

Southern Area Planning Committee

MINUTES OF THE SOUTHERN AREA PLANNING COMMITTEE MEETING HELD ON 30 MARCH 2023 AT THE PUMP ROOM - THE OLD FIRE STATION ENTERPRISE CENTRE, 2 SALT LANE, SALISBURY, SP1 1DU.

Present:

Cllr Andrew Oliver (Chairman), Cllr Sven Hocking (Vice-Chairman), Cllr Trevor Carbin, Cllr Brian Dalton, Cllr George Jeans, Cllr Nabil Najjar, Cllr Bridget Wayman and Cllr Rich Rogers.

140 **Apologies**

Apologies were received from:

- Cllr Charles McGrath

141 **Minutes of the Previous Meeting**

The minutes of the meeting held on 2 February 2023 were presented.

Resolved:

To approve as a correct record and sign the minutes.

142 **Declarations of Interest**

During consideration of Item 8b, Application PL/2022/09311 4 The Flood, Middle Winterslow, Cllr Nabil Najjar noted that he had previously retained the Agent for the application for his own personal work. He took part in discussion but abstained for the vote.

143 **Chairman's Announcements**

The Chairman explained the meeting procedure to the members of the public and drew attention to the presentation slides which had been uploaded to the website as Supplement 1 to the online agenda.

144 **Public Participation**

The committee noted the rules on public participation.

145 **Wildlife and Countryside Act 1981 - Section 53, The Wiltshire Council
Whiteparish Path no.42 Definitive Map and Statement Modification Order
2022**

Public Participation

Sheila Cook spoke in objection to the Application.

Graham Peacop spoke in objection to the Application.

Christine Davies spoke in objection to the Application.

Attention was drawn to the information contained in Agenda Supplement 1 which included late correspondence from the Applicant with a response by the Officer. Also, the notification of the withdrawal of support by a neighbour for non-evidential reasons.

The Senior Definitive Map Officer, Janice Green, presented the Application under Section 53 of the Wildlife and Countryside Act 1981 to add a footpath to the Definitive Map and Statement of Public Rights of Way, between Common Road and Footpath no.6 Whiteparish, "The Drove", based on user evidence and some historical evidence.

As set out in the report and noted during the presentation, submissions in objection and support had been received, as detailed in para 8 of the report.

The Officer explained that where an Order received objections which had not been withdrawn, the Order must be forwarded to the Secretary of State for determination. The Order had come to Committee to make a recommendation to be attached to the Order when it was presented to the Secretary of State.

The Secretary of State would determine the Order by:

- Written representations;
- Holding a local hearing; or
- Holding a local public inquiry, to be presided over by an Inspector appointed on behalf of the Secretary of State, at which witnesses on both sides will give oral evidence and be cross-examined on their evidence.

Based on the evidence, the Inspector appointed on behalf of the Secretary of State would determine whether the Order was:

- Confirmed;
- Confirmed with modification/s; or
- Not confirmed.

The Committee was asked to consider the objections and representations received and the evidence as a whole, in order to determine whether or not Wiltshire Council continued to support the making of the Order under Section 53(2) of the Wildlife and Countryside Act 1981.

The Officer set out the options available, these were:

(i) Members may resolve that Wiltshire Council continues to support the making of the Order, based on consideration of the available evidence, in which case the Committee should recommend that the Order be confirmed without modification;

(ii) Members may resolve that Wiltshire Council continues to support the making of the Order with modification, based on consideration of the available evidence, in which case the Committee should recommend that the Order be confirmed with modification;

(iii) Members may resolve that Wiltshire Council no longer supports the making of the Order, based on consideration of the available evidence, in which case the Committee should recommend that the Order is not confirmed with clear evidential reasons given for this resolution;

(iv) Members may resolve to take a neutral stance, if the Committee considers on consideration of the available evidence that a Wiltshire Council recommendation cannot be attached to the Order when it is forwarded to the Secretary of State for determination.

The Officer explained the tests for Making and Confirmation of an Order and that it was appropriate to make the Order based on a reasonable allegation, however, in this case, upon the making of the Order, no additional evidence to support the addition of the route had been submitted and additional evidence had been submitted in objection to the Order, particularly with reference to:

- The presence of a two strand wire fence across the width of the way, at the south-west turn, which may have brought public use of the way into question at an earlier date; prevented use and/or affected qualifying user “as of right” from 1979.
- The junction with Footpath no.6 at the southern end of the Order route.

It was considered that where there was conflict in the evidence and the evidence was finely balanced in the balance of probabilities test to be applied at the confirmation of the Order, it was not possible for Wiltshire Council, as the Surveying Authority, to reach a recommendation to be attached to the Order when it was forwarded to the Secretary of State for determination.

Members had no technical questions to ask of the Officer.

Members of the public as detailed above, then had the opportunity to speak on the application.

Some of the main points included a statement from a family member of a 4th generation of farmers who had lived in the village for many years, noting that the Drove was not a footpath and had never been one, adding that their relative who had lived in the Cottage Farm Bungalow between 1988 – 2006 would have prevented anyone attempting to use the path without permission.

During the 1983 – 2003 timeframe, cows were grazing in the field next to the Drove and there was an established fence in place to prevent them escaping on to Common Road.

The route was not linear and there was no access at one end or connection to path no. 6. The landowners only gave permission to residents of six specific dwellings, which backed on to the Drove, however those residents were not able to turn right as that would have been against the permissions of the landowner.

To link the Drove to footpath no. 6 would require clearance of vegetation, which was felt should act as evidence that the Drove had never connected to footpath no. 6.

As the Division Member, for Whiteparish was not in attendance, Cllr Hocking moved the motion in line with the Officer recommendation. This was seconded by Cllr Oliver.

The Chairman sought clarity on the options available to the Committee and that the Committee was not determining the Order, but the Wiltshire Council recommendation of a neutral stance, which would then accompany the Order when it was presented to the Secretary of State for decision.

The Committee discussed the application, the main points included agreement that it may be difficult to establish how the path had been used historically during the user period in question and so supported a neutral stance.

The Committee then voted on the motion to support the Officer recommendation.

It was;

Resolved:

That “The Wiltshire Council Whiteparish Path no.42 Definitive Map and Statement Modification Order 2022” be forwarded to the Secretary of State with a neutral stance from Wiltshire Council regarding the determination of the order, as it is not possible for Wiltshire Council to reach a decision where the evidence is finely balanced in the balance of probabilities test and may only be resolved by witnesses giving evidence and being cross-examined on their evidence at a public inquiry.

146 **Planning Appeals and Updates**

The committee received details of the appeal decisions as detailed in the agenda.

Resolved

To note the Appeals Update.

147 **Planning Applications**

148 **APPLICATION NUMBER: PL/2023/00213 3 Old Mill Close East Knoyle New dwelling**

Public Participation

Mrs Tarn Winstone spoke in objection to the application.

Mrs Thelma Tompkins spoke in objection to the application

The Planning Officer, James Repper presented the report on the application, which was for the construction of a single 2 bedroom cottage on part of a garden.

The main issues which were considered to be material to the determination of the application were noted as:

- Principle of development
- Scale, design, impact on character and appearance of the area
- Impact on AONB
- Residential amenities/living conditions

The application had generated an objection from East Knoyle Parish Council and 8 letters of representation from the public. The AONB had also raised an objection.

The application was for an infill development in a small village. The ground floor side window was not considered to be overlooking and the change in height was considered minor. The shadow path analysis was explained and detailed on the presentation slides.

The application was recommended for approval with conditions.

There were no technical questions asked of the Officer.

Members of the public as detailed above, then had the opportunity to speak on the application. Some of the main points included information relating to the separate matter of a boundary dispute between the applicant and an adjoining neighbour.

In addition, comments stated the development would be detrimental to the privacy and lighting of the neighbouring properties as well as being overbearing. If approved the development would overlook that outside space and would cause overshadowing and have an oppressive feel.

Other comments noted the negative impact to the AONB and a reduction to current views of hills and trees and increased traffic movements and issues. Traffic issues will arise from this build.

The design was considered out of character and too large for the small sized plot.

The Divisional Member, Cllr Bridget Wayman who was on the Committee spoke in objection to the application, noting the AONB concerns relating to light from the roof lights, and highlighted that the report had disregarded the concerns. Stating that it had no regard to para 185 of the NPPF. Cllr Wayman also explained what was required to retain a Dark Sky status.

In addition, the roof windows at the rear would be overlooking the neighbour behind. Overall, Cllr Wayman felt that it was a poorly designed property which would be better placed on the edge of the village where it could be more spaced out.

Cllr Wayman then moved the motion of refusal against officer recommendation, noting the following reasons:

- Overdevelopment and proximity to neighbouring properties.
- Out of character with the Streetscene
- Contrary to AONB Management Plan
- Contrary to Wiltshire Core Strategy policies CP51 & CP57

This was seconded by Cllr Hocking.

The Committee discussed the application, the main points included the AONB concerns and the importance continuing to preserve the Dark Skies status and how much weight this held in planning considerations.

The size and narrow layout of the site and the scale of the proposed development were felt to be too large for the space available.

At the conclusion of debate, the Committee voted on the motion of refusal, against officer recommendation, for the reasons as stated above.

It was;

Resolved:

That application PL/2023/00213 be REFUSED for the following reasons:

The site is a narrow plot located towards the southern end of the village within the Area of Outstanding Natural Beauty, a Dark Skies Reserve. Existing cottages adjacent to the site are of a traditional scale and design. The proposed new dwelling dwellinghouse is considered to be an overdevelopment and cramped form of development by reason of its excessive height and close relationship to neighbouring properties and would be an incongruous and unneighbourly addition to the street scene at odds with the character of surrounding residential properties. Further, the design of the proposal contains rooflights which are discouraged in the landscape of the AONB due to their contribution to light pollution. As such, the proposal is considered contrary to the aims of policies CP51 & CP57 of the Wiltshire Core Strategy, the aims of the AONB Management Plan, objective 22 of Wiltshire Council's adopted design guidance

'Creating Places', and the design guidance contained within the NPPF and associated design guidance and code.

149 **APPLICATION NUMBER: PL/2022/09311 4 The Flood, Middle Winterslow**

Public Participation

Mr Joseph Elder spoke in objection to the application.

Mr Michael Mallock spoke in objection to the application.

Mr Clive Duggleby spoke in objection to the application.

Mr Dan Roycroft (Agent) spoke in support of the application.

Clerk Jane Tier spoke on behalf of Winterslow Parish Council

The Senior Planning Officer, Lynda King presented the report on the application, which was for the erection of a dwelling house, associated access, hard and soft landscaping and associated works (Resubmission of 21/00943/FUL).

The main issues which were considered to be material to the determination of the application were noted as:

- Principle and planning history
- Neighbouring amenities
- Highway safety
- Ecology
- CIL/S106

The application had generated an objection from Winterslow Parish Council and 14 letters of objection from third parties.

The application was recommended for approval with conditions.

It was noted that the previous application which went to appeal had only been refused on Nitrates and on Overlooking, specifically from the rear bedroom windows on to the Middleton House conservatory area. As such, the Committee was advised that to refuse the application on any other grounds would not stand up to appeal.

The former reasons had been mitigated in the current application, as the development now included roof lights which served bathrooms and a stairwell and an agreement to resolve the nitrate issues.

Members then had the opportunity to ask technical questions of the Officer. It was noted that the S106 agreement involved an agreement to contribute to the councils strategy to mitigate nitrates.

The officer clarified where the subdivision of the site would be, using the presentation slides and explained that the development had moved approximately 1m forward on the plot.

In addition the Officer noted that the site was not in an area of flood risk and that other permission would be required to remove overhead wires, should the application be approved.

Members of the public as detailed above, then had the opportunity to speak on the application. Some of the main points included the scale of the development for the size of the plot, the general unkempt condition of the land, and the local concern relating to highways safety for varied users including, local families on their way to school, dog walkers, horse riders and general on foot pedestrian access due to there being no footpath or streetlights.

Other issues included heavy vehicular traffic access and an increased presence of large delivery vehicles which struggled to pass oncoming traffic due to there being only a few places where vehicles could pass each other along the road.

It was noted that there was no visitors parking and antisocial carparking would cause further issues.

The design was felt to be inappropriate, unsympathetic and out of character for area and the exits and entry were considered to be too close to the corner.

The privacy of the residents in Middleton House would be directly impacted by the development. It was stated that the Inspector had not had the opportunity to examine the traffic flow over any length of time.

The removal of hedges would result in destroying animals habitats and the overhead electric supply had not been addressed.

The agent highlighted that the only issues on the previous application which had been considered by an Inspector were the overlooking to the neighbours conservatory and the nitrates. The current application had been designed with upper windows changed from dormer windows to rooflights so could not look out directly on to the neighbour, due to serving bathrooms and roof light over a staircase. Other aspects for refusal were not for discussion this time. There were also no technical objections from the consultees.

The Parish Council statement was in objection to the application due to highways issues, overdevelopment and potential flood risks. The clerk also noted the level of calls and emails received from local residents concerned with the development.

The Divisional Member, Cllr Rich Rogers who was on the Committee spoke in objection to the application, noting the floor plans remained largely unchanged and that only the internal arrangements had been altered. The reasons for dismissal of the previous application by the inspector had not been satisfactorily resolved as there was still an element of overlooking possible from the roof windows. Cllr Rogers stressed the importance of safeguarding the amenity of the neighbour. It was Cllr Rogers view that only a single storey dwelling was suitable for the site and highlighted CP57 of the NPPF paras 124 & 130.

The Officer suggested that if minded to approve, the Committee could add a condition on the windows so that they could only be opened for ventilation. Cllr Rogers did not feel that the condition would safeguard the overlooking aspect.

Cllr Rogers then moved the motion of refusal against officer recommendation, noting the following reasons:

Contrary to Paragraphs 124 and 130 of the NPPF and Policy CP57 of the Wiltshire Core Strategy in that development should be compatible with and similar to adjacent properties and represent a high-quality design.

This was seconded by Cllr Najjar.

The Committee discussed the application, the main points included options for a condition on the Velux windows to be obscured/opaque and whether it was necessary to include the window above the staircase or to leave that clear to enable the maximum amount of light in that area of the dwelling. There were differing opinions around the ability to see out of roof light windows.

The ruling by the Inspector of the previous application was considered and it was noted that the nitrate issue would be resolved by the S106 agreement.

At the conclusion of debate, the Committee voted on the motion of refusal against officer recommendation for the reasons stated above.

For openness, Councillor Nabil Najjar noted that he had previously retained the agent of the application for his own personal work and decided not to take part in the vote on the application.

The motion failed.

Cllr Hocking then moved the motion of approval, in line with Officer recommendation.

This was seconded by Cllr Carbin.

The Committee then discussed the option of additional conditions.

Cllr Dalton proposed a friendly motion to include a condition to have fixed closed roof light windows or use obscured glass and for standard working hours during construction.

Clarification on the 5 levels of obscurity was sought and the Officer explained that at the highest level, level 5, light would still pass through but that you could not see through it.

Cllr Bridget Wayman objected to the stairwell roof window having obscured glass as it would limit the level of light on the stairs where she believed there should be as much light as possible

The original mover of the motion was asked whether he supported the friendly amendments put forward by Cllr Dalton. Cllr Hocking accepted the condition on standard hours of construction, however did not accept any condition to close or obscure the roof lights.

The Committee voted on the motion of approval, in line with Officer recommendation, with an additional condition to apply standard hours of construction. Final approval would be delegated to the Head of Planning pending the completion of the S106 agreement.

It was;

Resolved:

That application PL/2022/09311 be APPROVED subject to deferral to the Head of Planning, pending the completion of the S106 Agreement and 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. 21/01/SK500 , received on 2nd December 2022

Block Plan – Drawing no. 22/22/SK200A, received on 12th December 2022

Proposed Floor Plans – Drawing no. 22/22/SK1, received on 2nd December 2022

Proposed Elevations – Drawing no. 22/22/SK3, received on 2nd December 2022

Proposed Roof Plan – Drawing no. 22/22/SK2, received on 2nd December 2022

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

3) No development shall commence on site above slab level until the exact details and samples of the materials to be used for the external walls and roofs have been submitted to and approved in writing by the Local Planning Authority. Development shall be carried out in accordance with the approved details.

REASON: The application contained insufficient information to enable this matter to be considered prior to granting planning permission and the matter is required to be agreed with the Local Planning Authority before development commences in order that the development is undertaken in an acceptable manner, in the interests of visual amenity and the character and appearance of the area.

4) Notwithstanding the provisions of the Town and Country Planning (General Permitted Development) (England) Order 2015 (or any Order revoking or re-enacting or amending that Order with or without modification), no window, dormer window or rooflight, other than those shown on the approved plans, shall be inserted in the rear (south west) roof slope of the development hereby permitted.

REASON: In the interests of residential amenity and privacy.

5) The development hereby permitted shall not be first occupied until the first 2m of the access, measured from the edge of the carriageway, has been consolidated and surfaced (not loose stone or gravel). The access shall be maintained as such thereafter.

REASON: In the interests of highway safety.

6) Notwithstanding the submitted details, the proposed development shall not be occupied until means/works have been implemented to avoid private water from entering the highway.

Reason: To ensure that the highway is not inundated with private water.

7) No part of the development hereby permitted shall be first occupied until the access & parking spaces have been completed in accordance with the details shown on the approved plans. The areas shall always be maintained for those purposes thereafter.

REASON: In the interests of highway safety.

8) Construction works on the site hereby approved shall take place between the hours of 8.00 to 18.00 only Monday to Fridays, 8.00 to 13.00 only on Saturdays and no works at all on Sundays or Bank Holidays.

REASON: In the interests of the residential amenities of occupiers of nearby residential properties.

INFORMATIVES

1) The applicant is advised that the development hereby approved may represent chargeable development under the Community Infrastructure Levy Regulations 2010 (as amended) and Wiltshire Council's CIL Charging Schedule. If the development is determined to be liable for CIL, a Liability

Notice will be issued notifying you of the amount of CIL payment due. If an Additional Information Form has not already been submitted, please submit it now so that we can determine the CIL liability. In addition, you may be able to claim exemption or relief, in which case, please submit the relevant form so that we can determine your eligibility. The CIL Commencement Notice and Assumption of Liability must be submitted to Wiltshire Council prior to commencement of development. Should development commence prior to the CIL Liability Notice being issued by the local planning authority, any CIL exemption or relief will not apply and full payment will be required in full and with immediate effect. Should you require further information or to download the CIL forms please refer to the Council's Website:

www.wiltshire.gov.uk/planninganddevelopment/planningpolicy/communityinfrastructurelevy.

2) The grant of the planning permission should be read in conjunction with the S106 legal agreement dated XXX entered into by XXX

3) The application involves an alteration to the existing vehicle access/dropped kerb. The consent hereby granted shall not be construed as authority to carry out works on the highway. The Page 504 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.

4) The applicant is advised that, if it is proposed to drain this development directly into the river or carry out any work within 8 metres of the watercourse then a Land Drainage Consent is required from the Environment Agency. For further information see www.environmentagency.gov.uk

150 **APPLICATION NUMBER: PL/2023/01136 61 Moberley Road Retrospective application for the retention of a bike shed etc.**

Public Participation

Dr Nicholas Arnold spoke in support of the application.

Mrs Robyn Arnold spoke in support of the application.

The Committee noted a correction to the report due to typographical errors, which involved the applicants name and the recommendation as detailed in para 1.

The Planning Officer, Sarah Hill presented the report on the application, which was retrospective, for the construction of a painted timber bike store to the front of a dwelling and to install a window with rendered surround and painted cladding below.

The main issues which were considered to be material to the determination of the application were noted as:

- Principle of development, policy and planning history;
- Design, scale and impact on the amenity of the area;
- Other matters

The application had generated a response of no comment from Salisbury City Council and 3 letters of objection from members of the public.

The site had a previous 2016 permission for alterations to the garage, to implement a window and brick surround.

The timber bike store sat forward and was not covered under permitted development.

The application was recommended for refusal.

Members then had the opportunity to ask technical questions of the Officer. It was noted that the door in the wooden frontage to the old garage are led to underfloor storage, however no details had been included on the submitted plans.

Members of the public as detailed above, then had the opportunity to speak on the application. Some of the main points included that the applicant had not understood that alternative materials could not be used to those specified on permission, when carrying out the alterations to the garage conversion.

Reference was made to one of the objectors' positions at Wiltshire Council and that only 3 objections had been received, with the suggestion that the majority of local residents did not object.

The applicant believed that the lack of conformity was in line with the varied styles found along the street, adding that cladding was a material used on many houses in the locality and that they were willing to paint or stain in any way deemed appropriate.

The Bike shed was noted as providing storage for means of alternative transport and as such being supportive to the wellbeing of the family.

The Divisional Member, Cllr Dr Mark McClelland who was not in attendance, had called the application in to committee, to enable consideration in public, to ensure public confidence in the outcome.

Cllr Hocking moved the motion of Refusal, in line with Officer recommendation, noting that he did not mind the appearance of the bike shed, however it was the cladding on the garage which did not match the previous planning permissions which he did not approve of.

The motion was seconded by Cllr Bridget Wayman.

Cllr Hocking also noted the reason the application had been called to Committee, was so that the application could be debated in public for

transparency. Cllr Hocking asked for clarification on whether the Committee could approve the bike shed part of the application and not the garage, it was explained that the application could not be divided up and must be considered as a whole.

The Committee then discussed the application, some of the main points included concern that should the application be approved, it would set a precedent for other applicants to carry out works which were not within what had been granted permission for.

The Committee considered the misunderstanding of the applicant in not realising that the shed would require planning permission, noting that it was due to the position being forward of the Principal elevation of the dwellinghouse, however felt that if the garage works as approved in 2016 had been carried out as granted, then the shed may not have brought any objections.

At the conclusion of debate, the Committee voted on the motion of refusal in line with officer recommendation.

It was;

Resolved:

That application PL/2023/01136 be REFUSED for the following reasons:

The proposed amendments to the external material treatment of the converted garage to the front of the application site by reason of poor design, deviation from the previously approved plans and visual impact on the street scene, is considered of detriment to the character of the dwelling and broader setting. The inconsistency of materials, incongruous appearance and poor design quality is considered contrary to policy CP57 of the Wiltshire Core Strategy and guidance contained within the NPPF.

151 **Urgent Items**

There were no urgent items

(Duration of meeting: 3.00 - 5.05 pm)

The Officer who has produced these minutes is Lisa Alexander of Democratic Services, direct line 01722 434560, e-mail lisa.alexander@wiltshire.gov.uk

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