

AGENDA

Meeting: Eastern Area Planning Committee

Place: Wessex Room - The Corn Exchange, Market Place, Devizes, SN10 1HS

Date: Thursday 23 February 2023

Time: 3.00 pm

Please direct any enquiries on this Agenda to Matt Hitch of Democratic Services, County Hall, Bythesea Road, Trowbridge, direct line 01225 718059 or email matthew.hitch@wiltshire.gov.uk

Press enquiries to Communications on direct lines 01225 713114/713115.

This Agenda and all the documents referred to within it are available on the Council's website at www.wiltshire.gov.uk

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

Substitutes:

Cllr Mel Jacob

Cllr Jerry Kunkler

Cllr James Sheppard

Cllr Caroline Thomas

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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](#).

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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 5 - 10*)

To approve and sign as a correct record the minutes of the meeting held on 1 December 2022.

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 Chairman.

5 **Public Participation**

The Council welcomes contributions from members of the public.

Statements

Members of the public who wish to speak either in favour or against an application or any other item on this agenda are asked to register **no later than 10 minutes before the start of the meeting**. If it is on the day of the meeting registration should be done in person.

The rules on public participation in respect of planning applications are linked to in the Council's Planning Code of Good Practice. The Chairman will allow up to 3 speakers in favour and up to 3 speakers against an application, and up to 3 speakers on any other item on this agenda. Each speaker will be given up to 3 minutes and invited to speak immediately prior to the item being considered.

Members of the public will have had the opportunity to make representations on the planning applications and to contact and lobby their local member and any other members of the planning committee prior to the meeting. Lobbying once the debate has started at the meeting is not permitted, including the circulation of new information, written or photographic which have not been verified by planning officers.

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 in writing to the officer named on the front of this agenda no later than 5pm on **Thursday 16 February 2023** 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 20 February 2023** 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 Committee members prior to the meeting and made available at the meeting and on the Council's website.

6 **Planning Appeals and Updates** (*Pages 11 - 12*)

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/2022/09068 - Woodpeckers, Berhills Lane, Seend, Melksham, SN12 6RR** (*Pages 13 - 36*)

Erection of two new three bedroomed dwellings and associated vehicular access.

7b **PL/2022/09381 - Newlands, Hyde Lane, Marlborough, SN8 1JN** (*Pages 37 - 52*)

The change the use of an existing building from a (Class C3) residential use to (Class C2) student accommodation in association with Marlborough College.

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

Eastern Area Planning Committee

MINUTES OF THE EASTERN AREA PLANNING COMMITTEE MEETING HELD ON 1 DECEMBER 2022 AT WESSEX ROOM, CORN EXCHANGE, MARKET PLACE, DEVIZES.

Present:

Cllr Philip Whitehead (Chairman), Cllr Dr Brian Mathew, Cllr Tony Pickernell, Cllr Iain Wallis and Cllr Caroline Thomas (Substitute)

Also Present:

Cllr Christopher Williams

42. **Apologies**

Apologies were received from Cllr Sam Pearce-Kearney, Cllr Paul Oatway QPM and Cllr Stuart Wheeler. Cllr Stuart Wheeler was substituted by Cllr Caroline Thomas for this meeting.

43. **Minutes of the Previous Meeting**

The minutes of the meeting held on 8 September 2022 were presented for consideration.

Resolved:

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

44. **Declarations of Interest**

Cllr Iain Wallis declared a non-pecuniary interest in relation to agenda item 7 – Wiltshire Council North Tidworth Path No 11 Definitive Map and Statement Modification Order 2022, as he was employed by the Environment Agency and the Secretary of State for Environment, Food and Rural Affairs was effectively his employer. Cllr Wallis confirmed that he would remain in the meeting and continue to consider and vote on the Modification Order.

45. **Chairman's Announcements**

There were no Chairman's announcements.

46. **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.

47. **Chute Village Design Statement**

The Committee considered a report of the Chief Planning Officer about the Chute Village Design Statement.

The Committee heard from Carolyn Wall, Chair of Chute Parish Council and Cllr Christopher Williams who spoke in support of the proposals. They responded to questions about Neighbourhood Plans, consultation process, and in particular referred to [paragraph 129 of the National Planning Policy Framework](#) on design guides.

The Chairman reported that officers were unable to attend the meeting due to illness and he read a statement on their behalf about the Village Design Statement, copy attached to these minutes.

The Committee noted that the Village Design Statement provided a comprehensive description of the Chutes and surrounding area, with a detailed description of the local character and design principles provided throughout the document. In addition, the Council's Urban Design and Development Management services had been consulted on the Village Design Statement and raised no concerns to its approval and use in the planning process.

The report proposed that the Committee approve the revised Village Design Statement to enable it to be treated as a material consideration when determining planning applications.

Resolved:

That the Chute Design Guide for The Chutes be approved as a material planning consideration for the purposes of development management in their decision making.

48. **Wiltshire Council North Tidworth Path No. 11 Definitive Map and Statement Modification Order 2022**

The Committee considered the report of the Director of Highways and Transport, as presented by Craig Harlow, Definitive Map Officer about Wiltshire Council North Tidworth Path No 11 Definitive Map and Statement Modification Order 2022.

The Committee considered three objections to the Modification Order made under Section 53 of the Wildlife and Countryside Act 1981, as detailed in the report and were invited to forward the Order to the Secretary of State for Environment, Food and Rural Affairs (SoSEFRA) with a recommendation that the Order is confirmed as made. The Definitive Map Officer reported that there was a minor modification to the Order in that the wording within Part 1 of the schedule of the Order should read 'description of footpath' instead of 'description of restricted byway to be added'.

In response to questions from the Committee the Chairman and Definitive Map Officer confirmed that only historical evidence could be considered when making a decision and that there were no known obstructions along the length of the footpath.

Resolved:

That The Wiltshire Council North Tidworth Path No.11 Definitive Map and Statement Modification Order 2022 is forwarded to the SoSEFRA with the recommendation that it is confirmed with modification. That modification being the wording within part 1 of the schedule of the order where it reads “description of restricted byway to be added” it should read “ description of footpath”.

49. **Urgent items**

There were no urgent items.

(Duration of meeting: 3.00 - 3.30 pm)

The Officer who has produced these minutes is Stuart Figini of Democratic Services, direct line 01225 718221, e-mail stuart.figini@wiltshire.gov.uk

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Agenda Item 6 – Chute Village Design Statement

The council's constitution sets out that one of the roles of the area planning committees is to consider matters of local importance within the area such as Village design statements (VDSs).

Their approval by Committee, following an Officer appraisal of the VDS including an assessment of the robustness of the consultation undertaken to inform its preparation, gives the document weight in decision making. The Council in approving a VDS as a material consideration will ensure that these are taken into account in determining planning applications.

Village Design Statements (VDS) are prepared by the local community but are often led by a Town/Parish Council. Chute Parish Council and Chute Forest Parish Council have submitted their village design statement known as the Chutes Design Guide for the Chutes.

The original Chute village design statement (VDS) was prepared under the old Kennet Local Plan in 2006 and whilst still relevant, the community have found that it has not had the anticipated success in defending the design quality of the Chutes. The Parish Councils are looking at a refresh of the VDS to bring it up to date and make a more meaningful document

This VDS contains a descriptive analysis of the relationship between landscape, settlement patterns and buildings. From the survey analysis, the VDS identifies principles to be applied to new developments such as the design of buildings and the spaces between them. The document should benefit local people, developers, new occupants and planners

The statutory development plan is the Wiltshire Core Strategy adopted in January 2015 (WCS) which includes the saved policies of the Kennet District Local Plan 2011 providing the policy context for considering development for villages in the eastern part of Wiltshire.

The Village Design Statement Protocol (appendix 3) adopted by Wiltshire Council in 2012 sets out the validation checklist that is used to appraise VDSs such as the Chute Design Guide to ensure that they are fit for purpose and appropriate for the council to approve as a material planning consideration.

The Chute Design Guide has been appraised against each of the objectives and the detailed results of the VDS assessment is presented in Chute VDS validation checklist in Appendix 4.

To summarise the Chute Design Guide provides a comprehensive description of the Chutes and their environs. Throughout the Chute Design Guide, a detailed description of the local character is provided, and design principles are provided throughout the document based on this character.

Wiltshire Council's Urban Design and Development Management services have been consulted on the Chute Design Guide and have raised no concerns to its approval and use in the planning process.

It is recommended that approval of the Chute Design Guide is given by committee thereby giving the document weight in decision making. It will complement existing planning policy and guidance, strengthening the Council's position when advising or negotiating on design and allows local views to be taken into consideration early in the process.

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**Wiltshire Council
Eastern Area Planning Committee
23rd February 2023**

Planning Appeals Received between 26/08/2022 and 10/02/2023

Application No	Site Location	Parish	Proposal	DEL or COMM	Appeal Type	Officer Recommend	Appeal Start Date	Overturn at Cttee
21/02477/OUT	Land North of Quakers Road and South of Parkfields, Devizes, Wilts	Devizes	Residential development of up to 57 dwellings together with new vehicular accesses onto Parkfields and Quakers Road, parking, pedestrian links, areas of public open space and landscaping (Outline application relating to access)	EAPC	Written Representations	Approve with Conditions	20/09/2022	Yes
PL/2021/09801	High Street, Winterbourne Bassett, Swindon, SN4 9QB	Winterbourne Bassett	Change of use of land and erection of a detached dwelling with associated access & landscaping	DEL	Written Representations	Refuse	11/10/2022	No
PL/2021/10554	1 Church Street Little Bedwyn Marlborough SN8 3JQ	Little Bedwyn	Change of use of garage into 1 no. residential dwelling with associated access, parking, landscaping and private amenity space	DEL	Written Representations	Refuse	03/10/2022	No
PL/2021/10698	Land adjacent Whitton Lodge, Ramsbury, Marlborough, Wiltshire, SN8 2PX	Ramsbury	Erection of new dwelling, car parking, access, landscaping and associated works.	DEL	Written Representations	Refuse	14/09/2022	No
PL/2022/00208	32 Devizes Road, Potterne, SN10 5LN	Potterne	Creation of a new access to serve the dwelling at Hillcrest, 32 Devizes Road, Potterne	DEL	Householder Appeal	Refuse	31/08/2022	No

Planning Appeals Decided between 26/08/2022 and 10/02/2023

Application No	Site Location	Parish	Proposal	DEL or COMM	Appeal Type	Officer Recommend	Appeal Decision	Decision Date	Costs Awarded?
20/07433/FUL	Land NE of Redhouse Farm Roundaway Lane Clanville, SP11 9JE	Chute Forest	Material change of use of land to caravan site for occupation by Gypsy family with associated development (utility building, alterations to access, access track and hardstanding and installation of septic tank) and agriculture.	DEL	Hearing	Refuse	Allowed with Conditions	03/01/2023	None
PL/2021/03418	2 Chestnut , Nepaul Road, Tidworth SP9 7EU	Tidworth	Installation of an 11m retractable antenna support system (mast) and three antennas.	DEL	Written Reps	Refuse	Dismissed	26/09/2022	None

PL/2021/07810	1 Bedwyn Common Marlborough, SN8 3HZ	Great Bedwyn	Change of use of existing residential annexe to self-contained dwelling including the provision of 2 car parking spaces. No change proposed to plan and elevations of the building.	DEL	Written Reps	Refuse	Allowed with Conditions	07/10/2022	None
PL/2021/10698	Land adjacent Whitton Lodge, Ramsbury, Marlborough, Wiltshire, SN8 2PX	Ramsbury	Erection of new dwelling, car parking, access, landscaping and associated works.	DEL	Written Reps	Refuse	Dismissed	15/12/2022	None
PL/2022/00208	32 Devizes Road, Potterne, SN10 5LN	Potterne	Creation of a new access to serve the dwelling at Hillcrest, 32 Devizes Road, Potterne	DEL	Householder Appeal	Refuse	Dismissed	12/12/2022	None
PL/2022/00359	Land at The Old School, Fittleton, SP4 9QA	Fittleton cum Haxton	Erection of a new dwelling with associated access and parking (Revised Scheme)	DEL	Written Reps	Refuse	Dismissed	10/11/2022	None

REPORT TO EASTERN AREA PLANNING COMMITTEE

Report No. 1

Date of Meeting	23 February 2023
Application Number	PL/2022/09068
Site Address	Land adjacent Woodpeckers, Berhills Lane, Seend, Melksham, SN12 6RR
Proposal	Erection of two dwellings (resubmission of PL/2021/11736)
Applicant	Mr Sleightholme and Mrs Mills
Town/Parish Council	SEEND
Electoral Division	Devizes Rural West
Grid Ref	53.401329, -5.580514
Type of application	Full Planning
Case Officer	Meredith Baker

Reason for the application being considered by Committee

This application has been brought before the Committee at the request of Councillor Reay should the application be recommended for refusal, on the basis that the applicant has provided evidence that shows the site comprises brownfield land and as such complies with Core Policies 1 and 2 in the Wiltshire Core Strategy, Policy SP11 of the Seend Parish Neighbourhood Plan and the identified paragraphs of the National Planning Policy Framework.

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 consideration, and to consider the recommendation that the application be refused planning permission.

2. Report Summary

The proposed development would result in the erection of two dwellings outside the recognised Limits of Development (on land that is not considered to be 'brownfield') in conflict with the Settlement Strategy for Wiltshire as set out in Core Policy 1 and Core Policy 2 of the Wiltshire Core Strategy and Policy SP11 of the Seend Parish Neighbourhood Plan. With significant weight being afforded to the Seend Parish Neighbourhood Plan in line with Paragraph 14 of the National Planning Policy Framework (NPPF), which directs development to the Limits of Development, or involves the re-use of brownfield land or a rural exception site, the harm of the proposed development would significantly and demonstrably outweigh its benefits when assessed against the NPPF as a whole (paragraph 11 d) ii).

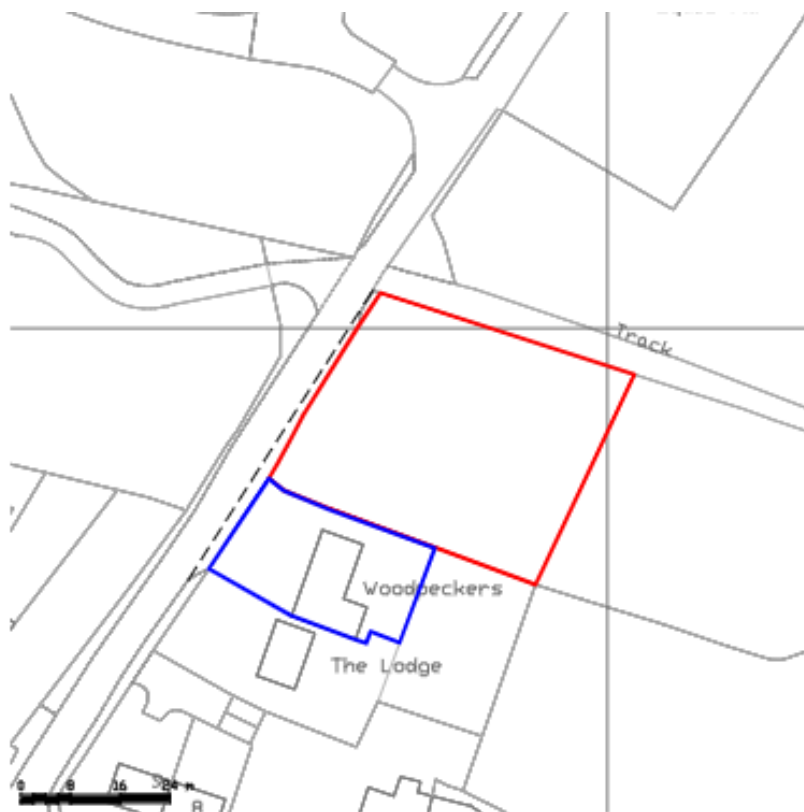
It is also deemed that by reason of its siting, design and layout of the dwellings and residential plots together with the associated residential paraphernalia within the open countryside, the proposal would be harmful to the visual amenities of the area and to landscape character. Furthermore, the proposal would result in the elongating of the existing built form into an identified landscape gap and would not enhance the character or appearance of the area contrary to Core Policies 51 and 57 of the Wiltshire Core Strategy, Policy SP4 of the Seend Parish Neighbourhood Plan and the NPPF.

Finally, by reason of the distance to local services, facilities and amenities, the proposal would result in a heavy reliance of use of the private motor transport for the majority of day-to-day activities in conflict with the principles of sustainable development and the aims of reducing the need to travel, contrary to Core Policies 60 and 61 of the Wiltshire Core Strategy and the NPPF.

3. Site Description

The application site comprises a parcel of land to the north of the dwelling of Woodpeckers (this land belongs to the property owners). The land is alleged to be currently used for residential purposes - this issue will be explored further as it is considered by the local planning authority to be agricultural land. The site is bounded by trees to the north and south, with a small woodland area to the east. To the east, the site is bounded by hedgerow and post-and-rail fencing which is adjacent to the highway of Berhills Lane. The application site is situated at the edge of the cluster of dwellings forming the hamlet of Sells Green whereas to the north, east and west lies agricultural land.

Below is an extract from the submitted Location Plan that shows the context of the site.



4. Planning History

PL/2021/11736 – Erection of two dwellings – REFUSED – 29.03.2022

It should be noted that the previous refusal was for a virtually identical scheme, with the dwellings in the same location and of the same layout as currently proposed. Only very minor changes are proposed on the current application, such as amended materials to the access point, the re-location of the shared driveway gate and the removal of the boundary treatment to the rear gardens.

The refusal reasons for the above application are identical to those recommended this time around, namely:

1. The proposed development, involving the erection of two dwellings outside of the defined Limits of Development, would conflict with the Settlement Strategy for Wiltshire, as set out in Core Policy 1 and Core Policy 2 of the Wiltshire Core Strategy and Policy SP11 of the Seend Parish Neighbourhood Plan. With significant weight being afforded to the Seend Parish Neighbourhood Plan in line with Paragraph 14 of the National Planning Policy Framework, which directs development to the Limits of Development, the re-use of brownfield land or a rural exception site, the harm of the proposed development would significantly and demonstrably outweigh its benefits when assessed against the policies in the National Planning Policy Framework (2021) as a whole (paragraph 11 d) ii). There are no exceptional circumstances or material considerations which justify a departure from the development plan and National Planning Policy Framework and the approval of the proposed development. It would therefore be contrary to the Core Policies 1 and 2 in the Wiltshire Core Strategy, Policy SP11 of the Seend Parish Neighbourhood Plan and the identified paragraphs of the National Planning Policy Framework.
2. The proposed development, by reason of the siting, design and layout of the dwellings and residential plots together with the associated residential paraphernalia within the open countryside, would be harmful to the visual amenities of the area and to landscape character. As such, the proposal would not be sympathetic to nor would it enhance the character and appearance of the area. Furthermore, it could not be successfully integrated within the landscape and elongate the existing built form into an identified landscape gap. The proposed development is therefore contrary to Core Policies 51 and 57 of the Wiltshire Core Strategy, Policy SP4 of the Seend Parish Neighbourhood Plan and the National Planning Policy Framework (2021).
3. The proposed development, by reason of the distance to local services, facilities and amenities, would likely result in heavy reliance on the use of private motor transport for the majority of day-to-day activities, which is in conflict with the principles of sustainable development and the aims of reducing the need to travel, contrary to Core Policies 60 and 61 of the Wiltshire Core Strategy and the National Planning Policy Framework (2021).

5. The Proposal

The application seeks planning permission for the erection of two, three-bedroomed dwellings and associated vehicular access. The three-bedroomed dwellings would be two storey in height, in an 'L' shape, and separated by a shared access/driveway which runs to the rear of the site with the provision of two vehicular parking spaces per dwelling.

Proposed scheme:



PROPOSED SITE PLAN



FRONT ELEVATION @ 1:100 (COTTAGE ONE)
(COTTAGE TWO HANDED)



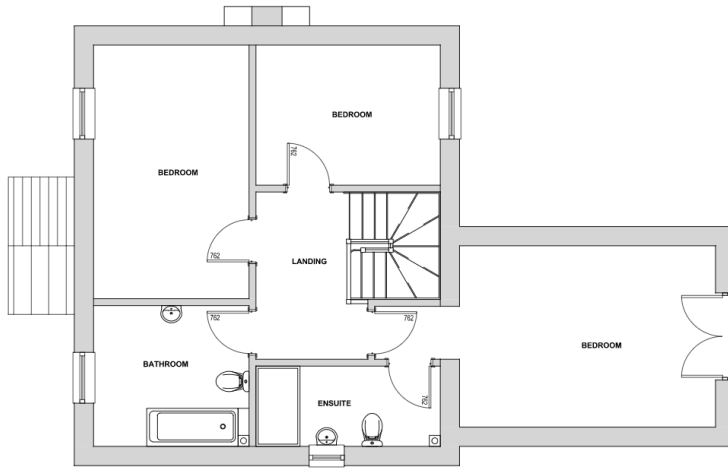
SIDE ELEVATION @ 1:100 (COTTAGE ONE)
(COTTAGE TWO HANDED)



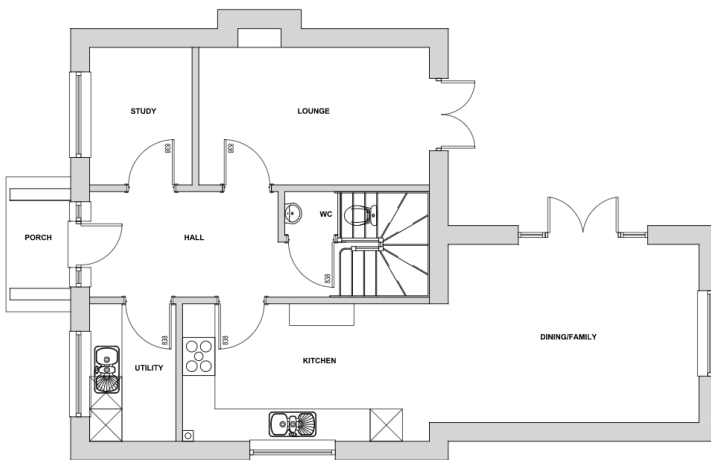
REAR ELEVATION @ 1:100 (COTTAGE ONE)
(COTTAGE TWO HANDED)



SIDE ELEVATION @ 1:100 (COTTAGE ONE)
(COTTAGE TWO HANDED)



FIRST FLOOR PLAN @ 1:50 (COTTAGE ONE)
(COTTAGE TWO HANDED)



GROUND FLOOR PLAN @ 1:50 (COTTAGE ONE)
(COTTAGE TWO HANDED)

6. Planning Policy

National Planning Policy Framework (NPPF)

- Section 2 (Achieving sustainable development)
- Section 4 (Decision-making)
- Section 5 (Delivering a sufficient supply of homes)
- Section 7 (Ensuring healthy and safe communities)
- Section 9 (Promoting sustainable transport)
- Section 11 (Making effective use of land)
- Section 12 (Achieving well-designed places)
- Section 14 (Meeting the challenge of climate change, flooding and coastal change)
- Section 15 (Conserving and enhancing the natural environment)

Planning Practice Guidance (PPG)
National Design Guidance

Wiltshire Core Strategy (WCS):

- Core Policy 1: Settlement Strategy
- Core Policy 2: Delivery Strategy
- Core Policy 15: Melksham Community Area
- Core Policy 41: Sustainable Construction and Low Carbon Energy

Core Policy 44: Rural Exceptions Sites
Core Policy 45: Meeting Wiltshire's Housing Needs
Core Policy 48: Supporting Rural Life
Core Policy 50: Biodiversity and Geodiversity
Core Policy 51: Landscape
Core Policy 57: Ensuring High-Quality Design and Place-Shaping
Core Policy 60: Sustainable Transport
Core Policy 62: Development Impacts on the Transport Network
Core Policy 64: Demand Management

Seend Parish Neighbourhood Plan 2020 - 2030

Policy SP1: Locally Distinctive, High-Quality Design
Policy SP4: Landscape and Local Key Views
Policy SP5: Parish Green Infrastructure and Biodiversity
Policy SP9: Pre-application Community Engagement
Policy SP10: Community Led Affordable Housing Delivery
Policy SP11: Sustainable Development in Seend Parish
Policy SP12: Custom and Self-build Housing
Policy SP13: Climate Change and Sustainable Design
Policy SP14: Impact of Development on Highways and Traffic

Other Documents and Guidance

Waste Storage and Collection: Guidance for Developers
Revised Wiltshire Planning Obligations Supplementary Planning Document (October 2016)
Wiltshire Local Transport Plan 2011 – 2026 – Car Parking Strategy (March 2011)

7. Consultation responses

Seend Parish Council: "This is a resubmission which the PC approved in 2021.

The site where these two houses would be built is most definitely an existing garden and has been used as that for at least 10 years. Local knowledge and previous owner being known to many residents and councillors can account for that. Further information which has been submitted with the application can also confirm this. The land is part of the original (now demolished) house and has the visual appearance of a garden and cannot be described as open countryside – it belongs to the original house that was demolished when Woodpeckers and The Lodge was built. It is not an agricultural site. It is an existing garden utilising a brownfield site. It cannot be in open countryside as there are other buildings the other side of the disused railway which runs alongside this garden. There were no issues when Woodpeckers and The Lodge were built and that precedent should apply when consideration is given to this application for a further two houses.

Woodpeckers and The Lodge were built 10 years ago and these two houses would adjoin them (detached) continuing along Berhills Lane. The field boundaries made by the former railway line would be maintained so it would not be detrimental to the immediate vicinity and would not cause substantial harm to the visual amenity. These houses would have a separate access, just like Woodpeckers and The Lodge (set in landscaped plots) with parking repositioned to the rear allowing more screening to the front. There were no Highway concerns in the previous 2021 application and there is good visibility from this new build just like Woodpeckers/The Lodge access. There are no pavements outside Woodpeckers and The Lodge so this should not be an issue with these two new houses. It should not be assumed that there would be a reliance on the use of a private car as the bus stop on the A365 is less than a 5 minute walk, just like Woodpeckers and The Lodge, and local amenities are

immediately to hand in the Sells Green/Martinslade hamlet or in Seend village.

The houses would lie in a cluster of dwellings and would be part of an existing hamlet so would not have a detrimental impact on the visual amenity in the area nor detract from the character of that site. The houses would have access to public transport and amenities just a 5-minute walk away, just like Woodpeckers and The Lodge. The A365 is just a few minutes' walk away where there are bus stops, a pub, a caravan and camping site, a granite/stone workshop and shop, a small industrial estate together with the K&A canal. The towpaths and Spout Lane are all within a 5-minute walk which Sells Green, Martinslade, canal boaters, bus users and walkers use frequently, if not daily, to use the amenities (PO/shop/café, church, community centre, Lye playing field, tennis courts and school) in Seend. This supports the houses being in a sustainable location where they will maintain the viability of the rural community.

These two new houses would contribute greatly to the 30 that Seend is expected to find and, these, along with the others which have been approved, will go a long way to helping Seend reach its target whilst sustaining development and contributing to the viability of local services.

For these reasons, the Parish Council would encourage Wiltshire Council to take into account local knowledge regarding the fact these houses would be built in an existing garden and approve this application.”

Public Protection: “Thanks for consulting Public Protection in respect of this application. I would look to condition any planning permission granted with our standard hours of activity in order to minimise impact on local amenity: all construction work to be between the following hours; 8am – 6pm Monday to Friday, 8am – 1pm Saturdays and no working on Sundays or Bank Holidays.

I would also request a condition to prohibit burning of waste materials on the site during construction.”

Highway Authority: “I am happy to adhere to the highway comments raised to the previous application:

Given the low number of vehicle movements associated with two residential units I am happy to accept that the adjacent road network is able to accommodate the additional movements.

The layout drawing shows the correct number of parking spaces including turning and an electric charging point. I also note that a bin collection point is being provided at roadside.

Therefore, based on the information provided I am happy to offer no highway objection subject to the following:

The development hereby permitted shall not be occupied or first brought into use until the area between the nearside carriageway edge and a line drawn 2.4m 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 and maintained as such thereafter.

REASON: In the interests of highway safety.

The development hereby permitted shall not be first brought into use/occupied until the first 2m of the access, measured from the edge of the carriageway and, has been consolidated and surfaced (not loose stone or gravel). The access shall be maintained as such thereafter.
REASON: In the interests of highway safety

INFORMATIVE

• The application involves an extension to the creation of a new vehicle access and dropped kerb. The consent hereby granted shall not be construed as authority to carry out works on the highway. The applicant is advised that a licence will be required from Wiltshire's Highway Authority before any works are carried out on any footway, footpath, carriageway, verge or other land forming part of the highway. Please contact our Vehicle Crossing Team on vehicleaccess@wiltshire.gov.uk and/or 01225 713352 or visit their website at <http://wiltshire.gov.uk/highways-streets> to make an application.

Ecology Officer: Objection on the basis of insufficient information regarding the green infrastructure corridors being protected and being enhanced.

8. Publicity

The application has been advertised by letter to local residents and by site notice. Two third party representations have been received raising the following (in summary):

- There is no green planning notice on site.
- Additional entrance in this location could be a potential for more road traffic accidents.
- Concern was raised under planning reference PL/2022/00333 (an application at Land adjacent to 16 Sells Green) by the Highway Authority for an increased use of an access onto Berhills Lane.
- There is no footpath leading from the proposed development to the bus stop in Sells Green.
- If the application is granted it is essential that the speed limit of this section of Berhills Lane is put in place.
- Fencing should occur on the northern side to screen lighting from the maid road affecting the property of Equestria.
- Existing northern boundary fence should be retained on south side of new fence for historical reasons and retain the rural nature of the track drive to the track to the rural holiday let of Equestria Barn.

9. Planning Considerations

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

Principle of Development

- Wiltshire Core Strategy (WCS)

Core Policy 1 'Settlement Strategy' of the WCS outlines a settlement strategy which identifies the settlements where sustainable development will take place to improve the lives of all those who live and work in Wiltshire. Core Policy 2 'Delivery Strategy' of the WCS outlines there is a presumption in favour of sustainable development at 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 (in circumstances as permitted by other policies within this plan, identified in paragraph 4.25).

The site lies within a cluster of dwellings forming the hamlet of Sells Green, which falls within the Melksham Community Area, however the settlement is not identified for any type of growth by the settlement strategy (set by Core Policy 15 'Spatial Strategy; Melksham Community Area'). Therefore, for the purposes of assessing the planning merits of the proposal, the site falls within the 'open countryside'.

Core Policy 2 states that development outside of the limits of development will only be permitted where it has been identified through community-led planning policy documents including neighbourhood plans, or a subsequent development plan document which identifies specific sites for development. Development proposals which do not accord to Core Policy 2 are deemed unsustainable and as such will only be permitted in exceptional circumstances under the exception policies of the WCS. In this instance the proposal would not fall within any of the exception policies as it is not a rural exception site nor a conversion or re-use of a rural building. As such, the proposed development is considered unsustainable in location and is contrary to the housing policies of the Core Strategy.

- Seend Parish Neighbourhood Plan

Policy SP11 of the Neighbourhood Plan outlines that proposals for housing developments up to and including 9 units that contribute to the continued and sustainable growth of the Parish will be supported in principle provided that development:

- I. Accords with the limits of development provisions of the Wiltshire Core Strategy 2;
- II. Is to be delivered as a rural exception site in line with Neighbourhood Plan Policy SP10 and Wiltshire Core Policy 44; or
- III. Is a re-use of brownfield land within the rest of the Parish Area.
- IV. Is not located in the open spaces and large gardens identified in the Seend Conservation Area Strategy which would detract from the distinct open grain of Seend Village.

As identified above the proposal does not accord with Wiltshire Core Strategy Policy 2, nor is it a rural exception site. The application site is also not located within an open space or large garden identified in the Seend Conservation Area Strategy.

The submitted Planning Statement claims that the land is brownfield land within the Parish Area, stating that "whilst the application site did not form part of the application site [for the residential property of Woodpeckers under planning reference E/10/0416/FUL] for the permitted dwellings it has been used by the owners as a garden for in excess of 10 years." No information was submitted to demonstrate this claim under the previous refused application and in any event, limited information has been provided under the current application within the submitted 'Justification Statement' or any other supporting documentation. As part of the statement, the following 'evidence' has been provided: a photograph of the railway embankment; confirmation of a ground source heat pump being erected on the application site for the existing dwellings; building regulations for this heat pump; and confirmation from the neighbours of the use of the land as domestic garden.

It is disputed that this information provides the appropriate evidence that on the balance of probabilities the land has been in continuous residential use for several reasons. Firstly, the photo of the embankment fails to support the case as the former railway line is outside of the application site. In any event, the NPPF definition of previously developed land (which is brownfield land) specifically excludes "land that was previously developed but where the

remains of the permanent structure or fixed structure have blended into the landscape". As the disused railway line has been removed and has now blended into the landscape, it would not fall within the definition of previously developed land.

Secondly, it is not considered that the ground source heat pump adequately demonstrates that the whole site is in residential use. Whilst there is no evidence held by the Local Planning Authority to contradict that there is a ground source heat pump on site, this is on a very limited part of the site and does not mean that the whole field is classed as residential. It is claimed that the land cannot be used for agricultural purposes with pipes of this nature below the surface, however no information has been submitted on the precise location of these pipes in order to demonstrate that it covers the whole application site. Just because one item of domestic paraphernalia occupies a site, this does not mean that the whole field has a residential use. This evidence is not deemed adequate to demonstrate a residential use on the application site for 10 years continuously.

Finally, the submitted confirmation from the neighbours regarding the use of the land is considered inadequate in nature. This is not a sworn affidavit, including identifying what land is being claimed to be residential (such as a plan), nor are any dates provided. This 'evidence' is from a neighbour and not the applicants using the land as well and is not considered sufficient as submitted to demonstrate that there has been a 10 year continuous use for residential purposes

Due to this lack of evidence, the Local Planning Authority cannot state that there is clear evidence on the balance of probability that the use of the land has been residential for over 10 years in a continuous use. Best practice would be for a certificate of lawfulness application to be submitted in respect of the site which provides additional information to back the claims, including sworn affidavits, photos etc for the Local Planning Authority to assess.

It is noted that the Parish Council have also claimed through local knowledge of the site that they consider the site to be an existing garden. This carries no weight in the assessment, as whilst it may be currently used as garden land, there is no demonstration that there has been a 10-year continuous residential use to be lawful. Again, the parish council's comments are not in the form of a sworn affidavit, with no dates or relevant information, and thus cannot be considered evidence to demonstrate the 10 year continuous use.

Even when considering public information readily available, including street imagery, this demonstrates that in 2009 the land was agricultural in nature; then in October 2011 the land was used as a construction workers' compound for the adjacent dwelling (so not clear evidence it is residential). Then the next imagery is April 2021. It is therefore considered that due to the lack of evidence submitted the Local Planning Authority does not consider this land as residential, but it is lawfully agricultural. The land is therefore not deemed 'brownfield' land and is contrary to Policy SP11 of the Neighbourhood Plan. It should also be noted that in the instance that the land was deemed residential, it is not considered that the land would be 'previously developed land' as due to the nature of Sells Green as a settlement the land is a built-up area and thus would not be considered previously development land when considering the definition within the NPPF.

National Planning Policy Framework and Housing Land Supply

The NPPF is a material consideration in the decision-taking process. The NPPF sets out the Government's planning policy for England and places sustainable development at the heart of the decision-taking process incorporating objectives for economic, social and environmental protection. These objectives seek to balance growth and local community needs against protection of the natural, built and historic environment.

In providing for sustainable development, the NPPF requires Local Planning Authorities to identify a five-year supply of specific deliverable sites to meet housing needs. Against this requirement, at the current time, the council is unable to demonstrate that it has 5 years' worth of deliverable sites. This means that policies relating to housing delivery in the Core Strategy, and made Neighbourhood Plans (subject to consideration against paragraph 14 of the NPPF) are currently considered to be out of date and are afforded limited weight in the decision-taking process. Planning applications for new housing therefore have to be considered in line with paragraph 11 of the NPPF which states that where relevant policies are considered out of date permission will be granted unless the application of policies in the Framework that protect areas or assets of particular importance provides a clear reason for refusing the development proposed, or any adverse impacts of doing so would significantly and demonstrably outweigh the benefits when assessed against the policies in the Framework when taken as a whole.

For rural housing, paragraphs 78-80 of the NPPF are the most relevant to the consideration of this proposal for a new dwelling. Paragraph 79 of the NPPF states that to promote sustainable development in rural areas, housing should be located where it will enhance or maintain the viability of rural communities. Furthermore, Paragraph 80 of the NPPF states that planning decisions should avoid development of isolated homes in the countryside unless certain identified circumstances criteria (criterion a-e) apply.

In addressing the proposed development, the first consideration is whether the site is in an isolated location. In this instance, the application site is located to the edge of a cluster of dwellings forming the hamlet of Sells Green. This cluster is considered to be a meaningful collection of dwellings to form a 'settlement' for purposes of considering the Braintree case law (Braintree DC v SSCLG [2018] Civ 610) and the application site, in this instance, is not considered isolated in nature.

Whilst the site is not considered isolated, attention is turned back to paragraph 79 which states:

"To promote sustainable development in rural areas, housing should be located where it will enhance or maintain the vitality of rural communities. Planning policies should identify opportunities for village to grow and thrive, especially where this will support local services. Where there are groups of smaller settlements, development in one village may support services in a village nearby."

In this regard, planning policy contained within the Wiltshire Core Strategy has identified opportunities for villages to grow and thrive, through Core Policies 1 and 2 which identifies areas of where sustainable development will take place to improve the lives of all those who live and work in Wiltshire. This approach is to provide the sustainable development, in particular due to the intention to reduce the need to travel (an approach agreed by Planning Inspectors such as within APP/Y3940/W/21/3280947).

It is noted that the site is located within an area with very limited services and facilities. Sells Green does have a public house 'The Three Magpies' however it has no other facilities or services for daily living and thus travel to other settlements are required (such as schools, shops, amenity areas or places of worship etc.). It would be expected that occupants would go to Melksham or Devizes for these services and facilities, although there are a small number of facilities at the settlement of Seend. Given the distances to these settlements and the nature of the routes (which will be commented upon below) it is not considered that the application site is in a sustainable location.

When considering routes to the wider settlements, there are no Public Right of Ways that could be utilised by any future occupants. Consideration has been afforded to the public highways, however it is noted that the application site would be located from a public highway

with no footpaths and is unlit in nature. The unpaved nature is only for approximately 75 metres (when going southward) however due to the rural nature and the close proximity to the highway junction, this route would deter users from walking south and there would also be highway safety concerns in that regard. It is noted that Parish Council raised that there are no pavements outside Woodpeckers and The Lodge so this 'should not be an issue with these two new houses'. It is reminded that the application for the neighbouring dwellings were constructed under the previous development plan and was on an existing residential site (the previous dwelling was removed and replaced with two dwellings). Due to the existing dwelling on that site, it would have not been considered reasonable to object to the lack of pavements. This application however is changing a lawful agricultural use into residential, further away from the highway junction, on an unsafe road for pedestrians. The previous application is therefore not afforded strong weight in this matter and does not mitigate the concerns in this regard.

With regard to cycling, the Department for Transport white paper, Creating Growth, Cutting Carbon, highlights the need to manage the existing road network more efficiently and how cycling has an important role to play. The Department for Health also has stated how important cycling is. Cycling is advantageous in three key areas:

- As a sustainable alternative to the car;
- As low cost transport; and
- As a means of encouraging physical activity in our increasingly sedentary society.

Cycling has the potential to be a viable substitute to car trips of up to 5km. Average speeds are thought to be ~24 kmh. In this regard Seend and the edges of Melksham and Devizes are situated within the 5km area. Whilst this is noted, given the nature of the highway of the roads, and notably the A361 which would need to be utilised, this is not considered suitable for the majority of cyclists. The A361 is unlit and primarily at the national speed limit, which would deter all but the most experienced of cyclists.

In relation to bus stops, the closest to the site would be on the A361 circa 168 meters away. Whilst the bus stops are noted, the routes to these are not a convenient with no immediate pavements outside the site and lighting etc. as addressed above and therefore is not considered to mitigate the concerns over the siting of the dwellings and there would be an overreliance of the use of a private car for future occupants.

It is therefore considered that due to the conflict with Core Policies 1 and 2, it is considered that the site is unsustainable when taking account the approach to the sustainable pattern of development contained within the Core Strategy (which whilst has reduced weight due to the absence of a 5 year housing land supply, still has some weight) and the site's access to services, facilities and sustainable transport modes being poor. The siting results in conflict with Core Policies 1 and 2 which focuses development towards settlements and also considered to conflict with the NPPF in relation to sustainability, sustainable transport and climate change.

In particular under Section 9 of the NPPF promotion of sustainable transport is sought. Within paragraph 110 it outlines that applications for development should ensure that appropriate opportunities to promote sustainable transport modes can be taken up. Given the reliance of the use of a private car as above, the proposal is considered contrary to this part of the NPPF and the environmental objective of the NPPF under paragraph 8 which outlines:

- c) an environmental objective – to contribute to protecting and enhancing our natural, built and historic environment; including effective use of land, helping to improve biodiversity, using natural resources prudently, minimising waste and pollution, and

mitigating and adapting to climate change including **moving to a low carbon economy** [officer emphasis].

Matters of accessibility are also balanced against the wider sustainable development objectives. Economically the proposed development would encourage development and associated economic growth through the building works. The future occupants would also contribute to the local economy and to the continued viability of local services in surrounding villages. However, as this proposal applies for an increase of two dwellings only, the economic role of the development is therefore considered to be limited.

In terms of the social objective, the provision of two dwellings in this location would not make a significant contribution to the Council's housing supply position. However, the development would provide two new dwellings, create the opportunity for the site to develop social and community ties within the area and facilitate future community involvement.

Finally, with regard to the environmental objective of this development, as above the matter of accessibility is considered to be contrary to this objection insofar as it places emphasis on accessible services and adaption to climate change through a move to a low carbon economy. However, in relation to the other matters outlined within the environment objective the proposal could reasonably be expected to demonstrate a degree of inherent sustainability through compliance with Council supported energy efficiency and Building Regulations standards and the requirement to provide net gain in biodiversity.

- Neighbourhood Plan

Whilst the site is not considered 'isolated' however is considered unsustainable due to the reliance on the use of a private vehicle, consideration has been given towards the Neighbourhood Plan and the weight provided towards the Policies contained within it. Paragraph 14 states that "In situations where the presumption (at paragraph 11d) applies to applications involving the provision of housing, the adverse impact of allowing development that conflicts with the neighbourhood plan is likely to significantly and demonstrably outweigh the benefits, provided all of the following apply:

- a) The neighbourhood plan became part of the development plan two years or less before the date on which the decision is made;
- b) The neighbourhood plan contains policies and allocations to meets its identified housing requirement;
- c) The local planning authority has a least a three year supply of deliverable housing sites (against its five year housing supply requirement, including the appropriate buffer as set out in paragraph 73); and
- d) The local planning authority's housing delivery was at least 45% of that required over the previous three years."

In relation to criterion a), the Seend Neighbourhood Plan was made in 2021 and thus became part of the development plan less than two years before the date of this decision. This part is met.

Regarding to criterion b) the Seend Neighbourhood Plan has a housing policy (Policy SP11 as previously mentioned). It is however noted that this neighbourhood plan does not have any allocations. As outlined within the Neighbourhood Plan and the Wiltshire Council Housing Land Supply Statement (2019) the indicative housing requirement for the community area (Melksham) has been exceeded for the plan period (to 2026). Thus, whilst there are no allocations within the adopted Neighbourhood Plan due to the community area exceeding the indicative housing requirements (and thus arguably the identified housing requirements have

already been met), and the provision of a housing policy, it is deemed that criterion b) has been substantially met.

With regard to criterion c) whilst the Local Planning Authority does not have a five-year supply (as referred to previously) it does have a three year supply of deliverable housing and therefore this is met.

Finally in relation to criterion d) it is confirmed that the housing delivery of the Local Planning Authority was at least 45% of that required over the previous three years. As such when considering paragraph 14, it has been substantially met and it is considered that unsustainable siting contrary to the conflict with the neighbourhood plan housing policy would significantly and demonstrably outweigh the benefits.

· Summary on the principle of development

The principle of the proposed development would be contrary to the Development Plan, notably Core Strategy 1, 2 and 15 and well as Policy SP11 of the Seend Neighbourhood Plan. However, as set out above, the Development Plan is currently considered to be out of date given the Council's inability to demonstrate 5 years' worth of deliverable sites. In having regard to the NPPF, particularly paragraph 8 in relation to sustainable development and paragraph 79 in regards to Rural Housing, the application site is considered unsustainable in location, and thus would not accord with the aims within the NPPF. It is also considered that paragraph 14 of the NPPF is substantially met and thus proposal being contrary to Policy SP11 would significantly and demonstrably outweigh the benefits.

Further discussion is also had within the planning balance taking into account other material considerations, which are addressed within the sections below.

Design and Visual Impact

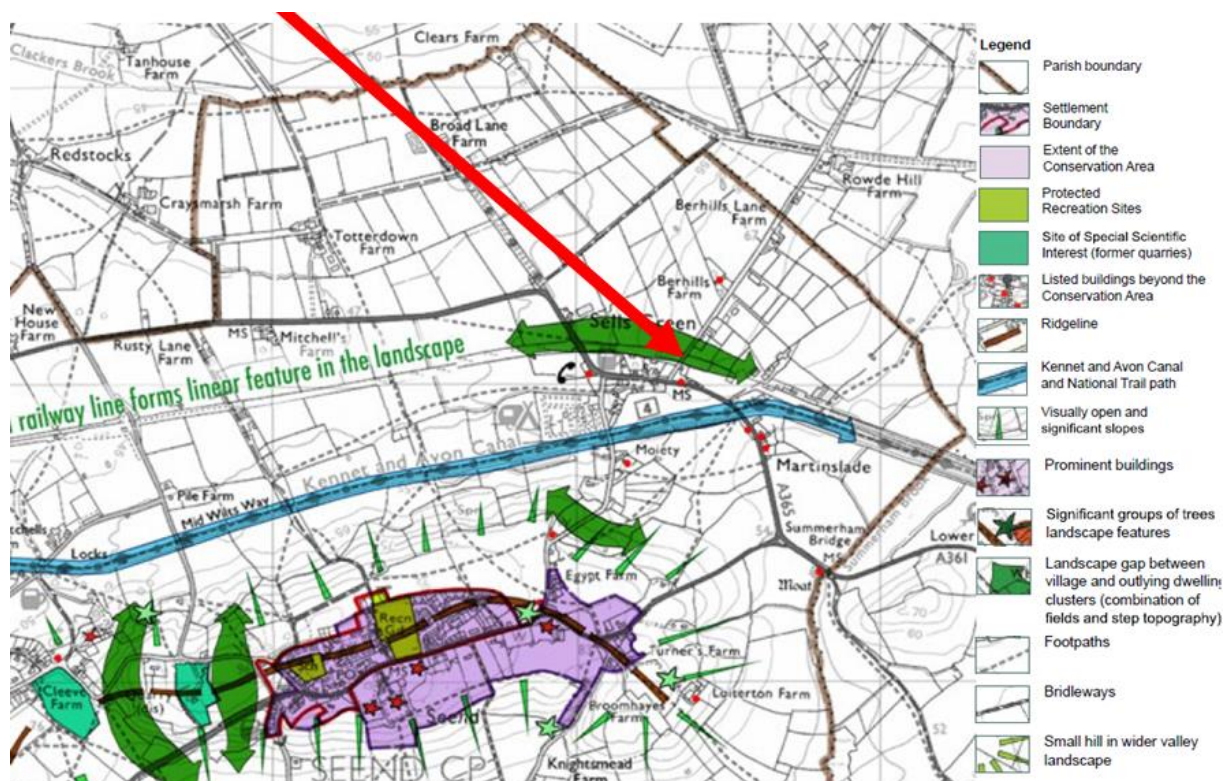
Core Policy 57 requires a 'high standard of design' for all new developments and to draw on the local context and be complementary to the locality. Core Policy 51 requires that development should protect, conserve and where possible enhance the landscape character and must not have a harmful impact upon landscape character, while any negative impacts must be mitigated as far as possible through sensitive design and landscape measures.

Within the Neighbourhood Plan Policy SP4 outlines that development must demonstrate how the proposal responds sensitively to the Parish character including key features identified on Figure 9.

The application site is located within a rural area, beyond the edge of the existing meaningful collection of dwellings forming the settlement of 'Sells Green'. The existing field does have a degree of residential character since there is a residential outbuilding present on site, however as outlined previously within this assessment, this use is not lawful, nor has it been adequately demonstrated that the use of the land has occurred continuously for over 10 years (and thus is immune from enforcement action). It is therefore deemed that this land is a lawful agricultural use.

In considering the landscape impact from the development the provision of two new dwellings, with the access and residential paraphilia is considered to be harmful to the rural character of the area and street scene. The existing built form comprising Sells is varied in scale, however all relates to the existing built form cluster. The proposed new two dwellings would however be extending the built form of the settlement into an existing landscape 'gap' which characteristics the area and provides the transition area between Sells Green and the countryside (and the sporadic development to the north).

With regard to the Neighbourhood Plan, Policy SP4 refers to key features identified on Figure 9. A clip of figure 9 is below with the application site identified:



It is clear that the provision of the two dwellings would be located within this identified landscape gap (and recently adopted being a Neighbourhood Plan made in 2021) which follows the disused railway line. The Neighbourhood Plan Policy outlines that proposals must demonstrate how they respond sensitively to the landscape character, including the key features identified. Under paragraph 5.25 of the Planning Statement the landscape gap is discussed by the agent and only provides weight to the fact that the application site is residential garden (which as assessed previously is not lawfully agreed) and is well screened by mature planting that means 'visually it appears part of the linear strip of development that includes Woodpeckers rather than as part of the open countryside'. In this regard too much weight has been afforded to the fact the field is enclosed in nature and is residential garden. The Local Planning Authority consider this land agricultural use and the identified landscape gap is not linear along the road but is from west to east around the disused railway line. The dwellings would encroach into this identified landscape gap into the countryside. Although views to the dwellings would only be afforded from Berhills Lane (not the referenced Deblins Lane in the Planning Statement), the provision of the dwellings would still adversely elongate the built form into the countryside into the identified landscape gap.

It is not considered that the provision of the two dwellings would conserve or enhance the character and local distinctiveness of the Parish landscape, impeding on an identified landscape gap and transition area between Sells Green and the wider countryside and adversely elongating the settlement into the countryside. The proposed new access would unacceptably 'open up' the agricultural site with a new access and hardstanding. No details have been submitted regarding the boundary treatment and access gates outlined and this would be controlled by way of condition if the scheme was otherwise acceptable. The domestication of the site with residential paraphernalia, built form and an urban layout would

be harmful to the character of this rural area and would be in conflict with the Development Plan Policies.

Whilst the principle of dwellings on this agricultural site is considered unacceptable due to the removal of the characteristic agricultural field in this valuable landscape gap, consideration has been afforded to the submitted design and layout of the new dwellings.

Firstly, when considering the location of the dwellings within the site, the two new dwellings would not be sited adversely forward of the existing building line to the south. It is noted that the dwellings are actually sited further back from the highway than the neighbouring dwellings (including Woodpeckers) to the south however this is not considered unacceptable. It is also considered that the spacing between the dwellings (the two proposed as well as the space to Woodpeckers) is also not unacceptable and would not result in a cramped overdeveloped form of development.

It is however considered that the layout of the site with the driveway/access running between the dwellings with parking to the rear of the site, has a harmful 'urban' appearance which is not in keeping with the character or pattern of the area. A significant amount of hardstanding is proposed on the site as a result of this design, which is harmful in this rural area. It is noted that from the street scene there would technically be less hardstanding being visible from the public vantage points, however the view down the driveway (when the gates are open in particular) is considered unacceptably urban in character and not reflective of other arrangements in the locality.

In relation to the design and appearance of the dwellings, the area is mixed in design and scales and thus in considering the design of the dwellings (notwithstanding the harm already identified through the siting) the proposal is considered acceptable. The dwellings are deemed large however given the mixed character of the area, the main bulk which would be to the rear with limited views afforded from the public realm, and the fenestration design on the front elevation, it is considered of acceptable quality. The proposed materials would comprise brickwork, oak framing and render infill panel walls and both clay plain tiles and slate tiles to the roofing. In principle these materials are acceptable, however it would have been deemed necessary and reasonable to control the details of these materials if the application was otherwise being recommended for approval.

Therefore, the proposed development would, by virtue of the design, layout and siting of the dwellings and residential plots, together with the associated residential paraphernalia within the open countryside, be harmful to the visual amenities and landscape character of the area. As such the proposal would not be sympathetic, nor enhance the character or amenity of the area and cannot be successfully integrated within the landscape and surrounds. The proposed development is therefore contrary to the National Planning Policy Framework (2021), Core Policies 51 and 57 of the Wilshire Core Strategy as well as Policy SP4 of the Seend Parish Development Plan.

Residential Amenity

Core Policy 57 criterion vii) outlines that there needs to have regard to the compatibility of adjoining buildings and uses, including the levels of amenity of existing occupants.

- Amenity of future occupants

The proposed internal layout the proposed dwellings would allow adequate light to allow habitable rooms and the amount of amenity space would be sufficient for the enjoyment of the future occupants.

It is noted that within the plans submitted under the current application (as opposed to the previously refused scheme) that no boundary treatment is sought around the private amenity spaces of the dwellings and thus it appears there would be an open layout to the rear of the site. This is considered unacceptable as would not allow adequate private space for each dwelling. It is however deemed that boundary treatment (a notwithstanding the documents submitted details of the positioning and design of boundary treatment) could be controlled by way of planning condition and thus it is not considered reasonable that the lack of boundary treatment on the plans would constitute a reason for refusal in this instance. With this condition (in the event the application was being recommended for approval) the impact on the amenity of the future occupants would be acceptable.

- Residential Amenity

The proposed development is not considered to give rise to any unacceptable impacts upon neighbouring amenities.

With regard to the existing dwellings in the area, by virtue of the intervening distance (whereby the closest dwelling of Woodpeckers would be circa 21 metres away) there would be no adverse overbearing effect, loss of outlook, overshadowing or loss of light from the development. With regard to overlooking, it is noted that a first floor window is sited on the southern elevation of 'cottage one' which would have an outlook towards the neighbouring dwellings to the site. Although this is noted, the use of this room is an en-suite and thus in the instance the application was being recommended for granted, it would be necessary to control this window to be obscure glazed only to prevent any adverse overlooking or loss of privacy. Any outlook from the rear and front elevations would be oblique in nature and thus not considered harmful.

Consideration has also been afforded to the impacts of each new dwelling against one another. It is considered that given the distance of circa 6 metres between the closest points of the dwellings, there would be no adverse overbearing effect or loss of outlook. Whilst there would be some overshadowing generated from cottage one to the cottage two site, given the intervening shared driveway there would be no significantly adverse impacts in this regard. There are no first-floor windows facing each other (cottage one northern elevation, cottage two southern elevation) and thus there would be no significantly adverse overlooking or loss of privacy. There would be some views from the front/rear elevations however this would be oblique in nature and is acceptable. The proposed development is therefore considered acceptable in terms of its impact upon residential amenity.

Highways

- Locational sustainability

Core Policy 60 and 61 aim to direct development to accessible locations where it is 'located and designed to reduce the need to travel particularly by private car, and to encourage the use of sustainable transport alternatives'.

As addressed within the NPPF section above, the application site is considered unsustainable in terms of its access to facilities and services including public transport modes. As there would be a reliance of the private car, the proposal is considered to be contrary to Core Policy 60 and 61.

- Access and Parking

The proposal comprises two new three bedrooled dwellings with the provision of parking and a new access. The Local Highway Authority have commented on the application which has

raised that due to the low number of vehicle movements associated with two residential units, it is considered that the highway network is able to accommodate the additional movements. As such there is no objection in terms of traffic generation.

It was noted from the Highway Officer that the layout provides the required two vehicular spaces per dwelling (due to being three bedroomed dwellings) including a turning area and electric charging point. As such no objection was raised subject to conditions and an informative. These would have been imposed if the application was being recommended for granted. With the conditions, no objection on highway grounds is raised.

It is noted that an objector raised concerns about the access onto Berhills Lane, noting that an objection was raised to their application (planning reference PL/2022/00333) by the Highway Authority which sought access for a new dwelling on land adjacent to 15 Sells Green which connected to Berhills Lane. In this regard it should be noted that the Highway Officer objected to the increased use of a substandard access by virtue of its poor visibility and traffic generation on this private track/road which by virtue of its inadequate width, alignment and junction was considered unsuitable to accommodate the increase of traffic that would have been generated by the new dwelling. The objection was related to the poor access and private track already present connecting to Berhills Lane. The access in this instance has been considered acceptable onto Berhills Lane as it has the acceptable visibility splays etc. not to generate any adverse highway safety concerns.

Ecology

Within the Neighbourhood Plan, Policy SP5 outlines that proposal should demonstrate (where relevant) how green infrastructure within and around the development site has been incorporated into the scheme in order to increase function and improve connectivity of green infrastructure through the site and beyond to identified priorities and assets (criterion i); and a Biodiversity Enhancement Plan to demonstrate the protection and enhancement of existing habits, accompanied by biodiversity calculations obtained using Natural England's most up to date version of the Biodiversity Metric in order to quantitatively demonstrate the minimum biodiversity net gain of 10% within, and where appropriate, beyond the site (criterion ii).

Regarding green infrastructure, due to the modest nature of the plot it is considered that there is limited opportunity for improving the connectivity of green infrastructure through the site and beyond. There is however an essential need to ensure there is an acceptable impact to the field boundary hedgerow/treelines which is considered to have ecological value and could be a habitat corridor. In this regard soft landscaping treatment to the northern boundary in particular is a requirement to not adversely impact this corridor and soft landscaping is incorporated (which further details would be controlled by way of planning condition if otherwise recommended for approval). It is further considered that a Construction Environmental Management Plan would have been requested in the instance the proposal was deemed acceptable to ensure that protection is gained through construction works to the potential habitat woodland to the boundaries. With these conditions there is therefore no objection to part i).

In relation to criterion ii) no biodiversity information has been submitted with the application, including the biodiversity metric. Although this is noted, given the existing use of the site and historic railway use, it is deemed that the principle of development would be acceptable. It is therefore considered that in this instance, that a biodiversity enhancement plan could be controlled by planning condition if the application was otherwise being recommended for approval.

Refuse and Recycling

No refuse storage area has been demonstrated on the submitted plans, however there is ample space within the site to accommodate refuse bins and thus no objection in regard in this regard. A bin collection point has been identified adjacent to the access point and this arrangement is considered acceptable and in keeping with the existing arrangements in the locality. There is no objection in this regard.

S106 contributions/CIL

The property will be CIL liable charged at the standard council rate.

Conclusion/Planning Balance

The site lies within a collection of dwellings which forms Sells Green, which falls within the Melksham Community Area, however the settlement is not identified for any type of growth by the settlement strategy (set by Core Policy 15 'Spatial Strategy; Melksham Community Area'). Therefore, for the purposes of accessing the planning merits of the proposal, the site falls within the 'open countryside' and does not apply with Core Policies 1 and 2. The proposal does not fall within any of the WCS exception policies. The development is also considered to be contrary to Policy SP11 of the neighbourhood plan as addressed within the report.

Whilst it is considered that the principle of development does not comply with the policies contained within the development plan, as set out above, the council cannot currently demonstrate a deliverable five-year supply of housing. The housing policies are therefore out of date as it relates to the supply of housing. The application must therefore be considered in accordance with paragraph 11(d) of the NPPF which states that where relevant policies are considered out of date permission will be granted unless the application of policies in the Framework that protected areas or assets of particular importance provides a clear reason for refusing the development proposed, or any adverse impacts of doing so would significantly and demonstrably outweigh the benefits, when assessed against the policies in this Framework taken as a whole.

The proposed site is not located within any protected area. Paragraph 11 d) ii) is therefore engaged whereby the policies of the NPPF are taken as a whole. In this instance the site is not considered isolated in nature however is not considered sustainable due to the reliance of the use of the private vehicle. It is also considered that there is significant harm generated from the siting of the dwellings in the identified landscape gap, and transition area to the countryside which adversely elongates the existing built form of Sells Green. The harm generated to the character of the area in this unsustainable location is considered to significantly and demonstrably outweigh the minor benefits of two new dwellings (which would not in particular make a significant contribution to the Council's housing supply position), when assessing the policies of the NPPF taken as a whole. It is also considered that the development being contrary to the Neighbourhood Plan housing policy is also considered to significantly and demonstrably outweigh the minor benefits, in line with Paragraph 14, noting that the criteria has been substantially met.

RECOMMENDATION:

That planning permission be REFUSED for the following reasons:

1. The proposed development, involving the erection of two dwellings outside of the defined Limits of Development, would conflict with the Settlement Strategy for Wiltshire, as set out in Core Policy 1 and Core Policy 2 of the Wiltshire Core Strategy and Policy SP11 of the Seend Parish Neighbourhood Plan. With significant weight

being afforded to the Seend Parish Neighbourhood Plan in line with Paragraph 14 of the National Planning Policy Framework, which directs development to the Limits of Development, the re-use of brownfield land or a rural exception site, the harm of the proposed development would significantly and demonstrably outweigh its benefits when assessed against the policies in the National Planning Policy Framework (2021) as a whole (paragraph 11 d) ii). There are no exceptional circumstances or material considerations which justify a departure from the development plan and National Planning Policy Framework and the approval of the proposed development. It would therefore be contrary to the Core Policies 1 and 2 in the Wiltshire Core Strategy, Policy SP11 of the Seend Parish Neighbourhood Plan and the identified paragraphs of the National Planning Policy Framework.

2. The proposed development, by reason of the siting, design and layout of the dwellings and residential plots together with the associated residential paraphernalia within the open countryside, would be harmful to the visual amenities of the area and to landscape character. As such, the proposal would not be sympathetic to nor would it enhance the character and appearance of the area. Furthermore, it could not be successfully integrated within the landscape and elongate the existing built form into an identified landscape gap. The proposed development is therefore contrary to Core Policies 51 and 57 of the Wiltshire Core Strategy, Policy SP4 of the Seend Parish Neighbourhood Plan and the National Planning Policy Framework (2021).
3. The proposed development, by reason of the distance to local services, facilities and amenities, would likely result in heavy reliance on the use of private motor transport for the majority of day-to-day activities, which is in conflict with the principles of sustainable development and the aims of reducing the need to travel, contrary to Core Policies 60 and 61 of the Wiltshire Core Strategy and the National Planning Policy Framework (2021).



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REPORT TO EASTERN AREA PLANNING COMMITTEE

Report No. 2

Date of Meeting	23 February 2023
Application Number	PL/2022/09381
Site Address	Newlands, Hyde Lane, Marlborough, SN8 1JN
Proposal	Conversion of two flats into multiple student accommodation
Applicant	Marlborough College
Town/Parish Council	MARLBOROUGH
Electoral Division	Marlborough West
Grid Ref	53.611528, -5.48949
Type of application	Full Planning
Case Officer	Meredith Baker

Reason for the application being considered by Committee

This application has been brought before the Committee at the request of Councillor Jane Davies should the application be recommended for approval, on the basis that the relationship to adjoining properties is a key issue which justifies the call-in.

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 consideration, and to consider the recommendation that the application be granted planning permission.

2. Report Summary

The proposal comprises the change the use of a building (known as Newlands) from a Class C3 use residential use to student accommodation in association with Marlborough College (Class C2 use), including the provision of an external staircase on the northern elevation.

It is considered that the change of use comprises sustainable development and that there would be no unacceptable impacts arising from the development. The external staircase would not harm the character and appearance of the area and the change of use to Class C2 would not unacceptably change the character of the site. The proposal would not result in any significant adverse impact on the occupiers of any neighbouring properties despite the likely increase in the number of residents at the property. Traffic generation from the proposal is not considered likely to give rise to any significant harmful highway safety concerns. It is therefore considered that the proposed development accords with the Development Plan and as such, is being recommended for approval subject to conditions.

3. Site Description

The application site comprises an existing two storey building which consists of two residential flats (one at ground floor level and one at first floor level). The building is of red brick and slate construction and is located within the settlement of Marlborough. To the north, east and south lie other residential properties and to the west lie playing fields, beyond Hyde Lane. The

application site is also washed over by the North Wessex Downs Area of Outstanding Natural Beauty.

Below is the Location Plan that shows the context of the site.



4. Planning History

PL/2022/08977 - Certificate of lawfulness for proposed conversion from two flats into multiple student accommodation – Withdrawn (due to incorrect type of application submitted)

5. The Proposal

Planning permission is sought for the change of use of a building used for flats (Class C3 - Dwellinghouse) to student accommodation (Class C2 – Residential Institution) and the provision of an external fire escape staircase on the northern elevation. The boarding house would be 12 bedroomed and would also include a residential tutor' bedsit.

It is outlined within the covering letter that Marlborough College has a need for overspill student accommodation for use should an unexpected event take place, such as the need for isolation accommodation during the COVID-19 pandemic, main boarding house failure, visitors etc. This capacity was originally provided by another college property known as Limeback, however that property was converted back into a residential dwelling in 2022 and thus is no longer available for this role.

Internally, the existing flats would be altered and divided to provide the boarding house layout. The only external changes proposed is the provision of an external fire escape staircase

(which would also involve the removal of one window and its replacement with a fire escape door).

During the application process, steps from Hyde Lane to the Public Right of Way footpath (MARL5) and bollards along the Public Right of Way were removed from the scheme following concerns raised by the case officer. Subsequently, amended plans were submitted which reduced the red line of the application to just the existing residential plot of Newlands and not the land across Hyde Lane.

Proposed scheme:



North Elevation



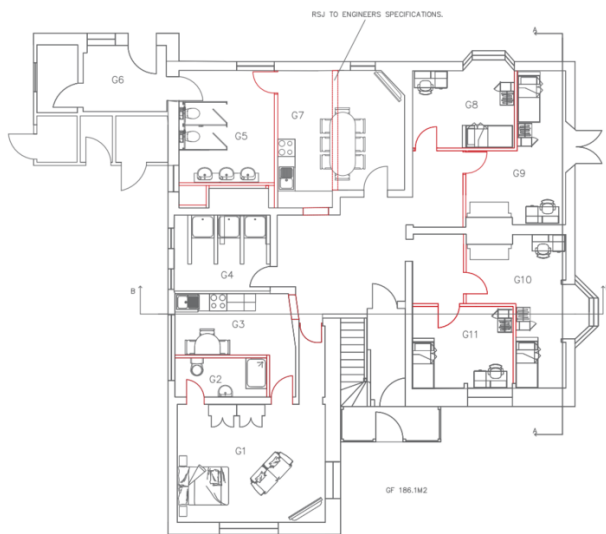
East Elevation



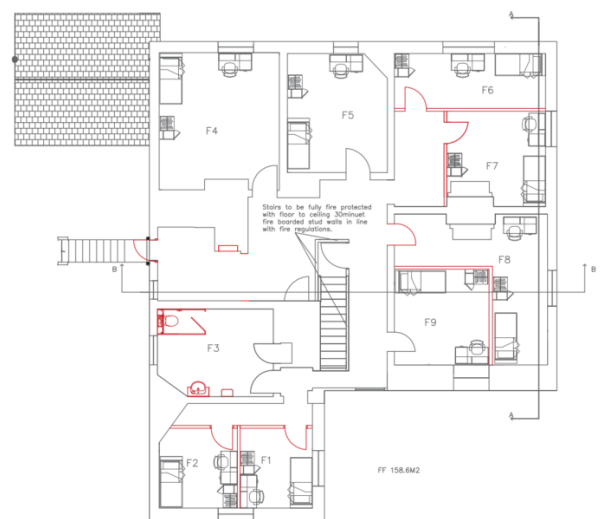
West Elevation



South Elevation



PROPOSED GROUND FLOOR



PROPOSED FIRST FLOOR

6. Planning Policy

National Planning Policy Framework (NPPF)

Section 2 (Achieving sustainable development)
Section 4 (Decision-making)
Section 5 (Delivering a sufficient supply of homes)
Section 7 (Ensuring healthy and safe communities)
Section 9 (Promoting sustainable transport)
Section 11 (Making effective use of land)
Section 12 (Achieving well-designed places)
Section 15 (Conserving and enhancing the natural environment)

Planning Practice Guidance (PPG)
National Design Guidance

Wiltshire Core Strategy (WCS):

Core Policy 1: Settlement Strategy
Core Policy 2: Delivery Strategy
Core Policy 14: Marlborough Community Area
Core Policy 45: Meeting Wiltshire's Housing Needs
Core Policy 50: Biodiversity and Geodiversity
Core Policy 51: Landscape
Core Policy 57: Ensuring High-Quality Design and Place-Shaping
Core Policy 60: Sustainable Transport
Core Policy 62: Development Impacts on the Transport Network
Core Policy 64: Demand Management

Other Documents and Guidance

Waste Storage and Collection: Guidance for Developers
Revised Wiltshire Planning Obligations Supplementary Planning Document (October 2016)
Wiltshire Local Transport Plan 2011 – 2026 – Car Parking Strategy (March 2011)
Draft Marlborough Area Neighbourhood Plan 2021-2036 – Referendum Version

7. Consultation responses

Marlborough Town Council: “At the Planning Committee meeting held Monday 9 January 2023 it was resolved that Marlborough Town Council objects to this application on the grounds of noise impact to neighbours; change of use (and would ask the Officer to check for any covenants concerning the use of the building); the change in character/townscape of the proposed steps and lighting to this residential area of special quality; light pollution in a dark area; the lack of any consultation notices posted nearby for neighbours to be alerted to the planning application and lack of consultation letters for near neighbours of the property”

“I have been asked by Marlborough Town Council's Planning Committee to write to express their dissatisfaction at how the Planning application below has been advertised, and the lack of opportunity for proper consultation. There were a number of resident representations at our Planning meeting on this application; all of whom made it clear that they found out about it by chance from a neighbour or by word of mouth. No doubt the combination of the Christmas period (many residents were reportedly away over this period too), and the mail strike will not have helped?...”

Highway Officer: “The information provided by the applicant points to minimal impact on the adjacent highway in terms of vehicle movement, in particular as the intention for the site is for an overspill/event use.

The steps are not to be located on highway but will connect to the PROW Team so they should be happy in regards to their construction.

I note local concerns are raised in regards to the impact of additional pupils on Hyde Lane but pedestrian movements should be contained in the single location and only at specific times throughout the day and the number of pupils is not large , so I am minded conflict is not likely to occur which will lead to a detriment to highway safety. Therefore, based on the information provided I am minded to offer no highway objection.”

8. Publicity

The application has been advertised by letter to local residents and fourteen third party representations have been received raising the following key concerns:

- That the proposal would lead to harmful noise pollution to the area from 12 teenagers, including potential considerable music and noise in the garden in the summer months.
- That ball games could take place which are noisy with considerable risk of damage to the fences of neighbouring properties.
- That the development would adversely affect the value of the neighbouring property.
- Insufficient notification of the planning application has taken place.
- Whether the property is suitable for isolation accommodation or as a boarding house with only one residential tutor on site.
- That if the building were to be used for visitors it would become a hostel.
- That the proposal/site is not appropriate for a residential area.
- That the proposal would set a precedent for the area.
- Excessive light pollution from the bollard lighting along the footpath (NB. this element of the scheme has been removed).
- Additional lighting positioned around the house causing light pollution and nuisance to neighbours.
- Whether any CCTV would result in privacy issues outside the boundary of the site.
- Foul water drainage is old and sized for a reasonable family residing at the property and the change of use may overload the system.
- That there would be harmful highway movements through increased traffic movements, particularly at the end of term, events etc.
- There is a highway safety issue if pupils walk down Hyde Lane which is a busy, single lane track with no adequate passing places or footpaths.
- That there would be an adverse impact on wildlife (and bats) from the change of use including increased noise and light pollution.
- That if granted planning permission, due to the size of the plot, an expansion of the building may be sought.
- The application site is located within an “Area of Special Quality” as designated within the Marlborough Conservation Area whereby there is a distinctive character of substantial houses in larger grounds which has a distinctive character which is worthy of retention.
- There is a restrictive covenant on the property restricting the use of the property.
- There is already an established boarding house, namely Summerfield in Hyde Lane.
- The safeguarding and security concerns highlighted within planning reference PL/2022/05388 (35 bed temporary boarding house in the college grounds) and within the sequential test outlines why other sites are inappropriate including matters similar

to this application such as overlooking by private properties and remote from the College Campus.

It is noted that concern has been raised over the Council's process for notifying neighbouring properties of the planning application. It is confirmed that the immediately adjacent properties were notified by post. It was raised that there should have been a site notice displayed by members of the public and the Parish Council however it is confirmed that due to the nature of the application and the red line siting (such as not being within a Conservation Area) there is no statutory requirement for the erection of a site notice for this type of application given that notice was served to the adjoining owner/occupiers. Wiltshire Council has taken the necessary publicity in relation to this application as they have followed the prescribed procedure contained within Article 15 of the Development Management Procedure Order (as amended).

9. Planning Considerations

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

Principle of Development

There are no planning policies relating specifically to the principle of change of use from Class C3 (Dwellinghouse) to Class C2 (Residential Institutions) contained within the Wiltshire Core Strategy. The development would however support and help sustain the education establishment of Marlborough College. Under the Core Strategy (notable Core Policy 2) it is outlined that within the limits of development (within which this application site is located i.e. the limits of development of the Market Town of Marlborough) there is a presumption in favour of sustainable development.

In this regard, it is considered that the proposal would be sustainable development. There would be a loss of two residential units for the open market, which is deemed to be undesirable in terms of social sustainability, however there is a social and economic benefit to supporting and enhancing the education service of Marlborough College. The building would still house people in a sustainable location (whereby it is close to services and facilities) and would have no negative impacts upon environmental sustainability due to the change of use of the existing building.

It is therefore considered that the principle of the change of use is acceptable subject to compliance with other material considerations, as assessed below.

Design and Visual Impact

The only external change proposed is the provision of an external fire escape staircase together with the change of one window on the northern elevation to a door to serve it. It is considered by virtue of size, design and siting, that the staircase would not cause harm to the character and appearance of the area. The staircase is functional in its design and is not overly prominent. Although views from the public realm would be possible over the boundary treatment, the staircase would be set back from Hyde Lane and would be seen in the context of the existing buildings. It would therefore not be harmful in visual terms.

Regarding the change of use itself, it is not considered that there would be any harmful visual impact. It is noted that concerns have been raised that the change of use would be out of keeping as it would be a commercial use in a residential area. Although it is not disputed there

would be some change of character from the existing residential flats, it is still a form of accommodation and residential use. The use as a boarding house would not be so out of keeping within a residential area to justify the refusal of planning permission. In any event, there are examples of similar arrangements for boarding houses, including within Marlborough itself, such as Summerfield to the south along Hyde Lane.

It is noted that several comments have been raised that the application site sits within the "Area of Special Quality" as designated by the Marlborough Conservation Area. However, the application site is not within this designation as it is not within the Conservation Area which lies to the south of Back Lane (circa 250m away). As such, this guidance cannot be afforded any weight in the consideration of the application. Furthermore, the intervening distance (with the application site also screened by intervening buildings) is such there would be no harmful impact on the setting of the Conservation Area.

The application site is, however, washed over by the North Wessex Downs Area of Outstanding Natural Beauty (AONB). However, given the limited works which are contained within the built-up part of Marlborough, no harm would be caused to the special qualities of the AONB. It is therefore considered that the proposed development is acceptable in terms of design and visual impact.

Residential Amenity

Core Policy 57 criterion vii) outlines that there needs to have regard to the compatibility of adjoining buildings and uses, including the levels of amenity of existing occupants.

- Amenity of future occupants

The proposed development would have appropriate daylight into each habitable room. It is noted that the rooms labelled 'F1' and 'F2' at the first-floor level would be sharing one window and thus there would be limited light to bedroom 'F2'. Although this is noted, given that some light would be provided by the part of the window provided there is no objection in this regard. It is therefore considered that the amenities of the future occupants are acceptable.

- Residential Amenity

Firstly, consideration has been given to the external alterations proposed under this application. The proposed change of a window to a door and external fire escape staircase would not give rise to any unacceptable impacts in terms of overbearing effect, loss of outlook, overshadowing or loss of light to the occupiers of neighbouring properties as a result of its siting away from any shared boundaries.

It is noted that the staircase and door would allow views to neighbouring properties to the north, in particular oblique views towards the neighbouring property of Fenelon and direct views towards Trenant. Although this is noted, the staircase is for fire escape purposes only and would be a place for travelling as opposed to social congregation. The views from the development in any event are not considered to be to an unacceptable level as they would, in the main, be similar to views already afforded from the existing first floor windows on this northern elevation. Finally, it is noted that oblique views would only be afforded to the front elevation of Fenelon as opposed to any private rear amenity space and the direct views to Trenant would be long distanced in nature with an intervening distance in excess of 27 metres to the boundary of this neighbouring property. As such, it is not considered that the proposed staircase or first floor door would give rise to significant overlooking or loss of privacy and is therefore considered acceptable in this regard.

Secondly, consideration has been afforded to noise pollution, which has been raised as a significant concern by third parties. Whilst it is acknowledged that a boarding house may potentially cause some additional noise, it is still a form of residential use and is not considered a situation that would warrant the refusal of planning permission. The existing residential flats could have noisy occupants, such as when using the garden in summer months and it is not considered that the use of a boarding house would give rise to such an unacceptable noise situation above what could already occur on site. It is further noted that boarding housing within residential areas is not unusual and as mentioned previously, there is an example of this namely Summerfield, which is further south along Hyde Lane. It is therefore considered that the potential for noise pollution is not such that it would warrant the refusal of planning permission.

Concerns have also been raised regarding light pollution resulting from the change of use. Whilst the scheme has been amended to remove the bollards around the highway junction and the Public Right of Way, concerns remain that light pollution around the building itself may result in adverse impacts on the occupiers of neighbouring properties. In this regard, it is acknowledged that some additional lighting around the building may result in additional impacts if not sensitively designed (such as being orientated downwards). As such, it is considered reasonable and necessary to impose a condition that any external lighting details must be submitted to and approved by the Local Planning Authority to ensure that there would be no unacceptable impact upon neighbour amenity (as currently no information has been submitted in this regard). With this condition imposed, it is considered that the Local Planning Authority can control the potential for harmful light pollution and therefore the proposal is deemed acceptable in terms of residential amenity impacts.

Highways

As outlined within the covering letter accompanying the application, a college service vehicle will make routine deliveries to the house as well as a refuse vehicle accessing the site. It is not proposed that the students will have vehicles on site. As such, given this arrangement (and noting for example the site is deemed accessible by foot to services and facilities in Marlborough (including the College) – in particular by using Public Right of Way footpath (MARL5), there is no objection in this regard.

It is acknowledged that there will inevitably be some larger traffic movements at times, such as when pupils are moving in and out of the residence, however this would not be on a regular basis and is not considered to give rise to significant highway safety concerns or traffic generation. Regarding day-to-day use, it is noted that there may be comings and goings, such as workers (cleaners, deliveries, medical staff if used for isolation purposes) however these comings and goings are not considered to lead to such traffic generation as to warrant the refusal of planning permission. It is noted in particular that there are comings and goings of vehicles at present which are comparable (coming and going from work, deliveries etc. from both flats). As such, there is no objection raised in this regard as the traffic generation from the development would not be so significant as to justify refusing the application. The Highway Officer also raised no objection to potential traffic generation as a result of the change of use.

It is noted that following the removal of the staircase into this PRow from Hyde Lane from the scheme, there will be a need for pupils to walk down Hyde Lane until the first access point which is opposite the junction of Cardigan Road (circa 100 metres). It is considered that this arrangement is not ideal noting in particular Hyde Lane is a single lane vehicular track with no pavements, however given the limited distance, which is straight in nature and is the same arrangement for occupants for the existing residential flats, this arrangement is not considered to give rise to such unacceptable highway safety concerns as to justify refusal of planning permission. It is therefore considered that the proposal is acceptable in terms of highway safety.

Ecology

It has been raised by local residents that wildlife may be impacted from the proposal and in particular it has been noted that bats may use the site which need to be protected. In this regard there are no works to the roof of the existing building which may for example house bats, and thus it is considered sufficient that an informative is imposed reminding the applicant that protected species (which include bats) are protected and in the event the proposal could potentially affect a protected species the applicant should seek the advice of a suitably qualified and experienced ecologist. With this informative proposed, as well as noting the external lighting condition being recommended (which would also benefit ecology such as bats using the area), the proposal is considered acceptable in terms of ecology impacts.

S106 contributions/CIL

The property will be CIL liable charged at the standard council rate.

Other matters

It is noted that additional comments have been made by the public that have not been referenced in the above sections so they will be commented upon here. Firstly, concern was raised that the provision of a boarding house would affect the value of neighbouring properties. This is not a material planning matter that can be assessed in planning applications and thus no comment is made in this regard.

Concern was also raised that if the building was used for visitors, then it would be a hostel use rather than a boarding house. In this regard, if the visitors are related to the residential institution of Marlborough College there would be no further change of use (from Class C2).

It was also raised that if ball games take place on site there is a considerable risk of damaging fences of adjoining properties. This is not a material planning matter, and the proposal is not seeking under this application to erect any fencing. It is reminded that ball games could occur as it currently stands as a residential plot.

Regarding CCTV (whereby some concern has been raised over potential loss of privacy), no details have been submitted for assessment however it is noted that permitted development is possible for CCTV provisions such as under Schedule 2, Part 2, Class F of the Town and Country Planning (General Permitted Development) (England) Order 2015 (as amended). If the CCTV does not accord with the permitted development criteria and conditions, then separate planning permission would be required to be submitted to the Local Planning Authority.

Foul water drainage has been raised as a concern as there is potential for the change of use to overload the system due to the likely increased numbers of people at the property. As they are using the current main sewers system, there is no objection in planning terms to the proposal. The applicant would need to ensure however that the system is capable, and it is recommended that the applicant discusses the potential increase with the sewage and water provider.

It is noted that one comment has been made regarding the live application for a temporary boarding house within the college grounds (planning reference PL/2022/05388) which is subject to a sequential test which uses arguments such as sites being overlooked and being remote from the college campus as reasons to discount other sites for a boarding house. In this regard it must be noted that this planning application has not been determined, and a request has been made (at the time of writing this report) that the sequential test (due to the

temporary boarding house being sited in a flood zone) is amended to reflect Newlands, which was not mentioned. A sequential test must be passed to allow the development to be accepted by the Local Planning Authority. Furthermore, regarding the arguments made for alternative sites in the sequential test, the individual circumstances are different, and for example in this instance, given the size of the plot it cannot be stated there is unacceptable overlooking by private properties. As such the temporary boarding house application is not considered to carry any material weight in the consideration of the application.

Finally, it has been mentioned that there is a restrictive covenant on the property, including a restriction that not more than one private dwelling house should occur onsite, and nothing should be done on the land which shall be or become a nuisance or annoyance to the Vendor or neighbouring properties. In this regard, it must be noted that covenants are separate to planning permission and therefore are not a material consideration when assessing planning applications. The applicant will need to discuss the matter with the covenant owners to overcome any restrictions, and this does not prevent planning permission from being approved.

Conclusion

It is considered that the change of use of the building from Class C3 (dwellinghouse) to Class C2 (residential institution) to allow student accommodation, comprises sustainable development and there would be no unacceptable impacts generated from the development. The development is considered to accord with the Development Plan and is therefore being recommended for approval subject to conditions.

RECOMMENDATION:

That planning permission be GRANTED 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 development hereby permitted shall be carried out in accordance with the following approved plans:

Location Plan - Drawing No. MC/NL/LP2 dated 29/09/2022 and received 25/01/2023

Site Plan - Drawing No. MC/NL/SP3 dated 20/10/22 and received 25/01/2023

Proposed Plan + Section Through - Drawing No. MC/NL/002 dated 28/09/22

Elevations - Drawing No. MC/NL/001 dated 14/10/22

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

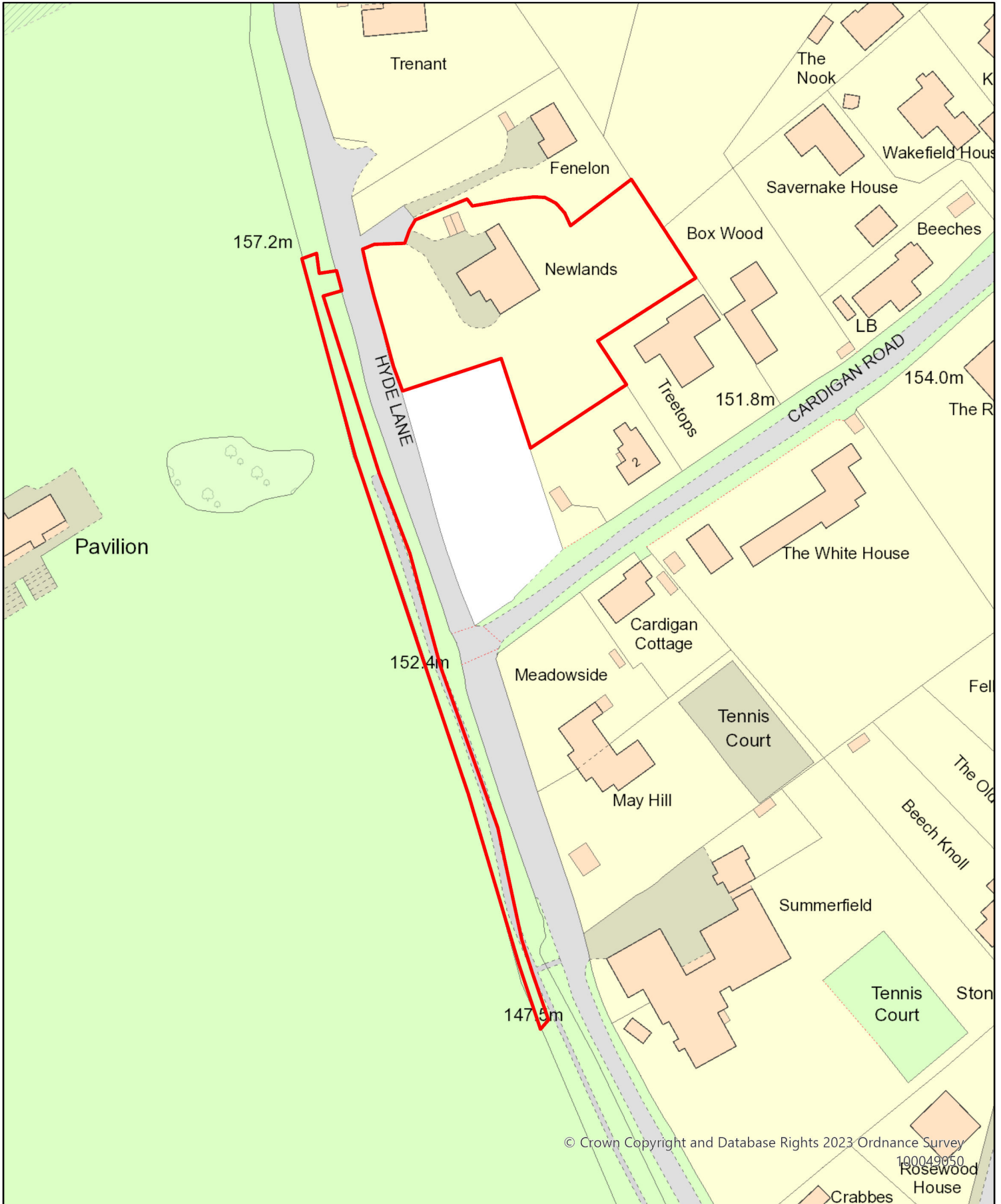
3. No external lighting shall be installed on-site until plans showing the type of light appliance, the height and position of fitting, illumination levels and light spillage in accordance with the appropriate Environmental Zone standards set out by the Institution of Lighting Professionals in their publication "The Reduction of Obtrusive Light" Guidance Note 01/21 (reference GN01/21), have been submitted to and approved in writing by the Local Planning Authority. The approved lighting shall be installed and shall be maintained in accordance with the approved details and no additional external lighting shall be installed.

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

Informative:

1. The applicant should note that under the terms of the Wildlife and Countryside Act (1981) and the Habitats Regulations (2010) it is an offence to disturb or harm any protected species, or to damage or disturb their habitat or resting place. Please note that this consent does not override the statutory protection afforded to any such species. In the event that your proposals could potentially affect a protected species you should seek the advice of a suitably qualified and experienced ecologist and consider the need for a licence from Natural England prior to commencing works. Please see Natural England's website for further information on protected species.

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