is available to view online, in summary he considers that the proposed ewe flock will generate an essential need for attendance during lambing. However, he goes on to note that the essential need is, in his view, partial and does not warrant an essential presence at most times. Therefore, he does not agree that there is an essential need for a permanent farm worker's dwelling at the site. He also notes that dwelling is slightly larger than warranted by the (Council's) identified essential need.

#### **8. Publicity**

The application was advertised for a period of 21 days. No representations were received as part of this publicity.

#### **9. Planning Considerations**

##### Principle of Development

The case being purported here does warrant in-depth discussion. As such, officers would like to point out that the premise of argument here is quite simple. This is an application for a standalone house in the open countryside, within a protected AONB landscape with no required/accepted need for it, contrary to long-standing local and national planning policy on the matter. In more detail, officers contend the following:

The National Planning Policy Framework highlights that planning law requires that applications for planning permission be determined in accordance with the development plan unless material considerations indicate otherwise. The adopted local development plan document is the Wiltshire Core Strategy (WCS) (adopted January 2015). In the interests of promoting sustainable development and the protection of the countryside the policies of the plan seek to restrict all new residential development to locations within the Limits of Development defined for towns and villages. It is noted that this site lies outside of such defined limits, in open countryside, and therefore would be contrary to these policies.

However, it is noted under Core Policy 2, that residential development is permissible in the open countryside if it accords with one of the exception policies listed at paragraph 4.25 of the WCS. In this case, one of those exceptions is Core Policy 48 which allows for rural worker dwellings where there is an essential need for a rural worker to live permanently on or at their place of work.

In addition to those exceptions, residential development may also be permissible in the form of annexed accommodation attached to a dwelling (that which is considered ancillary). Such provisions do not allow for wholly separate dwellings to be formed but rather accommodation which is either physically or functionally linked to an existing dwelling.

A Section 106 planning obligation has been offered so that the occupancy of the building can be restricted to a person wholly employed by Soley House on that property and the surrounding land in common ownership, along with their dependants. Furthermore, the person shall be employed at the proposed gate lodge as a farm worker/security officer overseeing Soley House, its estate and the sheep flock it contains. It is claimed that with this planning obligation in place, the proposed accommodation could only be ancillary as it would be bound to Soley House by way of said obligation and would therefore not be a new dwelling in the open countryside.

With the above in mind, the main arguments that need to be considered here are as follows:

- Is this an annexe to which there would be support in principle or is it in fact a separate dwelling where other policy tests are required to justify it?
- Can a proposed legal agreement make the development acceptable in planning terms?
- Is there an essential need for a rural worker to live permanently at the site (be it as a farm worker or security managers) that would justify permitting a new dwelling in the open countryside?
- Does the existence of an extant planning permission for an annexe within the grounds of Soley House provide material justification for allowing this scheme?

*Is this an annexe to which there would be support in principle or is it in fact a separate dwelling where other policy tests are required to justify it?*

To be classed as an annexe, the building must be used as ancillary accommodation and be incidental to the enjoyment of the dwellinghouse. A separate planning unit must not be formed through, for example: the creation of a separate curtilage, or the building being sold, let, or otherwise used as a separate residential unit. The building must form one unit of occupation with the dwellinghouse, for example, providing living accommodation for a family member or member of staff who form part of the household occupying the dwellinghouse.

The provision of staff accommodation within a planning unit is capable of being ancillary to the main use provided they are not independent living units. A member of staff employed to support the main use of Soley House would have a functional link with the main dwellinghouse (e.g., an au pair). However, it has previously been found on appeal that whether one use is ancillary to another is fundamentally a matter of fact and degree depending upon the circumstances of the case, and that a work connection with the main use is not sufficient to establish an ancillary link. The key issue to consider is whether there would be a sufficient physical and/or functional link between the unit of accommodation and Soley House so as not to result in an independent unit of living accommodation.

The provision of ancillary accommodation should support the primary use of the planning unit and must not therefore result in a change of use. The proposed dwelling is physically and visually separate from the main dwelling by some distance (170m). It quite clearly has a separate access and parking area as well as its own physical curtilage/amenity space. The dwelling itself would contain all the facilities for day-to-day living and there is nothing within the application particulars to suggest that the occupiers of the accommodation would be dependent on Soley House for their day-to-day living requirements. Functionally, other than being employed by the owner of Soley House, the occupier of the proposed dwelling would be capable of living totally independently from it – especially on days when they are off work/on holiday.

Its siting would amount to a separate main use for human habitation. The erection of a dwelling with all associated facilities to accommodate a farm worker/security guard and their dependants would amount to a material change of use of the larger planning unit. The application site is outside the residential curtilage of Soley House on agricultural land (sui generis use) and the proposal would result in a change of use of that land to a C3 use (dwelling house). Whilst this use would be within Use Class C3(a) (use by a single person or a family) this would be separate and distinct from the Use Class C3(a) of the main house.

It is the opinion of officers, taking account of the above, that this application cannot be considered as annexed accommodation to Soley House. It must therefore be treated as a new dwelling within the open countryside whereupon only in exceptional circumstances should permission be granted.

To illustrate the point, if one applies for an agricultural worker's dwelling on an existing farm because there is a proven need, is it considered to be ancillary to the main farmhouse purely because they are employed by the occupant of said farmhouse? The answer is clearly no, they are treated as separate dwellings and have been officers in other cases. To take a different view here would not be inconsistent with previous decisions and could well set a precedent in respect of the case for of rural worker dwellings.

*Can the proposed legal agreement make the development acceptable in planning terms?*

The applicants have stated that they would be prepared to enter into a legal agreement to ensure that the "...Annexe (gate house) could not be used other than in conjunction with Soley House, as ancillary accommodation." The purpose of a s106 agreement is to make a development possible that would otherwise not be possible, by obtaining concessions and contributions from the developer/applicant. However, just saying a building is ancillary does not make it so, and a s106 agreement would not make the development acceptable if there is to be no ancillary function.

It is clear from the proposal that the intended occupier is to be a farm worker who would not have a physical or functional relationship with Soley House (i.e., an ancillary link), and it has been concluded above that the development itself cannot be considered as ancillary accommodation. This would mean the intended occupant would be unable to comply with the terms of the quoted legal agreement that is set out in the Planning Statement. It would not therefore be possible to make the development acceptable in planning terms through the imposition of a legal agreement.

*Is there an essential need for a rural worker to live permanently at the site (be it as a farm worker or security manager) that would justify permitting a new dwelling in the open countryside?*

Core Policy 48, along with Paragraph 80 of the NPPF allows for the provision of rural workers dwellings where there is an essential need for someone to live permanently close to or at their place of work. The term "essential need" means essential for the proper functioning of the enterprise i.e., one or more workers must be readily available at most times. In other words, a functional requirement exists that will ensure the business is not financially or materially harmed for example, by loss of sheep through birthing complications because there is no on-site presence to monitor the situation.

The Council's Agricultural Consultant states that the essential need arising from the farming enterprise is not year-round i.e., it is only during the period of lambing which is indicated to be approximately 4 months of the year. It is accepted that there is an array of tasks associated with the husbandry of a ewe flock outside of the lambing period, and that those tasks require labour input. It is also accepted that it would be more convenient for those tasks to be conducted with the benefit of an on-site dwelling. However, the requirement of the NPPF is one of essential need. Although the business may be planned on a financially sound basis, there is no essential need for the farmworker to be present on the land save for the 4 months of the year.

As such, it cannot be concluded that there is a genuine functional need for a full-time farm worker to live permanently at the site to ensure the proper functioning of the farming enterprise. It is also suggested by the Council's Agricultural Consultant that the proposed

dwelling is of a scale that is beyond what would be considered reasonable in the context of functional need.

What is also of material relevance here is the applicant's assertions that the occupier of the proposed dwelling would very much be involved in a security role for Soley House as well. Previous applications attempted to secure a gate lodge at this location on the security arguments alone i.e., at the time it was not suggested that there was a farming element to consider but that the essential need derived solely from the necessity for security guard to live at the site. Agricultural worker dwellings are permitted on the basis that there is a genuine need arising for a full-time agriculture worker and, almost always, with a planning condition restricting occupancy to someone solely or mainly employed in agriculture. The Council's Agricultural Consultant's report, which states that there is not a full-time need for an agricultural worker, and the applicant's own Planning Statement, which talks about a security manager/guard role also to be undertaken by the intended occupant of the proposed dwelling means that it cannot be clearly concluded that the occupant would be employed solely or mainly in agriculture.

What is more, this is a new agricultural enterprise where common practise is to give temporary planning permission for a mobile home in the first instance rather than a permanent dwelling. This enables the applicant to build up their business plan over the course of a 3-year period and present those figures back to the LPA to prove that the business is financially viable and will be going forward. If there is no case, then the mobile home can simply be removed from the land and the land returned to its former condition. The reasons are quite obviously to provide a further safety net to the allowance of new dwellings in the open countryside. Such a scenario would be harder to achieve if a permanent dwelling has already been approved. Best and normal practise is not being followed here which is another reason for concern..

Furthermore, the applicant has not stated that they intend to provide any ancillary buildings to support the farming enterprise on the site – just temporary/mobile lambing sheds when required. Also, there are no current or previous planning applications for such agricultural buildings. Whilst not a perquisite for obtaining permission for an agricultural worker's dwelling, it is a strong indicator to the LPA that an applicant is investing in the farming business and gives a degree of confidence to its decision making if recommending for approval.

With regard to essential need for a dwelling arising from a security manager, this debate has been put in front of the local planning authority before. The security needs of the property are not significantly different from those of many other isolated dwellings in the countryside. It must also be recognised that there are already two units of staff accommodation within the curtilage of Soley House which by their very presence provide an element of supervision and security to the property. This conclusion has many similarities to the case considered at appeal - *John Taylor v SoS for Wales & Glyndwr* [1985] JPL 792 for a lodge. A proposal for a lodge in the grounds of a large house was refused on appeal but the decision was rescinded on the basis that the inspector had failed to have regard to the need for on-site supervision and the impracticability of providing accommodation for a caretaker in the main house. On re-examination of the matter a second inspector found that the security needs of the property, disregarding its intermittent occupation, were no more than many other similar isolated houses in the countryside.

Whilst officers sympathise with the applicant's desire to increase the security at his property, it is not a matter which is essential to the functioning of the Soley House. Certainly, the applicant has made no attempt in the application particulars to suggest there are overriding matters of security/safety concern within the local area that need

addressing through round the clock surveillance by a security guard. It may be the case that rural crime is on the rise but officers struggle to see how this site differs from the great many other isolated dwellings in the countryside that don't have gate lodges for security reasons. Without any proven essential need, officers do not consider that a dwelling to accommodate a security manager would meet the requirements of Core Policy 48 of the WCS or paragraph 80 of the NPPF.

*Is the approved annexe (under either E/10/1481/FUL or 20/04295/FUL) a material consideration that justifies permitting this scheme?*

To support the applicant's argument for the proposed unit of accommodation, the Planning Statement draws attention to a planning permission for the erection of a "new building to provide ancillary accommodation" within the residential grounds of Soley House. Whilst it is argued that the proposal on its own merits complies with the local development plan, one of the now prevailing material considerations is the approved building for ancillary accommodation i.e., is there a valid fall-back position that could be employed if permission were not to be given for this application.

It has been previously explained that the provision of a building for a security guard in the location of the extant permission would not be suitable because the person needs to be located on the outer boundary of the land by the vehicular access and not at its heart, as ingress into the private estate by vehicles could occur. It has been stated by the applicant that such a location is also considered to be not suitable for the proper functioning of the agricultural enterprise. The applicant is however prepared to surrender the planning permission via a legal agreement so there is no net gain of new buildings on land within the applicant's ownership. It is outlined that the application simply seeks planning permission to build a smaller unit of accommodation, in a less prominent location (with a site-specific factor for the owner) instead of the approved larger one in the wrong place. It is stated that the proposed ancillary accommodation to Soley House is not independent in any sense and certainly no more so than the extant permission. Furthermore, it is stated that both would be self-contained units of accommodation within the same planning unit – Soley House and its grounds. The agent feels the principle of accepting the unit of accommodation / Gate Lodge does not need to be justified because it would simply replace a previous building at the property.

The Planning Statement states that the proposed unit of accommodation is no less 'ancillary' than the approved one - "Not only would it be functionally linked but it would also be physically integral and not independent from Soley House in any sense, and no more than the approved annexe.". It is however considered that the agent's assessment fails to take account of the material differences between the permitted and proposed schemes. The permitted scheme was a householder development for ancillary accommodation. The legal agreement attached to the permission clearly states that the permitted annex should not be occupied other than in conjunction with the house as ancillary accommodation i.e., it could not be a self-contained unit of accommodation separate from the main dwelling. The current proposal is not a householder application providing ancillary accommodation within the form of an annex providing for example, overspill accommodation to the main household, but a full application seeking permission for a change of use and a new self-contained and distinct unit of accommodation separate from the main house as outlined above. Its occupiers would live independently from the main dwellinghouse within a dwelling with its own curtilage physically detached from the main grounds around Soley House. They are not therefore one in the same and so it is not the simple case that one development can replace the other.

With the above in mind and turning to the issue of whether there is a valid fall-back position, the Local Planning Authority must have regard to three key tests when considering this. These are:

1. whether there is a lawful fall-back position;
2. whether there is a likelihood or real prospect of such a use occurring; and,
3. if the answer to the second question is “yes”, a comparison must be made between the proposed development and the fall-back use.

Planning permission ref 20/04295/FUL could be fully implemented, however the material differences between the approved and proposed schemes as described above is a key consideration that significantly reduces the weight to be attributed to the fall-back position.

The permitted building does not represent a true fall-back position which is directly comparable to the use or siting of the development currently proposed. Notwithstanding this point, for a fall-back suggestion to be relevant there must be a finding of an intended use as opposed to a mere legal or theoretical entitlement. The applicant’s agent is of the opinion that whether the applicant intends on erecting the building the subject of planning permission ref 20/04295/FUL is not a material planning consideration. However, for any fall-back position to be considered there must be a real prospect of the fall-back development being implemented and carried out. Whilst a previous owner implemented the planning permission, the current applicant has clearly indicated that he does not wish to erect the building due to its obtrusive contemporary design and physical appearance in the AONB. If this is the case, the fact that application states that the planning permission could be surrendered is immaterial if there is no real prospect of it being delivered. It is recognised that planning permission 20/04295/FUL has recently been granted but it is evident that the purpose of the application was to resolve the legal debate regarding the status of permission E/10/1481/FUL so it could be used to support this current application as clearly outlined within the Planning Statement.

Whilst officers concluded that the erection of the permitted building for ancillary leisure facilities or ancillary accommodation (planning permissions E/10/1481/FUL & 20/04295/FUL), does not directly impact on the current proposal for a new dwelling outside the curtilage for an agricultural worker/security guard, the visual impact of both buildings is however material and considered below in the design and visual impact section of the report.

#### Design and Visual Impact

The design of the dwelling is the same as that which was considered under the withdrawn application 20/09234/FUL. In that application, the AONB officer concluded that the dwelling:

*“would not have a negative or detrimental on the local AONB landscape due to its lower profile, high quality design/use of materials, relationship with the proposed entrance alterations and the existing landscaping which restrict visibility to the immediate area.”*

Although at the time, they considered the principle of development on that application to be acceptable, as they did not view the scheme to be an annexe or a rural worker’s dwelling, it is clear from the above that they had no concerns with the application visually.

Whilst the AONB Officer has not commented on the current scheme, as it is the same, and with no material changes in policy pertaining to landscape impact, it would be difficult to take a different view now. Accordingly, the view is still taken that the dwelling will not have an adverse impact upon the landscape character and scenic qualities of the AONB.



Given that the AONB Officer's previous lack of objection on landscape grounds was partially based upon the appropriateness of the design, it is fair to conclude that the design of the scheme is also one that does not merit objection. Were the LPA to be recommending approval of the scheme, the finer details of the proposal would have been capably addressed using planning conditions e.g., control of materials, architectural detailing, and restriction of external lighting. It would have also been prudent to remove permitted development rights for extensions and alterations etc. given the sensitivity of the site within the AONB.

With the above in mind, the proposal is considered to protect / conserve landscape character in accordance with the requirements of Core Policy 51 of the WCS and Section 85 of the Countryside and Rights of Way Act 2000. The scheme is also considered to be in broad accordance with the requirements of Core Policy 57 of the WCS and is thus of acceptable design.

The applicants contend that the current proposal would be less visually harmful than the annexe that was previously approved. That proposal was objected to by the AONB Officer. The AONB Principal Landscape and Planning Officer feels the building the subject of planning permission ref E/10/1481/FUL would be visually intrusive within the local landscape from Public Right of Way ref RAMS31 to the west of Soley House. Whilst it is accepted that the building would be partially visible from the PROW it would be seen against the backdrop of the main house and seen as an ancillary outbuilding which is its purpose. A more traditional design which mirrors the design of the house may have been preferable, but the more modern design has previously been found to be acceptable. The AONB Officer originally suggested this approach to the design of the proposed Gate House. Notwithstanding the comments from the AONB Officer, the building the subject of planning application ref E/10/1481/FUL, and now more recently application 20/04295/FUL, was found to be acceptable on its own merits and was granted planning permission. The reference to the fall-back position discussed above carries limited weight for the reasons previously outlined and since no objection is raised to either proposal in principle on landscape or visual grounds.

#### Neighbour Amenity

There are no neighbours near the site that stand to be affected by the proposal. The nearest dwelling is Soley House itself.

#### Highways Safety / Parking

The Local Highway Authority have raised no objections to the scheme. Although the access is substandard, the minimal increase in vehicle numbers from the dwelling would not warrant an objection on highways grounds as it would not be deemed to cause severe harm to highway safety.

In addition to the above, minimum parking standards are achieved on the site (2 spaces for a 3-bed dwelling).

#### Ecology

Whilst the Council's Ecologist has not commented on the current scheme, it is identical to the withdrawn application where there had offered no objections subject to development being carried out in accordance with the submitted ecology report. There has been no material change in circumstances that would warrant an alternate view to be taken on the current identical proposal and, as such, a condition could be imposed to ensure development is carried out in accordance with the submitted Ecological Appraisal. With such a condition in place, there would be no adverse impacts to local species or habitats.

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

The application seeks full planning permission for the provision of an annexe / Gate Lodge at Soley House, West Soley, Hungerford. The proposed unit of accommodation would be physically detached from the main dwellinghouse and its occupiers would not be reliant on the main dwellinghouse due to the proposed accommodation and facilities to be provided within the unit. As such, the unit of accommodation cannot be classed as ancillary accommodation. A new unit of accommodation is proposed, which would function independently from the main dwellinghouse. Whilst it is recognised that the security function the dwelling could provide has been designed to support the primary use of the planning unit i.e., provide security to the country house, its primary role is intended to be that of an agricultural worker's dwelling.

Based on the information submitted as part of the application the Local Planning Authority does not consider that there is a robust justification, or valid planning 'need' based on local planning policy, which results in the requirement for the erection of a Gate Lodge to accommodate a farm worker/security personnel.

It is recognised that a unit of accommodation could be sensitively designed to respond to the context of the site and reduce its visual impact, however the provision of a new building and a more formal entrance would undoubtedly impact on the existing open character of the site and the visually subtle entrance to the country house. Whilst the AONB Unit does not object to the proposal due to its landscape impact the principle of the development cannot be supported.

The surrender of planning permission ref E/10/1481/FUL for the new indoor swimming pool and 20/04295/FUL for the ancillary accommodation do not justify the provision of the proposed Gate House.

### **RECOMMENDATION**

That planning permission be REFUSED for the following reason:

1. The proposed building / Gate House would result in the provision of a new purpose-built self-contained unit of accommodation physically detached and independent from the use of the main dwellinghouse, Soley House. The application site is outside the residential curtilage of Soley House on agricultural land (sui generis use) and the proposal would result in an enlargement of the existing planning unit to contain a unit of accommodation within Use Class C3(a) which would be separate and distinct from the Class C3(a) use of the main dwellinghouse.

The application does not demonstrate that there is an essential need for a new unit of accommodation to accommodate an agricultural worker/security personnel for the proper functioning of the planning unit which would override the national and local planning policies which seek to prevent building in the countryside.

The proposed development is therefore deemed to be unsustainable and would conflict with the Council's plan-led approach to sustainable development. There are no exceptional circumstances or material planning considerations which justify the approval of the proposed development, including the fall-back position presented within the application.

Considering the above, the proposed development is considered to conflict with Core Policies 1 'Settlement Strategy', 2 'Delivery Strategy', 14 Spatial Strategy: Marlborough Community Area; and 48 Supporting Rural Life; of the Wiltshire Core Strategy, and with Central Government policy contained within the National Planning Policy Framework.



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