

AGENDA

Meeting: Western Area Planning Committee

Place: Council Chamber - County Hall, Bythesea Road, Trowbridge, BA14 8JN

Date: Wednesday 13 March 2024

Time: 3.00 pm

Please direct any enquiries on this Agenda to Ellen Ghey of Democratic Services, County Hall, Bythesea Road, Trowbridge, direct line 01225 718259 or email ellen.ghey@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 Christopher Newbury (Chairman)	Cllr Stewart Palmen
Cllr Bill Parks (Vice-Chairman)	Cllr Pip Ridout
Cllr Trevor Carbin	Cllr Jonathon Seed
Cllr Ernie Clark	Cllr David Vigar
Cllr Andrew Davis	Cllr Suzanne Wickham
Cllr Edward Kirk	

Substitutes:

Cllr Matthew Dean	Cllr Gordon King
Cllr Jon Hubbard	Cllr Mike Sankey
Cllr Tony Jackson	Cllr Graham Wright
Cllr Mel Jacob	Cllr Tamara Reay
Cllr George Jeans	Cllr Bridget Wayman

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

AGENDA

Part I

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

1 **Apologies**

To receive any apologies or substitutions for the meeting.

2 **Minutes of the Previous Meeting** (*Pages 5 - 10*)

To approve and sign as a correct record the minutes of the meeting held on 17 January 2024.

3 **Declarations of Interest**

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

4 **Chairman's Announcements**

To receive any announcements through the Chair.

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 **Wednesday 6 March 2024** 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 **Friday 8 March 2024**. 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 - 44*)

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

Planning Applications

To consider and determine the following planning applications:

7 **PL/2021/09739: Land Rear of 54 Woodmarsh, North Bradley, BA14 0SB**
(*Pages 45 - 86*)

Outline Application for the construction of up to 23 residential units including detailed access on land to the rear of No. 54 Woodmarsh, North Bradley with all other matters including appearance, landscaping, layout and scale to be reserved.

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

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

Western Area Planning Committee

MINUTES OF THE WESTERN AREA PLANNING COMMITTEE MEETING HELD ON 17 JANUARY 2024 AT COUNCIL CHAMBER - COUNTY HALL, BYTHESEA ROAD, TROWBRIDGE, BA14 8JN.

Present:

Cllr Christopher Newbury (Chairman), Cllr Bill Parks (Vice-Chairman), Cllr Trevor Carbin, Cllr Ernie Clark, Cllr Andrew Davis, Cllr Edward Kirk, Cllr Stewart Palmen, Cllr Pip Ridout, Cllr Jonathon Seed, Cllr David Vigar, and Cllr Suzanne Wickham

Also Present:

Cllr Tony Jackson

1 **Apologies**

There were no apologies for absence received.

2 **Minutes of the Previous Meeting**

The minutes of the previous meeting held on 20 December 2023 were considered. Following which, it was:

Resolved:

The Committee approved and signed the minutes of the previous meeting held on 20 December 2023 as a true and correct record.

3 **Declarations of Interest**

Although it was not considered a disclosable interest, for the sake of transparency, Councillor Pip Ridout noted that she had discussed application PL/2023/07380, Agenda Item 7, with the applicant over the course of approximately 2 years by virtue of her role as the area's Unitary Division Member.

4 **Chairman's Announcements**

There were no specific Chairman's announcements.

5 **Public Participation**

The Chairman explained the rules of public participation and the procedure to be followed at the meeting.

There were no questions or statements submitted by Councillors or members of the public.

6 **Planning Appeals and Updates**

The Chairman invited Kenny Green, Development Management Team Leader, to update the Committee on the pending and determined appeals as per the appeals report included within the Agenda Pack.

Prior to providing the appeals update, the officer referred to the post meeting note as detailed within the minutes of the previous meeting of the Committee and advised Members that the Government had published a correction to the 19 December 2023 National Planning Policy Framework (NPPF) release on 20 December 2023, when the last Committee meeting was taking place. The Committee was also reminded of the Member Briefing Note that had been circulated prior to the January meeting.

In response to Member questions, the officer clarified that any granted outline application would be immune from the principle being reassessed at the reserved matters application stage. This was explained as being due to the fact that outline applications establish the principle, and reserved matters subsequently considers the details such as access, landscaping, and design. As such, the housing land supply position would not be a material determinative consideration for reserved matters applications.

It was further emphasised that several housing applications which benefited from a Committee resolution but did not yet benefit from a decision, would return to the respective Committee for Members to make a fresh assessment and resolution having due cognisance to the recently revised NPPF and all material considerations.

Mr Green then updated the Committee on the appeals report as per the Agenda Pack, with Members being informed that officers were in the process of finalising the Council's appeal statement for application PL/2022/08726, pertaining to the erection of 1 dwelling and detached garage.

The two decided appeals were then highlighted with officers briefly explaining the respective Planning Inspectors' reasoning for their decisions.

In the case of 19/00529/ENF, this related to the unauthorised installation of a balcony to a property without the benefit of planning permission. The enforcement notice was quashed, and planning permission granted by the Planning Inspector who concluded that overlooking was already present within

the urban location, and the additional extent of overlooking was not considered harmful.

Case reference PL/2022/02376 was a Listed Building Consent (LBC) application that was refused by Conservation Officers for replacement windows. However, the Planning Inspector allowed the appeal and argued that the windows to be replaced were not historic fabric and the replacement windows would not harm the protected status of the building.

Mr Francis Moreland then presented a statement to the Committee under public participation, which focussed on the revisions to the NPPF and the published Member Briefing Note, and he was pleased that Members would reconsider a number of applications afresh in the coming months following the recent changes made to the NPPF.

After which, it was:

Resolved:

The Committee noted the appeals report for the period 8 December 2023 to 5 January 2024.

7 **PL/2023/07380: The Coach House, 5c Ash Walk, Warminster, BA12 8PY**

Public Participation

- Mr James U'Dell, agent for the applicant, spoke in support of the application.

The Planning Officer, Jonathan Maidman, introduced the report which recommended that the Committee refuse the retrospective application for the erection of new fencing. It was noted that prior to the Committee meeting, a Member site visit had been undertaken, with the Case Officer being present.

Key material considerations were identified including design; impacts on the setting on listed buildings; the character appearance of the conservation area; and neighbour amenity.

Members of the Committee then had the opportunity to ask technical questions to the officer. Details were sought on the materials of the western boundary line, the separation distances from neighbouring properties, and the planning history of the site and previously agreed boundary treatments.

Reference was made to Paragraph 9.1.6 of the report, which stated that the Local Planning Authority (LPA) had previously approved a trellis in respect of the rear boundary treatment to the neighbouring building opposite the application site. The officer confirmed that that was not the principal elevation, and in any event, the applicant for the neighbouring property opted to install metal railings instead, which Members saw during their visit.

Officers further confirmed that neighbouring residents had been consulted on the application and no objections had been received, however the Town Council and Conservation Officer raised objection to the impact the unauthorised fencing had on the setting of the curtilage listed building and the conservation area's character and appearance. Members were also advised that the previous approval for the Coach House had been negotiated by officers to safeguard the character of the heritage asset and still provide a degree of privacy to the future occupiers. The fencing that had been erected was not in compliance with what had been negotiated and approved, and in the absence of any material public benefits, the harm fully justified a refusal.

The named public speaker as detailed above, then had the opportunity to present their views to the Committee.

The Unitary Division Member, Councillor Pip Ridout, then spoke in support of the application.

A debate followed where Members acknowledged the value of preserving the applicant's privacy but felt that the existing fencing was not sympathetic to the status of the property as a listed building and the character of the conservation area despite Members noting a lack of consistency across the general area in terms of building materials and design.

A motion to grant the retrospective application for the unauthorised fencing, contrary to officer recommendations, and subject to a planning condition capturing the approved plans, was then moved by Cllr Ridout, and was seconded by Councillor Jonathon Seed. Following a vote, the motion was lost.

A motion to refuse the application in line with officer recommendations was then moved by Councillor Christopher Newbury and was seconded by Councillor Stewart Palmen.

After which, it was:

Resolved:

The Committee REFUSED the retrospective application, in line with officer recommendations, for the following reason:

The unauthorised fencing which has been erected with its solid non-permeable character inhibits views of the Coach House from the conservation area and also disrupts the views between it and the principal building. It has eroded the historic interdependent relationship and introduced a domestic feature which officers judge is out of character with the site and harms the setting of the curtilage listed building. With respect to the NPPF, the harm is not judged to be outweighed by any public benefits.

The application is not in accordance with sections 2 - Achieving sustainable development (paragraph 8), 12 - Achieving well-designed places (paragraphs 131, 135, 139 and 140), and 16 - Conserving and enhancing the historic environment (paragraphs 195, 203, 205, 206, 208, 212 and 214) of the National Planning Policy Framework, the Planning (Listed Building and Conservation Areas) Act 1990 and Core Policies 57 and 58 of the Wiltshire Core Strategy.

Informative

The decision on this application was made against the following plans:

23068-1 (Existing Site Survey, Plans and Section - Fencing only) dated 20/07/2023

23068-2 (Location Plan) dated 04/08/2023

8 **Urgent Items**

There were no urgent items.

(Duration of meeting: 3.00 - 4.15 pm)

The Officer who has produced these minutes is Ellen Ghey - Democratic Services
Officer of Democratic Services, direct line 01225 718259, e-mail
ellen.ghey@wiltshire.gov.uk

Press enquiries to Communications, direct line 01225 713114 or email
communications@wiltshire.gov.uk

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**Wiltshire Council
Western Area Committee
13th March 2024**

Planning Appeals Received between 05/01/2024 and 01/03/2024

Application No	Site Location	Parish	Proposal	DEL or COMM	Appeal Type	Officer Recommend	Appeal Start Date	Overturn at Cttee
PL/2022/09147	Meadow View Farm, Bradford Leigh, Wilts, BA15 2RW	Holt/South Wraxall	Erection of agricultural worker's dwelling and associated works	WAPC	Hearing	Approve with Conditions	28/02/2024	Yes
PL/2023/01950	Land Opposite 16, St Thomas Passage, Trowbridge, BA14 8SE	Trowbridge	Two bungalows with 3no. off road parking spaces.	DEL	Written Representations	Refuse	18/01/2024	No
PL/2023/03701	Land adjoining 1 Lamberts Marsh, Southwick, Trowbridge, BA14 9PA	Southwick	Permission in Principal for the erection of one dwelling	DEL	Written Representations	Refuse	25/01/2024	No
PL/2023/06444	12 King Alfred Way, Winsley, Bradford On Avon, BA15 2NG	Winsley	Alterations and single storey extensions. Solar panel array, external insulation and external over cladding. Amendments to the roof.	DEL	Householder Appeal	Refuse	23/01/2024	No
PL/2023/07769	228 Winsley Road, Bradford on Avon, Wilts, BA15 1QS	Bradford-on-Avon	Retrospective application for erection of 1.8 metre fence within existing stone wall surrounding front garden	DEL	Householder Appeal	Refuse	25/01/2024	No
PL/2023/08094	26 Horse Road, Hilperton Marsh, Trowbridge, BA14 7PF	Hilperton	Loft conversion to include dormer window and velux windows. Utilising existing loft storage space to house 3 bedrooms and two bathrooms.	DEL	Householder Appeal	Refuse	26/01/2024	No

Planning Appeals Decided between 05/01/2024 and 01/03/2024

Application No	Site Location	Parish	Proposal	DEL or COMM	Appeal Type	Officer Recommend	Appeal Decision	Decision Date	Costs Awarded?
PL/2021/10755	Land Adj Three Pieces, Hoggington Lane, Southwick, BA14 9NR	Southwick	Proposed change of use and conversion of stables/animal pens into a holiday-let (Re-application following refusal of 20/07707/FUL)	DEL	Written Reps	Refuse	Dismissed	15/01/2024	None
PL/2022/06283	5 Court Street, Trowbridge, BA14 8BR	Trowbridge	Change of use of a former store to a one bedroom dwelling. (Re-submission of PL/2022/04517)	DEL	Written Reps	Refuse	Dismissed	19/01/2024	None
PL/2022/06595	5 Court Street, Trowbridge, BA14 8BR	Trowbridge	Change of use of a former store to a one bedroom dwelling.	DEL	Written Reps	Refuse	Dismissed	19/01/2024	None
PL/2022/09054	13 Warminster Road, Westbury, BA13 3PA	Westbury	Retrospective reinstatement of previous coach house to a double garage/gym at ground floor level, and formation of a proposed 1-bedroom annexe at first floor level.	DEL	Householder Appeal	Refuse	Dismissed	09/02/2024	None
PL/2022/09397	Land south of Pound Lane, Semington, BA14 6JP	Semington	Residential development of up to 30 dwellings (of which 30% will be affordable) with associated car parking, access, internal roads, public open space, landscaping, drainage and other associated infrastructure.	DEL	Written Reps	Refuse	Dismissed	09/02/2024	None
PL/2023/00750	15 Folly Lane, Warminster, BA12 8EA	Warminster	Proposed conversion & re-use of redundant stable building into residential accommodation in compliance with core policy 48 of the Wiltshire Core Strategy	DEL	Written Reps	Refuse	Dismissed	31/01/2024	None
PL/2023/02893	Kays Cottage, 489 Semington Road, Melksham, SN12 6DR	Melksham Without	Certificate of lawfulness for existing separate annex (Resubmission of PL/2022/08476)	DEL	Written Reps	Refuse	Dismissed	26/02/2024	None
PL/2023/05160	1A, Wicker Hill, Trowbridge, Wilts, BA14 8JS	Trowbridge	Retention of shop canopy and shutters, including proposed artwork on shutters (updated submission following PL/2022/07086)	DEL	Written Reps	Refuse	Dismissed	29/02/2024	None



Appeal Decision

Site visit made on 18 December 2023

by **C Rose BA (Hons) BTP MRTPI**

an Inspector appointed by the Secretary of State

Decision date: 15 January 2024

Appeal Ref: APP/Y3940/W/23/3324448

Mobile Home at Three Pieces, Hoggington Lane, Southwick BA14 9NR

- The appeal is made under section 78 of the Town and Country Planning Act 1990 against a refusal to grant planning permission.
 - The appeal is made by Mr. T. York against the decision of Wiltshire Council.
 - The application Ref PL/2021/10755, dated 15 November 2021, was refused by notice dated 22 December 2022.
 - The development proposed is described as 'Proposed change of use and conversion of stables/animal pens into a holiday let. Re-application following Refusal of 20/07707/FUL on 19.11.2020'.
-

Decision

1. The appeal is dismissed.

Main Issue

2. The main issue is whether the proposal is in a suitable location for a holiday let, with particular regard to the local development strategy.

Reasons

3. The appeal site forms part of a residential garden and is located off a narrow access road serving a sporadic group of residential and agricultural buildings. The building on the site is small in scale with an open frontage historically forming animal pens.
4. The spatial strategy for the location of housing in the area is outlined in Core Policies 1 and 2 of the Wiltshire Core Strategy (January 2015) (WCS). Core Policies 1 and 2 of the WCS have a presumption against development outside of the limits of the Principal Settlements, Market Towns, Local Service Centres and Large Villages. The policies seek to direct development to locations with a range of services and facilities to reduce the need to travel.
5. Although the site does not fall within, and is located away from, one of the defined settlements, the spatial strategy allows for some development outside of these settlements including proposals that comply with Core Policies 39 and 48 of the WCS.
6. Core Policy 39 of the WCS states that in exceptional cases development may be supported away from the Principal Settlements, Market Towns, Local Service Centres and Large Villages. This is subject to the proposal meeting five criteria including there being evidence that the facilities are in conjunction with a particular countryside attraction and that no alternative suitable buildings or sites exist.

7. While I recognise that the site is located within 3 miles of Trowbridge and 12 miles of Bath, these are settlements and not countryside attractions. Moreover, the appeal is accompanied by insufficient evidence to demonstrate that the proposal is in conjunction with a particular countryside attraction with little evidence in relation to the existence of alternative suitable buildings. The lack of other buildings within the appellants ownership does not adequately demonstrate that there are no other suitable buildings or sites available elsewhere in alternative ownership. As a result, the proposal is contrary to WCS Core Policy 39.
8. Turning to WCS Core Policy 48, this supports the conversion and re-use of rural buildings. It states that proposals to convert and re-use rural buildings for tourism uses will be supported where it satisfies five criteria. These criteria include criteria i. that states that the building(s) is / are structurally sound and capable of conversion without major rebuilding, and with only necessary extension or modification which preserves the character of the original building.
9. From the evidence before me, a building has been present on the appeal site for a number of years. It is clear however that in more recent years works have been carried out to the building that include the re-building of sections of walls and part of the roof. The appellant advises that these works were required to repair areas of defective and dangerous walling and roof in danger of collapse to make the building safe.
10. Although the replacement walling recently carried out comprised approximately 100 concrete blocks covering approximately 10 square metres where the living room is proposed, the works also necessitated and comprised the part replacement of the roof. Section 55 of the Town and Country Planning Act 1990 (the Act) states that development includes building operations. The Planning Practice Guidance (PPG)¹ states that building operations include structural alterations, construction, rebuilding and most demolition. Section 55(2) of the Act further states that categories of work that do not amount to development include building operations which 'do not materially affect the external appearance of a building.'
11. By reason of the extent of demolition and re-build, combined with the change to the external appearance of the left-hand frontage of the building comprising a different form and shape of openings, the works carried out to the building to my mind comprise building operations and major re-building. This is the case regardless of the lack of new foundations, floor area or increased height. As Core Policy 48 of the WCS only permits proposal for conversion and re-use, and the building has undergone major re-building, the proposal is contrary to this policy.
12. Even if I were to conclude that the works comprised repair and replacement, from my site visit the remaining walls to the part of the building that would form a bedroom and kitchen were single skin and in a poor condition. These walls comprised gaps between the concrete blocks with a number of the blocks misaligned. In light of this, the proposal including an extension to the height of the building to the rear, and in the absence of a structural survey or similar evidence demonstrating otherwise, I cannot conclude that the building is structurally sound and capable of conversion. Given the condition of the building and absence of suitable evidence to demonstrate that it is structurally

¹ Paragraph: 001 Reference ID: 13-001-20140306

sound, even if the works already carried out comprised repair and replacement, the proposal would be contrary to criteria i. to WCS Policy 48.

13. In light of the above, I conclude that the appeal site is not a suitable location for a holiday let, with particular regard to the local development strategy. As such, the proposal conflicts with the requirements of Core Policies 39 and 48 of the WCS.

Other Matters

14. I have had regard to the lack of harm to the character and appearance of the area, highway safety, ecology and living conditions of nearby occupiers. I have also had regard to the provision of suitable access and car parking. However, as these are requirements of local and national planning policies, they are neutral in my consideration.
15. My attention has been drawn to other decisions by the Council, including The Lodge, but I have no detailed plans or information before me in relation to these. As a result, I cannot be sure that they are directly relevant to the current proposal. In any case, I am required to consider the current appeal on its merits.
16. The appellant raises concerns regarding the conduct of the Council during their consideration of the planning application. However, this is not a matter which is for consideration in this appeal.

Conclusion

17. For the reasons given above I conclude that the appeal should be dismissed.

C Rose

INSPECTOR

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Appeal Decisions

Site visit made on 28 November 2023

by **A Tucker BA (Hons) IHBC**

an Inspector appointed by the Secretary of State

Decision date: 19 January 2024

Appeal A Ref: APP/Y3940/W/23/3317422

5 Court Street, TROWBRIDGE, Wiltshire BA14 8BR

- The appeal is made under section 78 of the Town and Country Planning Act 1990 against a refusal to grant planning permission.
 - The appeal is made by Wiltshire Steeplejacks against the decision of Wiltshire Council.
 - The application Ref PL/2022/06283, dated 10 August 2022, was refused by notice dated 1 November 2022.
 - The development proposed is change of use of a former store to a one bedroom dwelling.
-

Appeal B Ref: APP/Y3940/Y/23/3317418

5 Court Street, TROWBRIDGE, Wiltshire BA14 8BR

- The appeal is made under section 20 of the Planning (Listed Buildings and Conservation Areas) Act 1990 against a refusal to grant listed building consent.
 - The appeal is made by Wiltshire Steeplejacks against the decision of Wiltshire Council.
 - The application Ref PL/2022/06595, dated 10 August 2022, was refused by notice dated 1 November 2022.
 - The works proposed are change of use of a former store to a one bedroom dwelling.
-

Decision – Appeal A

1. The appeal is dismissed.

Decision – Appeal B

2. The appeal is dismissed.

Preliminary Matters

3. The appeals relate to the same scheme under different legislation. I have dealt with both appeals together in my reasoning.
4. An updated version of the National Planning Policy Framework (Framework) was published on 19 December 2023. The main parties have been given the opportunity to make extra representations on this matter and any comments received have been considered in my determination of the appeal.

Main Issues

5. The main issues for both appeals are the effect of the proposal upon the significance of the grade II listed building known as Home Mill Buildings¹, and whether it would preserve or enhance the character or appearance of the conservation area.

¹ List Entry Number 1364216

6. An additional main issue for appeal A is whether appropriate living conditions would be secured for future occupants of the proposed dwelling.

Reasons

Listed building and conservation area

7. Section 16(2) and 66(1) of the Planning (Listed Buildings and Conservation Areas) Act 1990 (LBCA) requires the decision maker to have special regard to the desirability of preserving a listed building or its setting or any features of special architectural or historic interest which it possesses. Additionally, Section 72 of the LBCA requires special attention to be paid to the desirability of preserving or enhancing the character or appearance of a conservation area.
8. The appeal building is a small undercroft at one end of a late 19th century terrace of cottages. The undercroft faces over Court Street and may have been built as a small coach house. The cottages are brick built with stone dressings that include quoins and shallow pediments to doors and bay windows. The undercroft storey is faced in ashlar stone and serves as a plinth to the terrace above. It is dominated by two large openings; one is enclosed by a pair of doors with glazing to their upper section and the other has a wide central door with fanlight above and two windows to either side. Apart from the PVCu casements and surface applied signage, this joinery appears to be largely original. Internally the undercroft retains historic floor and ceiling finishes.
9. The terrace is an important and prominently positioned residential component of a characterful group of 19th century industrial buildings. These buildings share a common material palette and give the area a strong identity as a former industrial component of the town. The well considered architectural composition of the terrace and its surviving historic fabric are factors that contribute to its special interest. Whilst modern interventions such as the adjacent concrete wall have eroded the quality of the area to a degree, the terrace's position relative to other similarly aged factory buildings nearby are elements of its setting that contribute to its special interest. These factors are also important contributors to the character and appearance of the Trowbridge Conservation Area (TCA).
10. The interior of the undercroft is divided into two main spaces with a central masonry wall. One half would be opened up to its full original size by removing a modern partition. The other half would be divided into three small spaces to provide a bedroom, small shower room and a kitchen area that would face over the street. On the basis that the space is already divided, the proposed subdivision would have a neutral impact on the internal character of the undercroft.
11. The undercroft is built into the ground and appears to suffer from water and moisture ingress. There is no evidence before me to demonstrate that it was ever in use as domestic living accommodation. Indeed, the masonry piers at the rear do not appear to have served as fireplaces for heating, and the large front openings are not of a domestic scale. Changing the function of this part of the building so that it is fit for residential occupation is a matter that needs to be carefully considered to ensure that a dry and comfortable environment can be achieved without harm to the fabric's moisture balance. Little information has been submitted to show how this would be achieved. A condition could be used if the appeals are allowed; however, a basic conservation minded

- approach should at least be drafted at this stage so that the proposal's impact can be properly understood.
12. Externally the pair of doors would be removed. This would result in the loss of historic fabric. The proposed replacement infill would have a horizontal emphasis that would not respect the vertical emphasis of this elevation as a result of the proportion of the glazing and the horizontal timber cladding.
 13. The adjacent opening would also be altered by narrowing the width of the door and thereby requiring the alteration of the existing timber frame and the insertion of an unspecified material either side of the new door to account for its reduced width. No explanation has been given for this modification, and the replacement arrangement would alter the proportions of the opening and harm the original appearance of the neatly dressed masonry arranged to take the existing door.
 14. For the reasons given the proposal would harm the special interest of the listed terrace, arising from the loss of historic fabric and harmful impact on the building's appearance. The level of harm would be significant, given that the proposal would affect the building's prominent road facing elevation. The external changes would be highly visible from the street and would have a harmful impact on the character and appearance of the streetscene. It would thus fail to preserve the character and appearance of the TCA; however, given the small scale of the proposal relative to the area of the TCA, the harm would be modest.
 15. In terms of the Framework the harms would be less than substantial. Paragraph 208 of the Framework establishes that any harm should be weighed against the public benefits of the proposal.
 16. The proposal would secure the removal of the existing PVCu casements, however this benefit would be offset by the harm that would arise from altering the joinery.
 17. Internally the proposal would see the existing opening in the masonry wall widened, beneath the brick arch. The existing painted brickwork provides no evidence that this opening was once wider, so it is not therefore clear that this would be a reinstatement, and this matter should attract no weight.
 18. The proposal would necessitate the removal of the existing adverts that are fixed across the upper parts of the pair of doors. This intervention would significantly improve the appearance of the end of the terrace as would the overall repair and tidying up of this part of the building. This would benefit both the special interest of the listed building and the character and appearance of the TCA, however the weight I give to this is limited by the harmful visual impact of the proposal.
 19. The proposal would bring a redundant part of the existing building into a new use which would be likely to secure the future conservation of this part of the building. Additionally, the delivery of a small dwelling within an existing building would be in accordance with the support for windfall sites in Paragraph 70 of the Framework. The site is within an area that is well located with good access to local services and facilities. These matters constitute a clear public benefit that is of considerable weight.

20. The appellant refers to the benefit of introducing a heat pump and electric vehicle charging point with reference to the support for such at Paragraph 164 of the Framework. However, neither are included on the proposed plans and both would need permission as the building is listed. I therefore give little weight to these matters.
21. Together the public benefits carry considerable weight. I need to balance this against the significant level of harm that the proposal would cause, and take into account Paragraph 205 of the Framework, which states that great weight should be given to the conservation of a heritage asset. On this basis, the public benefits of the proposal would not be sufficient to outweigh the harm.
22. In summary, the proposal would fail to meet the requirements of the LBCA as it would harm the special interest of the listed building and fail to preserve the character or appearance of the TCA. It would be contrary to Policies 57 and 58 of the Wiltshire Core Strategy 2015 (WCS), which together seek to ensure that development proposals are designed to a high standard that enhances local distinctiveness and protects and conserves the historic environment.

Living conditions

23. The proposed dwelling would have a single outlook to the front over a section of the road that is designated for car parking. There is no footpath or similar defensible space to separate the front windows from the parking bay. As such, it is likely that the outlook from the dwelling would be dominated and significantly limited by the presence of cars parked immediately outside the building, particularly as those living in the terrace report that parking is in high demand. The inability to have a meaningful and pleasant outlook from a dwelling would result in a living environment that would be substandard, and would not facilitate good mental health for its occupants.
24. The appellant is of the view that parking directly in front of the building is illegal and such parking would not occur in the future. At my visit I saw that the parking bay is marked out and covers the whole of the front elevation of the proposed dwelling. Once converted access would only be required to the front door, so even if the Council agrees to rearrange the parking bay it is likely that it would only be reduced to the front of the proposed entrance door.
25. The rear bedroom would be lit by an existing lightwell that opens into the front garden of the dwelling above. This was partly blocked at the time of my visit; however, it is north facing so at its best is only likely to distribute a basic level of secondary light to the bedroom. Additionally, complications could arise in the future as the lightwell relies on daylight from the garden of a separate dwelling. This would be a poor arrangement and would exacerbate the problems already identified regarding the outlook at the front.
26. The main living area includes an area for bin storage. It is suggested that this would take the form of a sealed unit. No details of such a system are provided in the submissions. There is therefore nothing before me to demonstrate that domestic waste could be successfully stored within the dwelling between bin collections in a manner that would be hygienic and odour free. Additionally, the area marked for bin and bike storage would occupy a considerable portion of the living room, pushing the usable area to the back of the room which would be away from the front windows.

27. The appellant advises that the dwelling would accord with the Nationally Described Space Standard. This is however not a matter that I can take into account as there is no corresponding development plan policy², and in any case it would not account for the other deficiencies I have found.
28. In summary, the proposal would fail to secure appropriate living conditions for the future occupiers of the dwelling. It would not accord with Policy 57 of the WCS, which seeks to ensure that development proposals are well designed to achieve an appropriate level of amenity.

Other Matters

29. The appellant suggests that the Council is unable to demonstrate a 5 year housing land supply and therefore a presumption in favour of sustainable development applies. However, with reference to Paragraph 11 d) of the Framework, an exception is provided where policies in the Framework that protect assets of particular importance provide a clear reason for refusing the proposal. Footnote 7 establishes that this includes designated heritage assets. I have found that the proposal would harm the special interest of the listed building and character and appearance of the TCA. It would not therefore accord with the Framework and the tilted balance does not apply.
30. References are before me to a scheme nearby for the conversion of offices into dwellings. The circumstances of this scheme, including the regime by which permission was granted, appear significantly different to the appeal proposal. Accordingly, this scheme has had no bearing on my decisions.
31. The appellant refers to the Policies of the 1996 West Wiltshire Local Plan. The Council has clarified that these Policies are out of date and they have not therefore been determinative.

Conclusion

32. For the reasons above, both appeals should be dismissed.

A Tucker

INSPECTOR

² Planning Practice Guidance Paragraph: 018 Reference ID: 56-018-20150327

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Appeal Decision

Site visit made on 18 January 2024

by **G Powys Jones MSc FRTPI**

an Inspector appointed by the Secretary of State for Communities and Local Government

Decision date: 9th February 2024

Appeal Ref: APP/Y3940/D/23/3329480

13 Warminster Road, Westbury, Wiltshire, BA13 3PA

- The appeal is made under section 78 of the Town and Country Planning Act 1990 against a refusal to grant planning permission.
 - The appeal is made by Mr Hugh Davies against the decision of Wiltshire Council.
 - The application Ref PL/2022/09054, dated 23 November 2022, was refused by notice dated 11 July 2023.
 - The development proposed is described as reinstatement of previous coach house to a double garage/gym at ground floor level and formation of a proposed 1 bedroom annexe at first floor level.
-

Decision

1. The appeal is dismissed.

Preliminary matters

2. The appeal building is situated within the Westbury Conservation Area (WCA). In determining the application, the Council, for the purposes of the Framework¹, treated the building as a non-designated heritage asset.
3. Notwithstanding the description of the development used in the application form, the appellant has since confirmed that the submission was also directed to seeking retrospective consent for the installation of photo-voltaic (PV) panels in the roof of the building.
4. The Council has clarified that it raises no objection to the proposed uses of the outbuilding, provided that they were used ancillary to the use of the dwelling known as 13 Warminster Road, and not used as a separate, independent unit of accommodation. I have no reason to disagree with the Council's approach to this aspect of the proposal.

Main issues

5. The main issues are concerned with:
 - (a) heritage considerations being (i) the effect of the proposals on the character and appearance of the host property and (ii) whether the development would serve to preserve or enhance the character or appearance of the WCA;
 - (b) the effect on the living conditions of neighbouring residents with reference to noise, disturbance and privacy.

¹ The National Planning Policy Framework

Reasons

Heritage considerations

6. Neither of the parties has produced a Statement of Significance for the appeal property, but together they have garnered sufficient information to provide a useful commentary as to the building's provenance and history. Although its precise construction date is not known, mapping evidence shows that it existed in mid-Victorian times. It was originally built as a coach house, but little is known as to the property it served, which remains a matter for conjecture.
7. In more recent times the red-bricked building was modified and used for light industrial purposes. The modifications included the removal of the main doors with the voids on the front elevation being bricked up in materials matching the remainder of the building. However, two circular windows were introduced at first floor level and smaller rectangular shaped windows inserted below. A central chimney, apparent in an undated but historical photograph has been removed. It is not possible to discern the roofing material from that photograph, but the roof at present is formed of pantiles, which is also apparent on other Victorian buildings throughout the Town.
8. The appellant does not dispute the Council's treatment of the building as a non-designated heritage asset but takes the view that the building:

'...has significantly changed from its original appearance to the south elevation. As such, it is simply an older recently altered building, with very little of its original character left'.
9. Based on the evidence presented, several matters stand out. The basic form of the building, including 3 of its elevations and its roof profile remain largely unchanged from the day that it was built. The removal of the main doors in the front elevation may have altered the perception of the building's original function, but the modifications that took place were carried out in a reasonably sympathetic manner.
10. The building, to me, is still capable of being perceived as an intrinsic component of the Victorian heritage of the Town, particularly having regard to its juxtaposition with the hall next door. Its context has been subject to change with the construction of the nearby bungalows a generation or so ago, but its spatial linkage with the past is still apparent and this is reflected in the reason provided for the most recent alteration in the WCA's boundary. To my mind, the building strongly reflects the intrinsic heritage characteristics of this part of the WCA.
11. The main proposal which the Council find objectionable is the proposed installation of a steel staircase at the side of the building and a balcony at the front. The balcony widens at one point to provide an external amenity area next to the proposed French doors.
12. To my mind, the structures, given their scale and extent would engulf and overwhelm the building and would appear incongruous, damaging the building's character and appearance. The installation of the PV panels has also harmed the building but at least this could be partly justified by the balancing environmental benefit derived from its future use.

13. I share the appellant's view that the building's location at the top of an access lane means that it is not too apparent in the public realm, but that is insufficient reason to effectively write-off a building with such distinct Victorian credentials.
14. The appellant's reference to other buildings in the WCA where steel staircases and features have been used is noted, but none of the other instances, judging from the photographs provided, have such a deleterious effect on the host buildings as proposed in this case. The building is within the WCA, albeit on its fringes, and since the steel structures would be affixed to it, the structures undoubtedly impact harmfully on the designated area.
15. I conclude that the proposal, in particular the proposed installation of the external steelwork, would harm the character and appearance of the host property which itself contributes positively to forming the character of the WCA. Whilst the harm to the WCA is less than substantial no public benefits are apparent to me.
16. Accordingly, I find a material conflict arises with the thrust of those provisions of Core Policy 57 & 58 of the Wiltshire Core Strategy (CS) directed to achieving high quality design in all development and ensuring the conservation of the historic environment with particular reference to non-designated heritage assets and Conservation Areas.

Living conditions

17. The appellant has effectively guarded against the prospect of the staircase proving problematical in terms of affecting neighbouring privacy by the proposed erection of a screen fence on the boundary wall separating No 13 from the neighbouring garden to the north-east.
18. It also strikes me, given the local lie of the land, that the only residents directly affected by the use of the balcony would be those residing at No 13. Since the proposal would not be an independent residential unit but would serve an annexe used on an ancillary basis to No 13, I do not share the Council's view that the use of the balcony could prove unneighbourly.
19. I therefore conclude that the use of the staircase and balcony would not materially and harmfully affect neighbouring living conditions. Accordingly, I find no conflict with those provisions of CS policy 57 directed to achieving appropriate levels of amenity in new development.

Other matters

20. All other matters referred to in the representations have been taken into account, including the appellant's point that the proposal has drawn no objection following public consultation. However, this is not decisive in my considerations.
21. I have seen the references to other development plan policies, but those to which I have referred are considered the most relevant. The references to the *National Planning Policy Framework* have also been considered.
22. No other matter is of such strength or significance as to outweigh the considerations that led me to my overall conclusions, set out below.

Overall conclusions

23. I find for the appellant in respect of the second main issue identified at the outset, that of the effect of the proposals on neighbouring living conditions. However, for the reasons set out above, I find against him on the first of the main issues in that the development would prove harmful in the context of heritage considerations. This is sufficient reason to dismiss the appeal.

G Powys Jones

INSPECTOR



Appeal Decision

Site visit made on 15 January 2024

by Andrew Smith BA (Hons) MA MRTPI

an Inspector appointed by the Secretary of State

Decision date: 09 February 2024

Appeal Ref: APP/Y3940/W/23/3329064

Land South of Pound Lane, Semington

- The appeal is made under section 78 of the Town and Country Planning Act 1990 (the Act) against a refusal to grant outline planning permission.
 - The appeal is made by Greystoke Land Limited against the decision of Wiltshire Council.
 - The application Ref PL/2022/09397, dated 25 November 2022, was refused by notice dated 17 May 2023.
 - The development proposed is residential development of up to 30 dwellings (of which 30% will be affordable) with associated car parking, access, internal roads, public open space, landscaping, drainage and other associated infrastructure.
-

Decision

1. The appeal is dismissed.

Preliminary Matters

2. The appeal proposal is for outline planning permission with all detailed matters reserved for future approval. Whilst not formally part of the scheme, I have treated any details submitted with the appeal application relating to matters of access, appearance, landscaping, layout and scale as a guide to how the site might be developed. Whilst access is a reserved matter, it is a requirement¹ to state the area or areas where access points to the development proposed shall be situated. It is apparent from the submitted evidence that the site would be accessed from Pound Lane in a location approximately central to the site's northern boundary. Indeed, a 'vehicular access point' and 'highway corridor flexibility zone' are depicted upon the submitted Parameter Plan². I shall consider the appeal on this basis.
3. A Unilateral Undertaking pursuant to Section 106 of the Act (the legal agreement) is before me, dated 26 January 2024. Copies signed separately by the appellant and the principal landowner have been provided. The legal agreement contains various provisions related to: the on-site provision of affordable housing; education contributions; a public right of way contribution; a public art contribution; a waste and recycling contribution; an off-site leisure contribution; and an off-site open space contribution. I shall return to the legal agreement later.
4. A revised version of the National Planning Policy Framework (the Framework) was published in December 2023. The main parties have had the opportunity to provide observations with respect to any relevance of this to the determination of this appeal and I have considered representations received.

¹ of The Town and Country Planning (Development Management Procedure) (England) Order 2015

² Ref: P22-2581_DE_001B_08

5. A Wiltshire Local Plan Review (the LPR) is emerging, which has reached Regulation 19 stage with consultation commencing in September 2023. However, the LPR, which has yet to be submitted for examination, remains at a relatively early stage such that its emerging policies currently attract limited weight in decision making. I shall consider the appeal on this basis.

Main Issue

6. As confirmed through its Statement of Case, the Council initially reviewed its position at appeal stage and decided, following legal advice and subsequent internal discussions, not to defend any of its three reasons for refusing planning permission. However, following the publication of the revised Framework, which has implications for identifying and updating a supply of deliverable housing sites and the engagement of the presumption in favour of sustainable development, it has resurrected its opposition to the scheme in view of identifiable conflict with its strategic housing delivery policies. I shall formulate the appeal's main issue on this basis.
7. The main issue is whether or not the site represents an appropriate location for the proposed residential development, having regard to relevant provisions of the development plan.

Reasons

8. Core Policy (CP) 1 of the Wiltshire Core Strategy (January 2015) (the CS) sets out a settlement strategy that identifies four tiers of settlements: Principal Settlements; Market Towns; Local Service Centres; and Large and Small Villages. Semington is identified as a Large Village through Policy CP15 of the CS. Whilst it contains some facilities and services, including a primary school and a village hall, these would not be capable of serving the full day-to-day needs of residents. In accordance with the supporting text to CP1, a limited level of development shall be supported at Large Villages in order to help retain the vitality of these communities, with such development predominantly taking the form of small housing (involving less than 10 dwellings) and employment sites within settlement boundaries.
9. Moreover, Policy CP2 of the CS sets out that, other than in specific circumstances as permitted by other CS policies (which are not applicable here), development will not be permitted outside defined limits of development. The same policy confirms that development limits may only be altered via the identification of sites for development through subsequent Site Allocations Development Plan Documents and neighbourhood plans.
10. Whilst new allocations were advanced through the Wiltshire Housing Site Allocations Plan (February 2020), which entailed a review of settlement boundaries, the site has not been allocated or identified for development. Accordingly, it falls beyond, albeit adjacent to, the defined settlement limits of Semington and thus within the countryside where the adopted settlement strategy dictates strict development controls.
11. I acknowledge the proximities to the site of Trowbridge, a Principal Settlement, and Melksham, a Market Town, as well as the availability of bus services and a local cycle link serving employment opportunities at Bowerhill. However, these connectivity factors do not alter my identification of clear conflict with the adopted settlement strategy.

12. Thus, having regard to relevant provisions of the development plan, the site does not represent an appropriate location for the proposed residential development. There is identifiable conflict with Policies CP1, CP2 and CP15 of the CS in so far as these policies establish a strategy for the distribution of development across the plan area.

Other Matters

13. The site falls within the setting of the Grade II listed St Georges Hospital, and I am mindful that, in considering whether to grant planning permission for development which affects a listed building or its setting, Section 66(1) of the Planning (Listed Buildings and Conservation Areas) Act 1990 requires that special regard be had to the desirability of preserving the building or its setting or any features of special architectural or historic interest which it possesses. I am satisfied that, in-part owing to the degree of separation involved, the setting of this designated asset would be preserved and that no loss of heritage significance would result.
14. I have noted objections/concerns raised by interested parties with respect to matters including highway safety, the effect upon the character and appearance of the area, the effect upon wildlife, the effect upon local water courses and drainage/sewerage systems, the effect upon nearby non-designated heritage assets, and the effect upon neighbouring living conditions. However, as I have found the proposal to be unacceptable for other reasons, it is not necessary for me to explore such matters further here.

Planning Balance

15. It is the appellant's view that the presumption in favour of sustainable development, as set out at paragraph 11 of the Framework, is engaged on the basis that the policies most important for determining the proposal are out-of-date. The most important policies are, as agreed by the main parties, Policies CP1, CP2, CP3 and CP15 of the CS, which set out settlement and delivery strategies (including specifically for the Melksham Community Area) as well as adopted infrastructure requirements.
16. The appellant has accepted that the Council is able to demonstrate more than a four-year supply of deliverable housing sites, which, for a period of two years from the revised Framework's publication, is the relevant requirement in view of the LPR having reached Regulation 19 stage and being inclusive of a policies map and proposed allocations towards meeting housing need. However, it has been asserted that development plan policies that restrict housing development should be considered out-of-date in any event. This position is based on the level of housing supply achieved across the plan period when assessed against the minimum housing requirement of the CS.
17. The plan period of the CS is 2006 to 2026, and the delivery strategy presented at Policy CP2 sets out that at least 42,000 homes shall be developed in sustainable locations in conformity with a distribution that indicates a minimum housing requirement of 24,740 dwellings across the relevant North and West Wiltshire Housing Market Area (the HMA).
18. My attention has been drawn to the overall housing requirement being 2,000 homes less than the objectively assessed need identified by the CS's examining Inspector. However, notwithstanding the absence of an early review, the CS

was found sound based on a 42,000 minimum figure across the plan period, and this remains the adopted housing requirement.

19. The main parties anticipate that at the end of the plan period a shortfall of between 199 and 590 homes measured against the minimum 42,000 requirement shall be evident, and that a shortfall of between 318 and 560 homes shall avail across the HMA. Indeed, the Council has acknowledged that by the end of the plan period the existing development plan shall not have met its overall housing requirement, nor the housing requirement of the HMA.
20. However, the situation just described does not automatically render the most important policies for deciding this case out-of-date. Instead, this is a matter of planning judgement to be informed by the specific circumstances to hand. It is pertinent that, taken in the context of the overall number of houses required and the length of the plan period (which has yet to expire), the anticipated shortfalls are relatively minor.
21. Furthermore, of key relevance is the Council's current Framework-compliant housing supply position (applicable to the HMA in isolation, and in overall terms), which has been assessed against local housing need using the standard method, as well as its recent housing delivery record. These measurements, notwithstanding any historic shortfalls, offer clear current indications that the Council's strategic housing policies are not placing undue constraints on housing development.
22. Moreover, the restrictions placed on housing development by the Council's settlement and delivery strategies have not prejudiced the present demonstration of the required housing land supply as dictated by national policy, and the spatial strategy is in accordance with the Framework. Thus, in my view, the basket of most important policies for determining the proposal cannot be fairly considered out-of-date for the purposes of applying paragraph 11 of the Framework. Thus, in view of identified conflict with the development plan, the presumption in favour of sustainable development is not engaged. As such, a straight planning balance of scheme benefits against identified adverse impacts is necessitated.
23. As regards the scheme's benefits, it would provide additional open-market and affordable dwellings that could potentially be delivered quickly upon the site in question. Although the provision of up to 30 homes would not make a clear or noticeable difference to the housing supply situation in Wiltshire, the Framework reaffirms the Government's objective of significantly boosting the supply of homes. Further, the policy-compliant delivery of at least 30% affordable homes would promote the delivery of distinct social benefits and respond to a locally identified need. These are thus benefits that attract considerable weight.
24. The scheme would also create jobs during the construction phase and provide support to the local economy and local community facilities once occupied. I afford these benefits moderate weight in view of the number of dwellings proposed.
25. The legal agreement, which I am satisfactorily content is fit-for-purpose despite not binding a small part of the appeal site, secures various contributions (in addition to affordable housing already discussed above). However, these are intended to mitigate the proposal's effects and, on this basis, do not typically

attract positive weight in the planning balance. This includes an off-site open space contribution to be put towards upgrading existing local play areas.

26. Whilst it is realistically envisaged that new publicly accessible open space areas would materialise on-site, these would primarily be of benefit to future occupants of the scheme itself rather than the wider local community. I therefore afford any benefit to be brought about by the delivery of new on-site public open space limited weight. Furthermore, any biodiversity benefits to materialise would realistically be fairly modest and attractive of somewhat limited weight in the planning balance.
27. It has been put to me that the scheme is landscape-led and has been designed to provide a sympathetic extension to Semington in lieu of planning permission³ having already been granted for the development of up to 26 homes upon the site situated to the immediate south. However, even if the scheme could be assessed to cause limited or no material harm in a character and appearance sense, this would not equate to a scheme benefit attractive of positive weight in the planning balance.
28. The proposal would conflict with the Council's spatial strategy and therefore the development plan when read as a whole. In cumulative terms, the scheme would deliver significant benefits. However, in my judgement, these material considerations would be insufficient to outweigh the conflict I have identified.

Conclusion

29. For the above reasons, the appeal is dismissed.

Andrew Smith

INSPECTOR

³ APP/Y3940/W/19/3236860

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Appeal Decision

Site visit made on 18 December 2023

by **C Rose BA (Hons) BTP MRTPI**

an Inspector appointed by the Secretary of State

Decision date: 31 January 2024

Appeal Ref: APP/Y3940/W/23/3324436

15 Folly Lane, Warminster, Wiltshire BA12 8EA

- The appeal is made under section 78 of the Town and Country Planning Act 1990 against a refusal to grant planning permission.
 - The appeal is made by Mr. P. Strong against the decision of Wiltshire Council.
 - The application Ref PL/2023/00750, dated 31 January 2023, was refused by notice dated 28 March 2023.
 - The development proposed is described as 'proposed conversion and reuse of redundant stable building into residential accommodation in compliance with core policy 48 of the Wiltshire Core Strategy.'
-

Decision

1. The appeal is dismissed.

Procedural Matter

2. During the course of the appeal, a revised version of the National Planning Policy Framework (the Framework) was published. The main parties were invited to comment on whether it has relevance for the appeal. I have taken the comments received into account.

Main Issue

3. The main issue is whether the appeal site is an appropriate location for housing, with particular regard to the local development strategy and the effect of the proposal on the character and appearance of the area.

Reasons

4. The appeal site comprises a single storey building within part of a field. It benefits from access off Folly Lane. The site is not physically separated from the remainder of the field but is partly screened from Folly Lane by trees and landscaping. As a result of the lack of separation from the remainder of the field, the building and wider site are visible from parts of Cannimore Road and the associated bridleway broadly to the south and west of the site.
5. The site does not fall within a designated Local Green Space or Green Belt. Nevertheless, by reason of the site's separation from other residential dwellings and position partly screened from Folly Lane, it provides a visual and physical transition from the denser built form of Warminster to the open countryside.
6. The spatial strategy for the location of housing in the area is outlined in Core Policies 1 and 2 of the Wiltshire Core Strategy (January 2015) (WCS). Core Policy 1 identifies four tiers of settlements where sustainable development will take place (Principal Settlements, Market Towns, Local Service Centres and

- Large and Small Villages). While Warminster is identified as a Principal Settlement within the Warminster Community Area under Core Policy 31 of the WCS, the site lies just outside of the settlement boundary for Warminster itself.
7. Core Policy 2 of the WCS states that outside the defined limits of development, other than the circumstances permitted by other policies in the plan, identified in paragraph 4.25, development will not be permitted. Paragraph 4.25 includes proposals that support rural life under WCS Core Policy 48.
 8. WCS Core Policy 48 supports proposals to convert and re-use rural buildings for employment, tourism, cultural and community uses, subject to the site not detracting from the character or appearance of the landscape and subject to a number of other criteria. The policy further states that where there is clear evidence that these uses are not practical propositions, residential development may be appropriate where it meets the stated criteria.
 9. While I note the small size of the building, lack of services and access off a fairly narrow lane, I do not have clear and convincing evidence demonstrating why these matters make the building unsuitable for some or all of the uses identified under WCS Core Policy 48. I have little detailed evidence before me demonstrating why the size of the building prevents continued use for storage or other non-residential use, why services could not reasonably be provided, or why the access would be unsuitable or need to be enlarged given that it currently serves the site and building. While I acknowledge a cost associated with the provision of services, I do not have detailed evidence to demonstrate that this would prohibit the continuation of the existing or introduction of another use. Moreover, I have not been provided with clear evidence that an alternative use would necessarily require connection to services.
 10. Even if I were to determine that there is clear evidence that these non-residential uses are not practical, and despite the proposed cladding to the building slightly improving its appearance, the appeal proposal as a whole would detract from the character and appearance of the landscape. This would be by virtue of the domestication of the site through a combination of the provision of windows and doors to the southeast elevation facing across the open field, formation of the internal access road and parking bays, large outdoor amenity space and associated residential activity and paraphernalia such as seating, washing lines and play equipment. These changes would be visible from Cannimore Road and the associated bridleway. The residential use of the building and wider site would therefore be at odds with its agricultural/rural setting.
 11. Although I acknowledge that the current building and use, including stationing a vehicle and caravan on site and associated activity cover a similar site area, and have a visual impact upon the field and wider area, the character of the site and activity remain rural in nature. This rural character derives from the absence of clear boundaries, nature and appearance of the land and historic use for storage that does not result in a clear extension of nearby residential built form onto the site. In contrast, the proposal would introduce a residential use with its associated activity and paraphernalia that would fail to respect the role that the site serves in transitioning from the built form of Warminster to the countryside. As a result, the proposal would not protect or conserve landscape character, fail to respect the local character, and fail to respond

positively to the existing landscape as required by WCS Core Policies 51 and 57 and Policy E5 of the Warminster Neighbourhood Plan (November 2016) (WNP).

12. With regard to the other criteria to WCS Core Policy 48, from my site visit and the evidence before me, I have no reason to believe that the appeal building is not structurally sound or capable of conversion. The site benefits from adequate vehicular access and access to local services, the building could be served by adequate infrastructure, and the proposal would not be detrimental to the living conditions of nearby occupiers and is not a heritage asset. However, these matters do not address or overcome the conflict with WCS Core Policy 48 with regard to the lack of clear evidence that other uses are not practical propositions and harm to the character and appearance of the area.
13. I have had regard to the evidence from the appellant in relation to the previous Class Q Prior Approvals and those decisions stating that the building is suitable for residential conversion with the external appearance of the building acceptable. However, the Prior Approvals comprised significantly smaller sites and do not require the same consideration against local and national planning policies. As a result, they are not directly comparable to the current proposal.
14. In light of the above, I conclude that the appeal site is not an appropriate location for housing, with particular regard to the local development strategy and the effect on the character and appearance of the area. As such, the proposal conflicts with Core Policies 1, 2, 31, 48, 51 and 57 of the WCS and Policy E5 of the WNP.

Other Considerations

15. I acknowledge that the proposal would not result in any harm to drainage or biodiversity, flood risk and would benefit from the provision of suitable car parking. However, as these are requirements of local and national planning policy, they are neutral in my consideration.
16. While the appeal proposal would provide some benefits, including provision of a dwelling and related social benefit, given the limited scale and nature of the development that I am required to consider on its merits, the benefits would be limited and would not outweigh the harm identified above to the local development strategy and character and appearance of the area.
17. By virtue of paragraphs 77 and 226 of the revised Framework and the Council having an emerging local plan at Regulation 19 stage, the Council need to demonstrate a four-year supply of deliverable housing sites. The Council state that they currently have 4.6-years supply and no shortfall. I have no evidence before me to lead me to a different conclusion. As a result, paragraph 11.d) of the Framework is not engaged.

Conclusion

18. The proposal would conflict with the development plan as a whole and there are no other considerations, including the provisions of the Framework, which outweigh this finding. Therefore, for the reasons given above, I conclude that the appeal should be dismissed.

C Rose

INSPECTOR

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Appeal Decision

No site visit required

by Simon Hand MA

an Inspector appointed by the Secretary of State

Decision date: 26 February 2024

Appeal Ref: APP/Y3940/X/23/3328012

The Annex, Kays Cottage, 489 Semington Road, Melksham, Wiltshire, SN12 6DR

- The appeal is made under section 195 of the Town and Country Planning Act 1990 (as amended) against a refusal to grant a certificate of lawful use or development (LDC).
 - The appeal is made by Mr Paul Williams against the decision of Wiltshire Council.
 - The application ref PL/2023/02893, dated 2 May 2023, was refused by notice dated 1 August 2023.
 - The application was made under section 191(1)(a) of the Town and Country Planning Act 1990 as amended.
 - The use for which a certificate of lawful use or development is sought is the existing use as a dwellinghouse.
-

Decision

1. The appeal is dismissed.

Preliminary Matters

2. The Annex is an attached rear extension to No489 Semington Road. The appellant owns the annex and No489 as well as the adjacent dwelling, 489a. He argues that he moved into the Annex which he then used as his main residence while letting out Nos489 and 489a. The Annex is variously known as the Annex or Kays Cottage. The appellant says they are one and the same thing, but the Council consider Kays Cottage was sometimes used to refer to No489 itself. I shall therefore refer to the building in question as The Annex.
3. The question posed by the LDC is whether The Annex has been occupied as a dwelling for 4 years or more prior to the date of the application, May 2023, that is from at least May 2019. The appellant contends that he moved into the Annex in April 2017 when he began works to convert it into a separate dwelling.

Reasons

4. The Council do not dispute that No489 was rented out to tenants from at least 2018 onwards, they argue however, that does not tell us what was happening at The Annex. The appellant says the Annex was converted for separate residential use during 2018, when the connecting door to No489 was blocked-up and separate utilities were installed, as well as fencing to delineate a separate outdoor area. I don't think there is any dispute The Annex was converted into a dwellinghouse and was furnished and available for occupation for more than the required 4 years. There is also no dispute that the appellant lived in The Annex from time to time, but the Council argue his main residence was abroad and The Annex was empty for long periods. Again this is not

disputed by the appellant (except perhaps for the word 'long'), he did live abroad but also in England and when here he lived in The Annex. No-one else lived in The Annex in the meantime and it remained ready for the appellant to resume living there whenever he was in England. The only matter of substance between the parties therefore, and on which this appeal turns, is whether living in The Annex for periods of time is sufficient to demonstrate a material change of use to a dwelling.

5. The evidence from the statutory declarations is that the appellant lives in The Annex, but this is not in dispute. As far as I can see the only evidence for living abroad is a single page from an email to the appellant concerning his residential status for tax purposes. This is dated March 2020 and concerns the tax year 2019-20. The e-mail says that he was a UK resident for 2017/18 and 2018/19. For 2019/20 because he stayed in the UK for more than 120 days during that period, has an accommodation tie here (The Annex) and stayed in the UK for more than 90 days in the previous 2 tax years he is considered resident for tax purposes.
6. It is not clear from the e-mail how long the appellant actually stayed in the UK in any of the years it mentions but it is quite clear from the e-mail, that the appellant himself considers his family home to be abroad. It seems to me there would not be a query about his residential status if he were not absent for considerable periods of time. If those absences had been just a few weeks at a time, such as for a holiday, or visiting relatives, then that would have been made clear, either in the e-mail or by the appellant subsequently. It is my view, therefore, on the balance of probabilities, the appellant was absent in 2019/20 for periods of time that are considerably more than de minimis and this is possibly the case also for the 2 previous tax years.
7. The question is, therefore, does this matter? The appellant refers to the judgement in *Swale*¹, which is the leading judgement in these issues. He quotes from the High Court judgement that, and I paraphrase here, unless there has been a clear-cut change in the planning circumstances, once a residential use has begun it continues through time. It notes that an occupier does not have to be continuously or even regularly present to establish an unbroken use as a dwelling.
8. However, the appellant does not refer to the subsequent Court of Appeal judgement that overturned the High Court. The Court of Appeal held that it was incorrect to consider the question of whether there had been a clear-cut change in planning circumstances, the key test is whether at any time the Council could have issued an enforcement notice. In *Swale* the Inspector failed to address the question of what was happening when the building was not physically occupied and whether the periods of non-occupation were more than de-minimis. The thinking behind this is that if the building was unoccupied for significant periods of time, even if it was capable of occupation, it would be difficult for the Council to allege a material change of use had taken place. A building with the characteristics of a separate dwelling need not be used for that purpose but could be used for a number of other purposes that did not amount to a material change of use, such as a granny annex, or staff quarters and so on. Consequently, if there are significant gaps of occupation then the Council may well not have been able to issue an enforcement notice alleging a

¹ *Swale BC v FSS and Lee* QBD 4.3.05 Evans-Lombe J s.288 & 289 [2005] JPL 1523 and CoA 17.11.05 Keene, Sedley, Chadwick LJs [2006] JPL 886

material change of use, the continuous use has not been demonstrated and the LDC cannot be issued.

9. This is quite different from the use of second homes for example, where that use has already been lawfully established, then Swale does not apply. But in the case of an unlawful use, such as the subdivision of a single dwelling into two, such as here, the unlawful use only subsists for as long as it is being actually carried out. Hence the concept of a 'continuous use' in Swale. Once the use ceases, because for example, the occupant goes abroad, the unlawful use reverts back to its previous lawful use, and the re-occupation, when the person returns, starts the clock again.

Other Matters

10. I do not need to deal with other matters raised such as the question of Council Tax, off-street parking, or the discrepancies in the red line on the plans as the lack of continuous occupation is determinative.

Conclusion

11. For the reasons given above I conclude that the Council's refusal to grant a certificate of lawful use or development in respect of The Annex was well-founded and that the appeal should fail. I will exercise accordingly the powers transferred to me in section 195(3) of the 1990 Act as amended.

Simon Hand

INSPECTOR

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Appeal Decision

Site visit made on 20 February 2024

by **O Marigold BSc DipTP MRTPI**

an Inspector appointed by the Secretary of State

Decision date: 29 February 2024

Appeal Ref: APP/Y3940/W/23/3330602

1A Wicker Hill, Trowbridge, Wiltshire BA14 8JS

- The appeal is made under section 78 of the Town and Country Planning Act 1990 against a refusal to grant planning permission.
 - The appeal is made by B Shawani against the decision of Wiltshire Council.
 - The application Ref PL/2023/05160, dated 27 June 2023, was refused by notice dated 21 August 2023.
 - The development is described as 'retention of shop canopy and shutters, including proposed artwork on shutters (updated submission following PL/2022/07086)'.
-

Decision

1. The appeal is dismissed.

Preliminary Matters

2. The shop canopy and shutters are already in place. However, the application seeks to include new artwork on the shutters. These were open when I visited but I have seen photographic evidence of the shutters when closed. The information before me suggests that the proposed artwork has not yet been applied. I have therefore treated the application and appeal as being for a proposal.
3. Since the appeal was submitted, a revised National Planning Policy Framework (the Framework) has been published. The parties have had the opportunity to comment on this change and I have reached my decision using the most up-to-date version of the Framework.

Main Issue

4. The appeal site lies within the Trowbridge Conservation Area (CA) and adjacent to the Town Bridge and the Former Lock Up, both Grade II listed buildings. The main issue is the effect of the proposal on the character and appearance of the area, including on the CA and on the settings of the listed buildings.

Reasons

5. Section 66(1) of the Planning (Listed Buildings and Conservation Areas) Act 1990 requires that I have special regard to the desirability of preserving the listed buildings and their settings, or any features of special architectural or historic interest. Section 72 of the same Act requires that I pay special attention to the desirability of preserving or enhancing the character or appearance of the CA.
6. The Town Bridge is a three-arched stone bridge over the River Biss, and dates from 1777. The Former Lock Up was used as such until the erection of the first

Police Station in the town. It is a single storey square stone block, with dome and finial, and dates from around 1757. In the context of this appeal, the significance of the listed buildings is their age and attractive historic appearance.

7. The CA encompasses prestigious commercial and civic buildings, some Georgian, reflecting the historic role of the town centre. Buildings within the CA are predominantly of stone, with some brick. Relevant to this appeal, the significance of the CA is the age and the attractive architectural appearance of its buildings and street scenes. However, the appeal site is an exception, forming part of a post-war building, that has a ground floor modern shopfront, a largely blank façade above, and a squat, flat-roofed profile. As such, the appeal building makes a negative contribution to the CA and to the setting of the listed buildings.
8. The proposal seeks retrospective approval of the canopy and shutters, which form an enclosed structure attached to and protruding from the shopfront. During trading hours, it provides a partially covered area for the sale of goods and produce, providing some interest and dynamism to the street.
9. Nevertheless, the canopy and its structure have a stark, quasi-industrial design that is alien to its largely attractive surroundings, including the CA and the setting of the listed buildings. In addition, the galvanised steel finish of the proposal contrasts sharply with the more traditional external materials used in nearby buildings. The harmful visual effects of the structure are even greater when the shutters are closed, for example at night, because of the solid, dead frontage that they create.
10. The proposal seeks to mitigate these effects by applying artwork to the shutters, in the form of murals undertaken by a local artist of historic parts of Trowbridge (including the Town Bridge and Former Lock Up). I do not doubt that the artwork would provide a degree of visual interest to the appearance of the shutters when closed.
11. Nevertheless, I am concerned that its appearance would become degraded and tatty over time. This would be caused by the regular opening and closing of the shutters, as well as from weathering, aging and vandalism, and would cause further visual harm. In any case, the artwork would not change the fundamentally utilitarian shape and design of the structure. The artwork would not therefore overcome the harm that would be caused by the retention of the structure.
12. For these reasons, the proposal would detract from the positive, attractive elements of its surroundings and would make the negative appearance of the host building even worse. Accordingly, I conclude that the proposal would harm the character and appearance of the CA as a whole, and the settings of the Town Bridge and the Former Lock Up, thus failing to preserve them.
13. For these reasons, the proposal would conflict with policies CP57 and CP58 of the Wiltshire Core Strategy, adopted January 2015, which amongst other things require the conservation of the historic environment and a high standard of design, as does the Framework. Bearing in mind the statutory requirements already referred to, and Framework Paragraph 205, I give great weight to this harm.

Planning Balance and Conclusion

14. In the language of the Framework, the harm to the heritage assets would be less than substantial. Weighed against this, the additional space created has economic benefits to the business and its employees in providing additional space to sell goods to a diverse population. It also protects produce for sale and avoids the need to clear away the area at night.
15. However, these are essentially private, commercial advantages, with limited public benefits. In any case, the rest of the shop unit, with its large front windows, would still be available for retail use. As such, I give the benefits of the proposal only moderate weight. They would not therefore outweigh the less than substantial harm to the character and appearance of the CA, or the settings of the Town Bridge and the Former Lock Up.
16. For the reasons given, there would be conflict with the Development Plan, read as a whole. No material considerations have been shown to have sufficient weight to warrant a decision other than in accordance with it. I therefore conclude that the appeal should be dismissed.

O Marigold

INSPECTOR

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REPORT FOR WEST AREA PLANNING COMMITTEE

Date of Meeting	13 March 2024
Application Number	PL/2021/09739
Application type	OUTLINE
Site Address	Land Rear of 54 Woodmarsh, North Bradley, BA14 0SB
Proposal	Outline Application for the construction of up to 23 residential units including detailed access on land to the rear of No. 54 Woodmarsh, North Bradley with all other matters including appearance, landscaping, layout and scale to be reserved
Applicant	The late Mr. Shane Marshall
Town/Parish Council	North Bradley PC
Electoral Division	SOUTHWICK – Cllr Horace Prickett
Case Officer	David Cox

1. Purpose of Report

The purpose of this report is to update the committee on changes that have occurred following publication of the revised NPPF in December 2023 (and the related revised Planning Practice Guidance published in February 2024) and to secure a fresh committee endorsement to grant permission for this neighbourhood plan allocation site following the completion of a Section 106 legal agreement.

2. Background

On 27 September 2023, the West Area Planning Committee resolved to grant planning permission for this application (subject to the applicant first entering into a S106 legal agreement) A copy of the respective committee report is attached as annex 1; and it should be noted that since the Autumn, substantive progress has been made in terms of advancing with the legal agreement to define the developer obligations and respective clauses in compliance with the endorsed September committee report and Member resolution.

In recognition that the s106 has not reached completion stage and no decision has been issued, the application is brought back to the elected members to be advised of the material changes contained within the 20 December 2023 issued NPPF.

In the broadest terms, planning law requires the local planning authority in dealing with a planning application, to have regard to the development plan and all material considerations. Where the issuing of a decision is delayed between the point in time at which the authority resolves to make the decision and when the decision notice is actually issued, if during this 'gap period' the authority becomes aware of new, or changed, material considerations, it is necessary for the authority to have due regard to these considerations before finally determining the pending application.

As members are fully aware, in December 2023 the Government issued its revised National Planning Policy Framework (NPPF), which is a material consideration for the determination of most applications, and it must be taken into account prior to any decision being made.

The effects of the changes in relation to this planning application are set out below.

3. Housing supply and delivery

The December 2023 NPPF contains two important amended/new paragraphs concerning housing supply and delivery, which are set out within para(s) 76 and 77 as follows –

76. Local planning authorities are not required to identify and update annually a supply of specific deliverable sites sufficient to provide a minimum of five years' worth of housing for decision making purposes if the following criteria are met:

- a) their adopted plan is less than five years old; and*
- b) that adopted plan identified at least a five-year supply of specific, deliverable sites at the time that its examination concluded.*

77. In all other circumstances, local planning authorities should identify and update annually a supply of specific deliverable sites sufficient to provide either a minimum of five years' worth of housing, or a minimum of four years' worth of housing if the provisions in paragraph 226 apply. The supply should be demonstrated against either the housing requirement set out in adopted strategic policies, or against the local housing need where the strategic policies are more than five years old. Where there has been significant under delivery of housing over the previous three years, the supply of specific deliverable sites should in addition include a buffer of 20% (moved forward from later in the plan period). National planning guidance provides further information on calculating the housing land supply, including the circumstances in which past shortfalls or over-supply can be addressed.

Paragraph 226 (which is referred to within paragraph 77) is also of material importance and states the following –

226. From the date of publication of this revision of the Framework, for decision-making purposes only, certain local planning authorities will only be required to identify and update annually a supply of specific deliverable sites sufficient to provide a minimum of four years' worth of housing (with a buffer, if applicable, as set out in paragraph 77) against the housing requirement set out in adopted strategic policies, or against local housing need where the strategic policies are more than five years old, instead of a minimum of five years as set out in paragraph 77 of this Framework. This policy applies to those authorities which have an emerging local plan that has either been submitted for examination or has reached Regulation 18 or Regulation 19 (Town and Country Planning (Local Planning) (England) Regulations 2012) stage, including both a policies map and proposed allocations towards meeting housing need. This provision does not apply to authorities who are not required to demonstrate a housing land supply, as set out in paragraph 76. These arrangements will apply for a period of two years from the publication date of this revision of the Framework.

For the purposes of the revised NPPF, Wiltshire Council is a 'paragraph 77 authority' because the Wiltshire Core Strategy is more than 5 years old; and, because Wiltshire Council has an emerging local plan that has now passed the Regulation 19 stage of the plan-making process – with both a policies map and proposed allocations towards meeting Wiltshire's housing needs – the Council is now only required to identify deliverable sites sufficient to providing a minimum of four years' worth of housing.

4. Current housing land supply position and consequences for the ‘planning balance’

The Council’s most recent Housing Land Supply Statement (published in May 2023 and with a base date of April 2022) sets out the number of years supply against Wiltshire’s local housing needs as being **4.60 years**.

For the avoidance of any doubt, the ‘local housing need’ for Wiltshire is the entire County (rather than any HMA) as directed by the Framework paragraph 226 and footnote 80.

It is also necessary to appreciate that following the publication of the 2023 issued HLS, subsequent appeals have been determined and concluded (following an examination of the housing land supply) that Wiltshire Council could demonstrate **4.59 years** of housing supply.

Clearly both of these figures exceed the 4-year ‘interim’ supply threshold that is now relevant to Wiltshire, and for the planning balance, this means that it is now starting from a ‘level’ position rather than being ‘tilted’ towards supporting unplanned housing development.

With a level balance, and with full/substantial weight now being given to the strategic housing delivery policies of the Wiltshire Core Strategy (WCS) (namely Core Policies 1 and 2), it follows that planning applications which conflict with the policies should not normally be granted – that is, unless other policies or material considerations indicate that the housing delivery policies should not be followed; and other restrictive policies merit increased material relevance and weight.

In this particular case, the application that was brought before members in September 2023, relates to a neighbourhood plan site allocation. The application is not a plan departure, and the planning balance section of the NPPF is not of significant material weight. Nevertheless, it is still necessary to update members of the following update.

5. Response from the applicant’s agent on this application being brought back to Committee.

No comments have been submitted.

6. Applying the planning balance to this case

Housing delivery policies

WCS Core Policy 1 addresses the Settlement Strategy and identifies four tiers of settlement – ‘Principal Settlements’, ‘Market Towns’, ‘Local Service Centres’, and ‘Large and Small Villages’. Within the Settlement Strategy, North Bradley is defined as a Large Village. Principal Settlements, Market Towns, Local Service Centres and Large Villages have defined limits of development. Beyond these limits is countryside.

WCS Core Policy 2 addresses the Delivery Strategy. It sets out a presumption in favour of new residential development within the Limits of Development of the settlements – including North Bradley – which has a made Neighbourhood Plan, to which this application refers since it is a Neighbourhood Plan allocation site.

Given the site’s Neighbourhood Plan allocation status, the proposal accords with the adopted Wiltshire Core Strategy and Core Policies 1 and 2, which identifies the benefits of the plan-led system and supporting new housing development that is brought forward in compliance with sites identified and allocated within made Neighbourhood Plans.

This application is considered a highly sustainable form of development and complies with the overarching context of the Wiltshire Core Strategy and the NPPF.

Principle of development

The principle is fully supported by policy given the site's Neighbourhood Plan allocation status. Officers are however mindful that when the application was brought before the elected members in September, consideration was given to the 5-year housing land supply deficit, which applied at that time, as the following snippet taken directly from the committee report refers to:

“Whilst the principle of development is supported via the Neighbourhood Plan allocation, the Council’s 5-year supply of deliverable housing situation is also a significant material consideration.”

The 5-year supply position was also raised by the applicant’s agent when he spoke in support of the application to the committee in September. Officers are also aware that it was specifically mentioned by elected members during the debate. Therefore, there is no doubt, the housing land supply was a material factor in the planning balance in September, however in recognition that the application proposal was not a plan departure or a speculative development, officers are fully satisfied that the recommendation to grant permission subject to a s106 remains appropriate, and in the absence of any material outweighing reasons to refuse permission, the application is referred back to committee and officers seek the elected members endorsement to again support the recommendation to grant permission (subject to the prior completion of a s106 legal agreement).

In addition to delivering housing at this Neighbourhood Plan allocation site, the scheme would provide 7 affordable homes to meet local needs which remains a significant material consideration in the planning balance.

Natural England confirmed position

Natural England have reaffirmed their position pursuant to this application and continue to raise no objection as per the following:

No objection – Subject to mitigation, Natural England notes that your authority, as competent authority under the provisions of the Habitats Regulations, has undertaken an Appropriate Assessment of the proposal, in accordance with Regulation 63 of the Regulations. Natural England is a statutory consultee on the Appropriate Assessment stage of the Habitats Regulations Assessment process.

Your appropriate assessment concludes that your authority is able to ascertain that the proposal will not result in adverse effects on the integrity of the Bath & Bradford on Avon Bat SAC. Having considered the assessment, and the measures proposed to mitigate for all identified adverse effects that could potentially occur as a result of the proposal, Natural England is satisfied and thus we have no objection to the proposals, providing that all mitigation measures are appropriately secured in any permission given.

Wiltshire Council Tree Officer

Confirmed having no objections.

Third Party Comments

There have been no additional third-party representations received.

S106 Legal Agreement preparation update

Following the Committee resolution to approve at the 23 September 2023 meeting, planning and legal officers of the Council have made progress with drafting a legal agreement to lock in the agreed heads of terms. The agreement is at an advanced stage but still has some work to do, and with a fresh Committee resolution to delegate the decision issuing authority to the head of service, it can be expedited.

Conclusion

Following the changes to the NPPF, the Council now only has to demonstrate a 4-year supply of housing, and at the time of writing, the Council's published position is one of being able to demonstrate a 4.60 year's supply, although recent appeals have reduced this supply to 4.59 years. When assessed against the Framework and through the application of the 2-year transitional arrangements where the 4-year housing supply test applies, Wiltshire Council does not have a housing supply deficit, but given the Neighbourhood Plan site allocation status of the site that is the subject of this update report, full support should be given to this plan-led application and delivery of sustainable development.

Recommendation – To grant planning permission subject to the representatives of the late applicant first entering into a S106 agreement to deliver the essential infrastructure made necessary by the development as set out at section 9.6 of the original committee report, and subject to the conditions listed in within annex 1.

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Report for 27 September 2023
REPORT FOR THE WESTERN AREA PLANNING COMMITTEE

Date of Meeting	27 September 2023
Application Number	PL/2021/09739
Application type	OUTLINE
Site Address	Land Rear of 54 Woodmarsh, North Bradley, BA14 0SB
Proposal	Outline Application for the construction of up to 23 residential units including detailed access on land to the rear of No. 54 Woodmarsh, North Bradley with all other matters including appearance, landscaping, layout and scale to be reserved
Applicant	Mr Shane Marshall
Town/Parish Council	North Bradley PC
Electoral Division	SOUTHWICK – Cllr Horace Prickett
Case Officer	David Cox

Reason for the application being considered by Committee

This application has been ‘called-in’ by Cllr Horace Prickett for Committee determination for the following reasons:

- The scale of the development
- Visual impact upon the surrounding area
- The relationship to adjoining properties
- The design and general appearance
- Environmental or highway impact and car parking and that;

a) Purpose of Report

The purpose of this report is to assess the merits of the proposal against the policies of the development plan and other material considerations and to consider the recommendation that the application should be approved subject to first completion of a planning obligation / Section 106 agreement covering the matters set out below; and subject to planning conditions.

2. Report Summary

The key determining planning issues are considered to be:

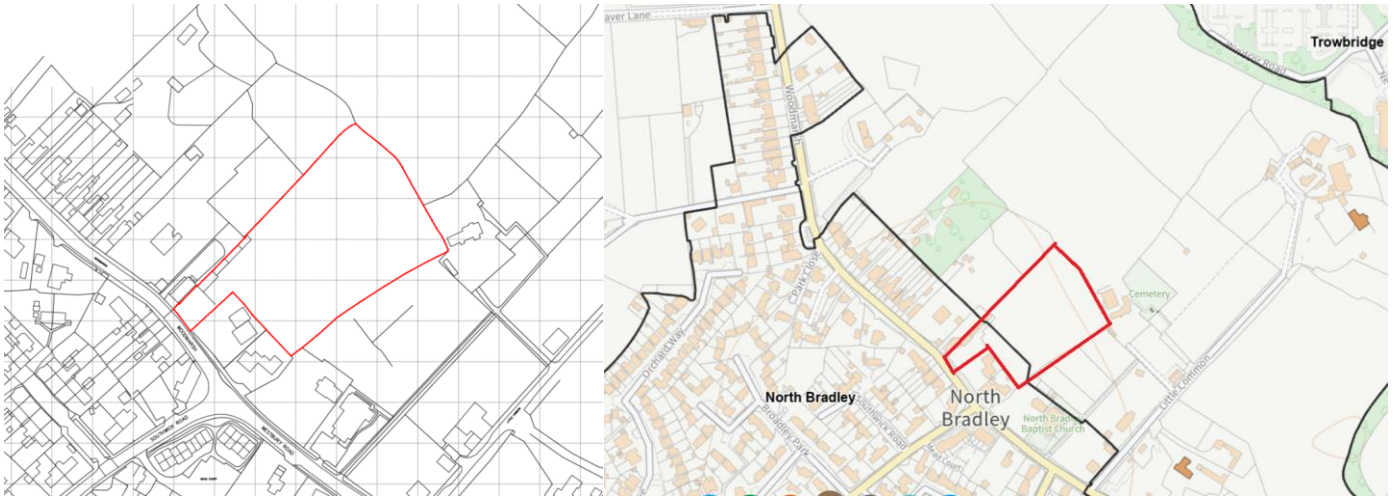
- The Principle of Development
- Ecology and impact on bats (Trowbridge Bat Mitigation Strategy)
- Access and highway safety
- Impact on neighbouring amenity
- Drainage
- Archaeology and Heritage Matters – Listed Buildings

- S106 contributions (affordable housing, Education, Public Open Space, Waste, Ecology)

3. Site Description

The application site covers approximately 1.1 hectares of mainly open countryside located on the north-eastern side of North Bradley and to the north-east of the road named Woodmarsh or Woodmarsh Road. The buildings along this side of Woodmarsh are accessed via Woodmarsh or Westbury Road, with the access to the application site being between the Progressive Hall and No 54 Woodmarsh.

North Bradley is designated as a 'Large Village' in the Wiltshire Core Strategy; the limits of development of the village are shown by the black line on the right-hand plan below. The south-western part of the site is within the limits of development of North Bradley, and the north-eastern part within the countryside.



Site Location Plan and Council Mapping image of the application site

As illustrated in the above plans, whilst the application site does extend beyond the limits of development of North Bradley, there is established development to the north-west, the north and the east including Woodmarsh Farm, the cemetery, no. 3 Little Common and the Little Common Farm Complex.

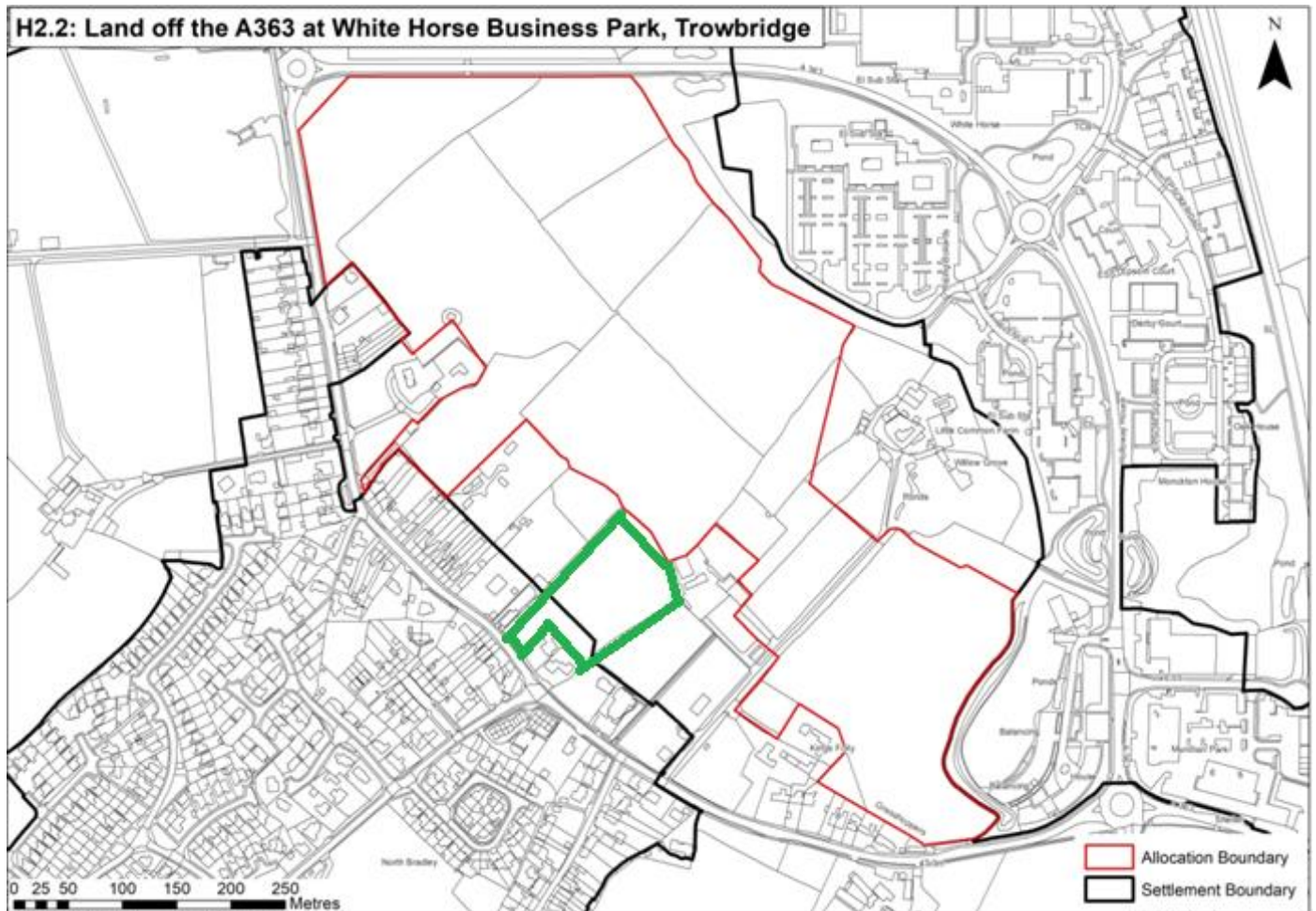
The site is relatively level and also fairly well contained by existing hedgerow boundaries on the south-eastern, north-eastern and north-western sides as shown in the most recent aerial photograph of the site below.



Aerial photograph of the application site

The application site is not part of the Policy H2.2 allocation within the Wiltshire Housing Site Allocations Plan [WHSAP] (February 2020), for approximately 175 dwellings. (as shown in the below plan taken from the WHSAP).

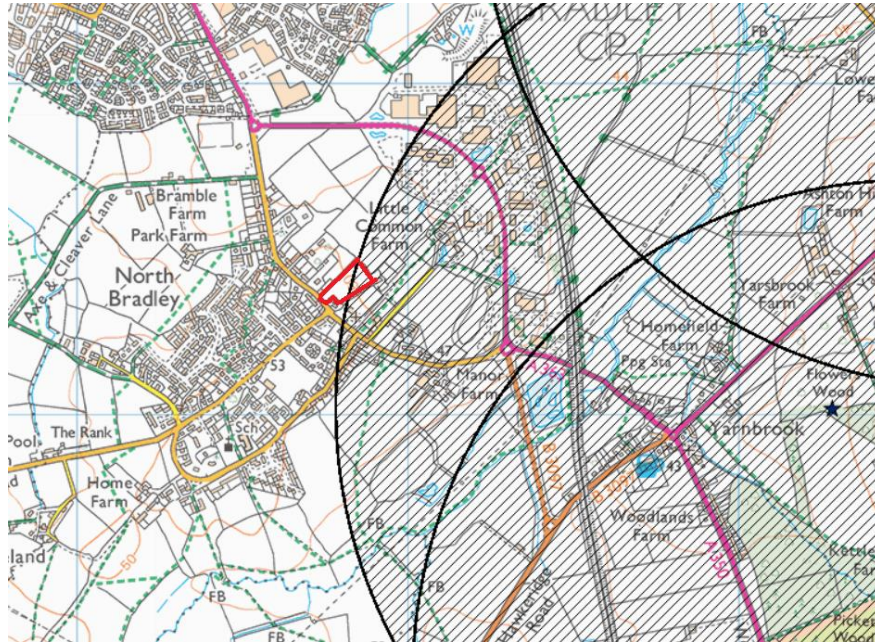
There are two 'live' planning applications (20/03641/OUT and PL/2022/05426) relating to the H2.2 allocation.



Extract from the Wiltshire Housing Site Allocations Plan – H2.2 allocation

The application site is not within or near to a conservation area, but there are two grade II listed buildings at the Burial Ground “Gateway to burial ground of former Baptist Chapel” and “Two monuments in burial ground of former Baptist Chapel” which are approximately 50m away from the site (but located behind No’s 1-3 King Lodge). The Progressive Hall and Kings Lodge are non-designated heritage assets.

Part of the application site is also within the Bath and Bradford on Avon Special Area of Conservation (SAC) “Bechstein 1500m Core Roost Buffer” for bats as shown by the black hatching on the following plan.



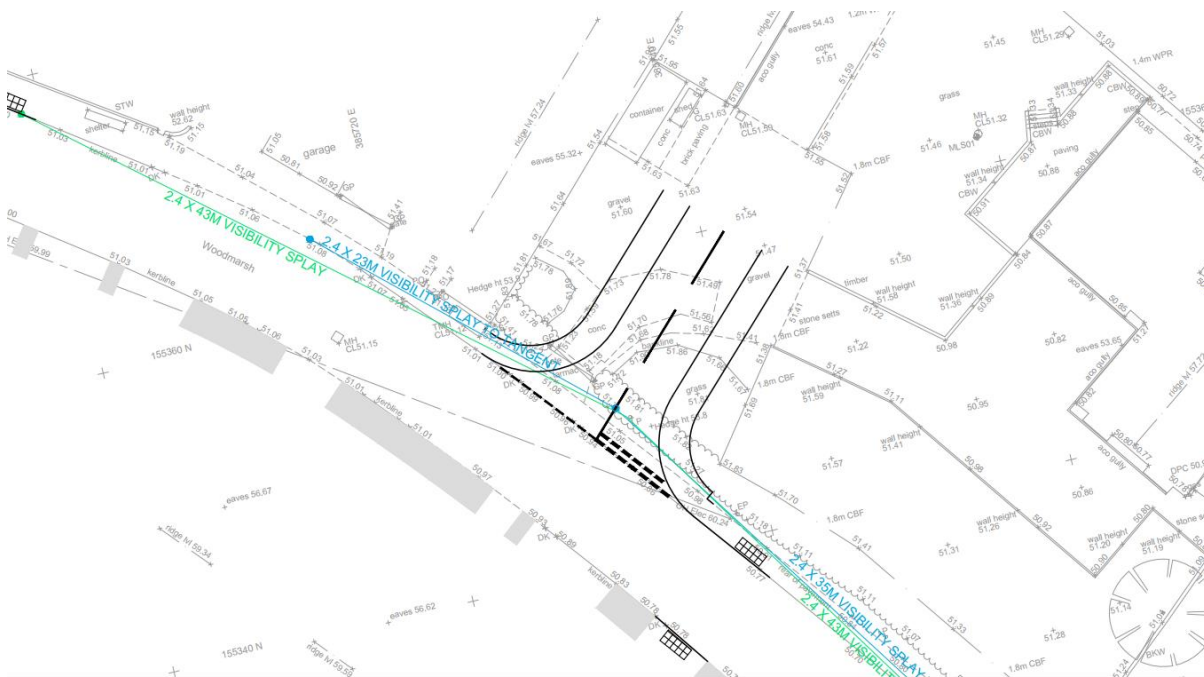
Council Mapping image of the Bath and Bradford on Avon SAC

4. Planning History

There has only been one previous application on the site in 1974 - application W/74/99163/HIS which was for 24 houses and garages and was refused.

5. The Proposal

This is an outline application for up to 23 dwellings (with 7 affordable housing units) with access from Woodmarsh. All matters are reserved except access. The access would be a standard junction with pavements on either side leading into the development as shown by the snip image below.



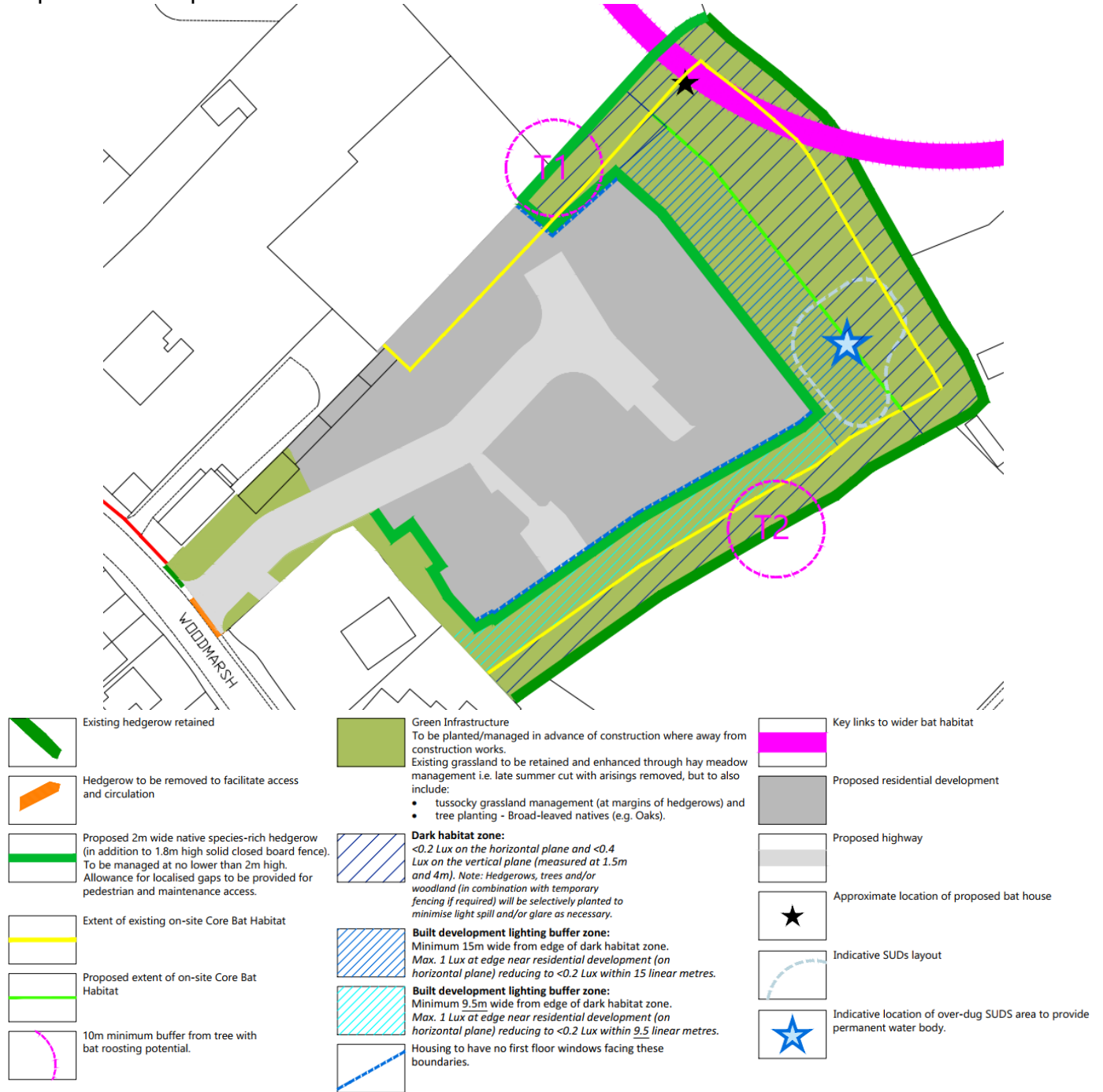
Proposed Access from Woodmarsh

The layout, scale, design, appearance and materials are matters for later 'reserved matters' application(s). Nonetheless, the applicant has provided an indicative proposed site layout plan to demonstrate how the development could be accommodated. The application was originally submitted for 32 dwellings and the illustrative plan for this together with the final illustrative plan for the 23 dwellings is set out below.



Superseded indicative site plan - left (32 dwellings); proposed indicative site plan - right (23 dwellings)

The principal reason the proposal has been scaled down from 32 dwellings to up to 23 dwellings is for ecology reasons, including protecting core bat habitats. The final proposal is informed by an Ecological Parameters Plan, which would – c/o conditions - limit the developable area of the site to the grey area shown on the snip image below. This is key to the proposal in order to satisfy the Habitat Regulations, and specifically the 'appropriate assessment' in relation to the protection of the core bat habitat. Whilst 'layout' is a reserved matter, the built form of the development would in any event be tied to the grey area.



Extract from the Ecological Parameters Plan

The Ecological Parameters Plan sets out where existing grassland and hedgerows would be retained and where new hedgerows would be planted, together with lighting buffer zones and where the existing on-site Core Bat habitat is (yellow line) and where the proposed Core Bat habitat would be in the development (green line). Whilst some Core Habitat will be lost on the north-western boundary, it would be compensated by an enlarged area on the north-eastern boundary, which directly links to the wider bat habitat within the H2.2 allocation (which will also be protected in its development).

6. Planning Policy

National Context:

Report for 27 September 2023

The National Planning Policy Framework 2021 (NPPF) and Planning Practice Guidance (PPG)

Local Context:

Wiltshire Core Strategy (adopted Jan 2015):

Core Policy 1 – Settlement Strategy;
Core Policy 2 - Delivery Strategy;
Core Policy 3 - Infrastructure Requirements;
Core Policy 29 - Spatial Strategy – Trowbridge Community Area;
Core Policy 43 - Providing Affordable Housing;
Core Policy 45 - Meeting Wiltshire’s Housing Needs;
Core Policy 46 - Meeting the Needs of Wiltshire’s Vulnerable and Older People;
Core Policy 50 - Biodiversity and Geodiversity;
Core Policy 51 - Landscape;
Core Policy 52 - Green Infrastructure;
Core Policy 57 - Ensuring High Quality Design and Place Shaping;
Core Policy 58 - Ensuring the Conservation of the Historic Environment;
Core Policy 60 - Sustainable transport;
Core Policy 61 - Transport and Development;
Core Policy 62 - Development Impacts on the Transport Network;
Core Policy 64 - Demand Management;
Core Policy 67 - Flood Risk

Wiltshire Waste Core Strategy

WCS6 (Waste Audit)

Saved Policies for the West Wiltshire District Plan 1st Alteration 2004

U1a - Foul Water Disposal

Other:

- Housing Land Supply Statement – Base date: April 2022 – published May 2023
- The Wiltshire Local Transport Plan (LTP) and Car Parking Strategy
- Wiltshire’s Community Infrastructure Levy – Planning Obligations Supplementary Planning Document (Planning Obligations SPD)
- Wiltshire’s Community Infrastructure Levy - Charging Schedule (Charging Schedule)
- Wiltshire’s Community Infrastructure Levy – Funding list

North Bradley Neighbourhood Plan – Policy 3 – Housing Site

The site at 54 Woodmarsh, with an area of 1.12 ha, is allocated for approximately 25 homes, with 8 of these being affordable subject to:

i. Access to be via Woodmarsh Road. Satisfactory and detailed site layout and access design to be agreed prior to development commencing. Due to the site shape and surrounding properties, in order to create a workable design under WCS Core Policy 57, it may be necessary to reduce the number of dwellings from the approximate figure indicated.

Report for 27 September 2023

ii. Screening and separation from neighbouring properties will be required to protect the amenity of those living there.

iii. Suitable screening and sound reduction measures would be required to protect new homes from noise from Progressive Hall as it is used for meetings and in summer has to have open windows for ventilation.

iv. In view of the risks this development presents to the SAC, this development will be expected to be surveyed, designed and mitigated in full accordance with the Trowbridge Bat Mitigation Strategy. Full mitigation for loss of habitats must be achieved within the application boundary.

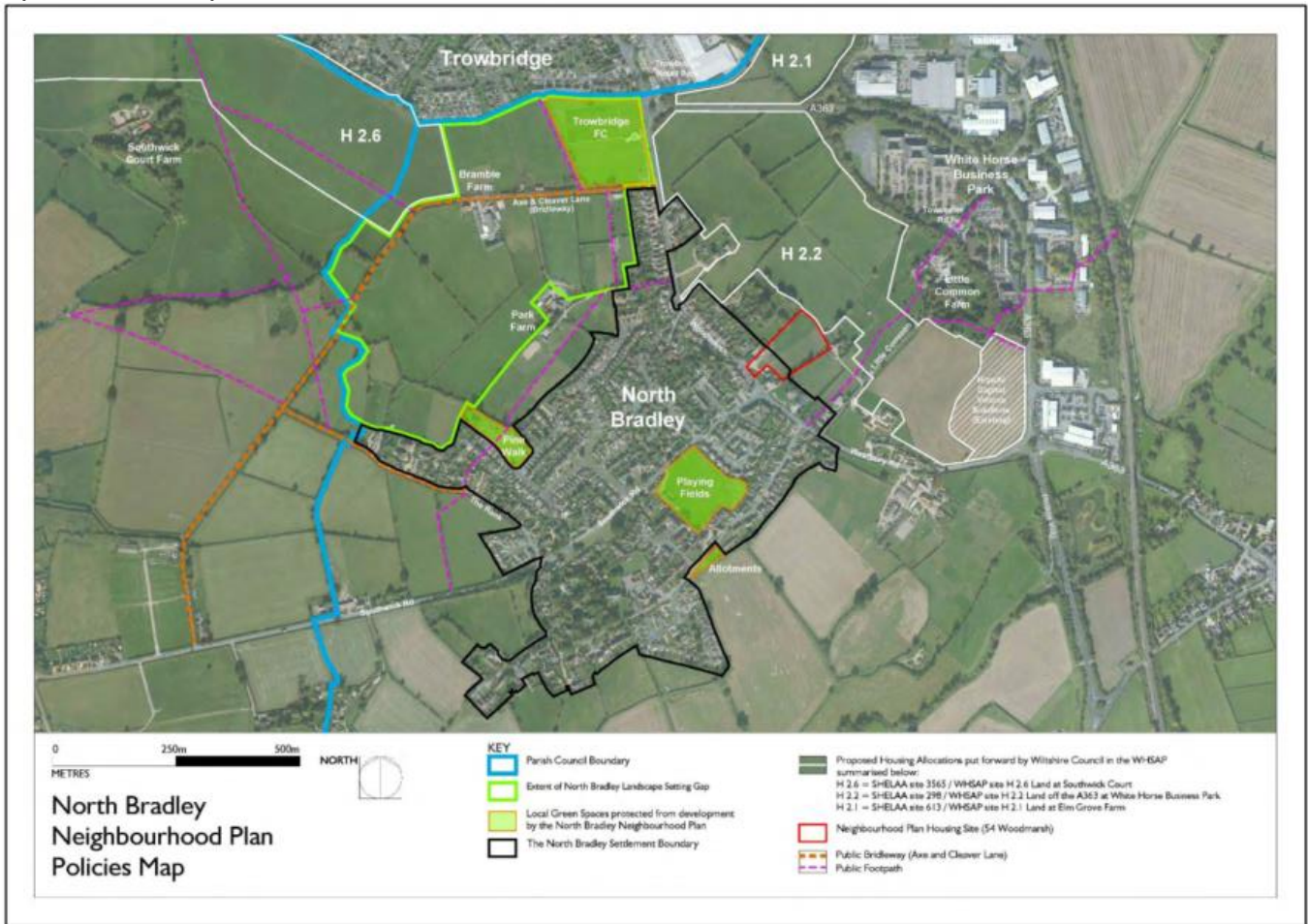
v. The design should deliver for a net gain for biodiversity.

vi. The design of any scheme must avoid harm to the historic but unlisted Kings Lodge and Progressive Hall, their settings or any other heritage assets including the Baptist Burial Ground to the north east.

vii. Given the age of the settlement of North Bradley and the presence of archaeology shown in the Historic Environment Record, a field evaluation will be required prior to development to inform the significance of heritage assets impacted by the proposals.

viii. Charging points for Ultra Low Emission Vehicle (ULEV) should be included.

ix. Due to the lack of comprehensive public storm water drainage and sewerage in the area, drainage and sewerage from the site must be designed to prevent flooding. The advice of the Drainage Authority should be sought. Drainage should be designed to include SuDS where appropriate.



North Bradley Neighbourhood Plan Policies Map

7. Consultations

North Bradley Parish Council – North Bradley Parish Council has provided 4 consultation responses.

11 November 2021 – objection

“The applicant’s proposal is dull and based on previous types of development that the White Paper rightfully criticises. The residents of North Bradley could not be proud of it.

This plan should not be considered in isolation; heed should be taken of the proposed H2.2 development and incorporated into a master plan. Priority of the Neighbourhood Plan is for a landscape gap to be preserved between North Bradley and Trowbridge’s town boundary. There must be no potential for future vehicular access from this site to H2.2.”

7 December 2022 – No objection

“Councillors noted that the number of dwellings had been reduced and therefore resolved to have no objection to the outline plan providing the Highways department has no objection to the access point. They recommend that solar panels be included for all the dwellings.”

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6 July 2023 – Objection

While the parish council accepts that the land to the rear of 54 Woodmarsh is allocated for housing, this outline application conflicts with Trowbridge's Bat Mitigation policy and therefore the parish council objects to the proposal.

6 September 2023 (Following receipt of Natural England's and Ecology Officers final responses) – Objection

Voted for the call in to stand.

Trowbridge Town Council – Objection

This site forms part of the landscape gap between Trowbridge, including allocation H2.2 (Wiltshire Housing Sites Allocation Plan) and the village of North Bradley in accordance with the adopted Core Strategy; "it is recognised that the villages surrounding Trowbridge, particularly Hilperton, Southwick, North Bradley and West Ashton, have separate and distinct identities as villages. Open countryside should be maintained to protect the character and identity of these villages as separate communities". In addition, in accordance with the adopted North Bradley Neighbourhood Plan. Also a poorly designed layout.

This plan should not be considered in isolation; heed should be taken of the proposed H2.2 development to the north and incorporated into a masterplan with H2.2. Priority of the North Bradley Neighbourhood Plan is for a landscape gap to be preserved between North Bradley and the Trowbridge urban envelope. The applicant appears to have ignored the made North Bradley Neighbourhood Plan, ignoring the 25 dwellings on this site which the plan states "is more than large enough to accommodate immediate local needs as demonstrated in the Housing Needs Survey and Site Selection Report". This site should be for the benefit of the community; there is no mention of affordable housing and the range of properties intended to be provided does not reflect the character of the village. Some bungalows are required, to allow existing older households to downsize and make larger homes available to developing families.

Wiltshire Council Highways Officer – No objection subject to conditions

I have not had a firm steer from you with regard to the feasibility and master planning of a cycle/ footway link as part of the neighbouring housing allocation. On this basis I will have to assume that a link connecting these two sites will not be feasible. Plans have been updated without a link indicated. I also consider that it is a necessity that a condition is applied that no vehicle through route connection from this site with the neighbouring house allocation sites takes place. A future walking and cycling link would be acceptable.

I note the latest plan, and that this is an outline application. With access only matters considered at this stage, so layout and car parking is not finalised.

I note various matters have now been addressed with additional information and drawing details. I note that visibility splays of 2.4m x 43m and forward visibility splays of 33m / 26m (technical note 1.0 – appendix 6, 21/07/22, attached) approaching the site. This is considered appropriate when set against the standards in Manual for Streets and the likely speeds. I note the informal crossings now included and link with the desire line to the north and south of the site access.

Wiltshire Council Ecology Officer – No objection subject to s106 contribution and conditions

Discussions had with Natural England have resulted in a revised site layout which will provide continuity of bat habitat along the eastern boundary and northern part of this allocation that will integrate with a larger swathe of bat habitat proposed as part of the WHSAP H2.2 site allocation at White Horse Business Park.

The revised Ecological Parameters Plan shows the measures to be retained and those to be undeveloped and although this is a deviation from the principles of the TBMS, the overall undeveloped area of bat habitat

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proposed will provide continuity for bats through the landscape. While the western boundary habitat will be lost for bats, this part of the site provided limited functional habitat for bats.

A lesser horseshoe bat night-roost, a common pipistrelle day roost and swallow nesting sites will be lost when buildings along the western boundary of the application site are demolished. A proposed-built replacement for both bat species and swallow mitigation should be provided in accordance with details provided in Para 4.2 of the Update Ecology Appraisal (NPA Ltd, 20/10/2022) located within the newly created/enhanced bat habitat in the northern part of the site.

Biodiversity Net Gain

The submitted Biodiversity Metric 3.1 (NPA, 27/06/2023) on the revised layout predicts a 0.64% increase in habitat units. However, trees, SuDs marginal planting and planting required around the purpose-built bat house have not been included.

Sustainable Urban Drainage Systems

The revised Ecological Parameters Plan shows the SuDs located within the 'dark habitat zone' and this is acceptable. The SuDs should be designed as a permanent waterbody with a diverse marginal structure using trees, shrubs and grasses to provide suitable aquatic habitat for foraging bats. Details to be provided with the Reserved Matters Application

Bird and Bat Integrated Features

It is currently expected that all new developments will provide the ratio of 1:1 feature to building in line with BS 42021:2022 Integral nest boxes – Selection and installation for new developments. Details to be submitted with the RMA. Integral features are generally maintenance-free and seek to benefit a target species/s or group/s and demonstrate viability in terms of position on building, location and clustering in accordance with relevant guidance and the additional features.

All details on exact locations and specifications must be added to all working documents to avoid oversight and to ensure consistency and enforceability.

Natural England – No objection

Natural England notes that your authority, as competent authority under the provisions of the Habitats Regulations, has undertaken an Appropriate Assessment of the proposal, in accordance with Regulation 63 of the Regulations. Natural England is a statutory consultee on the Appropriate Assessment stage of the Habitats Regulations Assessment process.

Your appropriate assessment concludes that your authority is able to ascertain that the proposal will not result in adverse effects on the integrity of the Bath & Bradford on Avon Bat SAC. Having considered the assessment, and the measures proposed to mitigate for all identified adverse effects that could potentially occur as a result of the proposal, Natural England is satisfied and thus we have no objection to the proposals, providing that all mitigation measures are appropriately secured in any permission given.

It is our view that the scheme will provide habitat and functionality for the local bat population and that it is acceptable because it can demonstrate no net habitat loss on-site.

Wiltshire Council Conservation Officer – No objection

The application has been revised to reduce the number of units in line with the site allocation for the Neighbourhood Plan. The reduction in units allows for a more neighbourly scheme which is appropriately landscaped. The previous concerns have been addressed and I have no further objection.

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Wiltshire Council Archaeology Officer – No objection

This is to confirm that the application area has been archaeologically evaluated via trial trenching and that a report has been prepared on the results which has been submitted to, and approved by, Wiltshire Council Archaeology Service (WCAS). This evaluation recorded the sub-surface remains of a single post-medieval field boundary that also contained some residual sherds of Romano-British pottery. On the basis of these results I see no need for any further archaeological investigation to take place prior to the determination of this planning application and therefore there are no further issues that I would wish to raise in regard to this proposal. I now withdraw my objection to the application.

Wiltshire Council Drainage Officer – No objection subject to conditions

The application has been supported with a Site-Specific Flood Risk Assessment (FRA). It should be noted that our comments below are reliant on the accuracy and completeness of the FRA and we do not take any responsibility for incorrect data or interpretation made by the authors. The LLFA does not have any objections to the outliner drainage strategy supplied.

Wiltshire Council Landscape Officer – No objection

If the area to the rear of the housing is not meant for public access, then I am happy to change my holding objection to a no objection subject to a pre-commencement condition of details being submitted on fencing to prevent public access whilst still allowing maintenance access.

Wiltshire Council Housing Officer – No objection subject to s106

Wiltshire Council Education Officer – No objection subject to s106 contributions

After application of the affordable housing discount, this gives us 21 properties qualifying for assessment.

As part of the updating/revising process, we've incorporated the latest HLSS data into our forecasts and as a result, we no longer have a need to expand primary school places to meet the needs of this development. Therefore, please take this email as confirmation that we are withdrawing our S106 requirement for them.

However, the secondary school places case remains valid, and has increased slightly as $21 \times 0.22 = 4.62$ rounded to 5 at £22,940 each = £114,700, (subject to indexation).

I note that a case for early years contributions was also made on this application, and so am copying this email to the commissioning officer, Nicola J Harris, asking her to confirm whether that case still remains valid. If it does, I've calculated that it will remain unchanged from a total 3 places at £17,522 = £52,566, (subject to indexation).

The list of standard caveats to consultation responses on registered planning applications continues to apply and is attached for reference. All contributions will be secured by S106 agreement, to which standard terms will apply as per the Council's Education S106 Methodology (also attached).

Wiltshire Council Public Open Space Officer – No objection subject to s106 contributions

Wiltshire Council Waste Officer – No objection subject to contribution of £101 per dwelling (£2,121)

Wessex Water – No objection

Existing Services –

Foul Drainage –

Wessex Water will accommodate domestic type foul flows in the public foul sewer with connections made on a size for size basis, Developers fund the cost of connecting to the nearest 'size for size' sewer and Wessex Water will manage the sewer network to accommodate foul flows from granted development. We fund this through our infrastructure charging arrangements. The point of connection to the public network is by application and agreement with Wessex Water and subject to satisfactory engineering proposals constructed to current adoptable standards. A connection for the proposed development can be accommodated into the existing 225mm dia public foul sewer on Woodmarsh.

8. Publicity

The application was initially publicised through the display of a site notice at the site and 19 individually posted neighbour notification letters to local residents residing in adjoining properties. Following the reduction from 32 to 23 dwellings, there was a further consultation period with notification letters sent.

In response to the publicity exercise, a total of 10 representations were received including 8 letters of objection and 2 letters from 'Salisbury and Wilton Swifts'. Of the 8 objections 2 letters are from the same person.

Objections:

- 32 dwellings is in excess of the 25 allocated in the Neighbourhood Plan. Either figure is inappropriate for the size of the plot
- On the basis that an application for 2 houses further down the road have been regularly turned down, how can this much larger application be approved?
- This should be included in the masterplan with the "H2.2" applications
- This would be at odds with new government directives on green land not being built on and the governments "planning for the future" white paper August 2020
- A development here would be in breach of the agreed bat corridor
- Harm to great crested newts
- Access to a busy junction is poor and dangerous. Vehicles often speed over the Rising Sun roundabout, to add an access point at this junction is crazy
- Traffic calming is required
- There are known drainage issues on the site
- Increase in noise and disturbance to local residents
- My personal view from my property would be spoilt
- Other brownfield sites should be developed first
- Residents of the new development would have priority at North Bradley primary school over current residents of Woodmarsh who live geographically further from the school
- There is no point of having a neighbourhood plan if a 25% increase in housing is allowed. This would create a low standard of development for the area. This is still a village not a town. With the three developments in H2-2 not consulting with each other it could mean a total of four foul water pumping stations all going into the main sewer which floods already, how can this be acceptable ?
- The 29th June Ecology Addendum specifies a 15metre gap for the TBMS, so why have they only got a 9.5metre gap. Bats are present in number 47 and both of their neighbours lofts. Not enforcing the 15 metre gap would set a dangerous planning issue, opening up other developers to ask for the same
- It is important that the detail recommended by All Ecology is clearly included by condition should this application be approved as the updated report by Nicholas Pearson Associates has over simplified the wording of the nesting provision expected for birds, which is likely to result in fewer nesting provisions being included.

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.

9.1 Principle of Development

9.1.1. Principle of development

The Wiltshire Core Strategy (WCS) sets out a 'Settlement Strategy' and 'Delivery Strategy' for development across the County. WCS Core Policy 1 defines the Settlement Strategy and identifies four tiers of settlement – 'Principal Settlements', 'Market Towns', 'Local Service Centres' and 'Large and Small Villages'. Within the settlement strategy (and the Trowbridge Community Area at Core Policy 29), North Bradley is defined as a 'Large Village'. The Principal Settlements, Market Towns, Local Service Centres and Large and Small Villages have defined limits of development. Beyond these limits is countryside.

WCS Core Policy 2 states that the limits of development (and new housing outside the limits) may only be altered through the identification of sites through a site allocations DPD or a Neighbourhood Plan.

As explained in the Proposal and Planning Policy sections of this report, part of the application site is within the existing limits of development of North Bradley. Additionally, the entire application site is allocated for 'approximately 25 dwellings' in the adopted North Bradley Neighbourhood Plan, subject to meeting criteria covering access, safeguarding residential amenity, noise protection measures for residents from Progressive Hall, being in accordance with the Trowbridge Bat Mitigation Strategy, securing net biodiversity gain, avoiding harm to designated and un-designated heritage assets, and drainage.

In view of the Neighbourhood Plan allocation, the proposal – for up to 23 dwellings – is policy compliant and so is, as a matter of principle, acceptable. The acceptability of the proposal in terms of its finer detail is considered in the following sections of the report.

Housing site at 54 Woodmarsh



Extract of the allocation from the North Bradley Neighbourhood Plan allocation

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9.1.2. The 5 Year Land Supply Position

Whilst the principle of development is supported via the Neighbourhood Plan allocation, the Council's 5-year supply of deliverable housing situation is also a significant material consideration. The Council is at the present time unable to demonstrate a 5-year supply of deliverable housing land according to the most up to date Housing Land Supply Statement (dated May 2023 (base date: April 2022)), where the number of years deliverable supply is 4.6 years.

In order to help address the supply shortfall Wiltshire Council has issued two briefing notes in September 2020 and April 2022. The April 2022 note is appended to this Committee report. In section 6 - *What can we do to restore a five-year housing land supply?* - it sets out that the Council will:

iii) Positively consider speculative applications where there are no major policy obstacles material to the decision other than a site being outside settlement boundaries or unallocated.

It should be particularly noted that the application site is allocated within the Neighbourhood Plan and that there are no major policy obstacles.

9.1.3. The Tilted Balance

As the Council does not have a 5 year housing supply, this means that the 'tilted balance' flowing from paragraph 11d)ii of the National Planning Policy Framework (NPPF) is engaged; it states the following –

“For decision taking this means:

c) approving development proposals that accord with an up-to-date development plan without delay; or

d) Where there are no relevant development plan policies, or the policies which are the most important for determining the application are out-of-date, granting permission unless:

i) the application of policies in this Framework that protect areas or assets of particular importance provides a clear reason for refusing the development proposed; or

ii) any adverse impact of doing so would significantly and demonstrably outweigh the benefits, when assessed against the policies in this Framework taken as a whole.”

As Wiltshire Council is unable to demonstrate a 5-year housing land supply, the local plan policies which would restrict new housing provision must, therefore, be treated as being out of date. This does not mean that the policies carry no weight, but rather that the NPPF expectation that planning permission should be granted (... unless any adverse impacts of doing so would significantly and demonstrably outweigh the benefits, when assessed against the policies of the NPPF taken as a whole) has effect. And the effect in this case is – in the context of there being no identified adverse impacts outweighing the benefits of the development in terms of it delivering housing – that planning permission should be granted. The other non-'impacts' of the development are discussed later in the report.

It is further submitted that significant weight should be given to the contribution to the 5-year housing land supply figure and the 7 affordable housing units.

9.2 Ecology and impact on bats (Trowbridge Bat Mitigation Strategy)

The eastern half of the application site is within the Bath and Bradford on Avon Special Area of Conservation (SAC) Core Roost zone for Bechstein Bats. It is also within the 'yellow zone' of the Trowbridge Bat Mitigation Strategy (TBMS) which means there is a medium risk for habitat loss in this area.

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The applicants have undertaken 6 months of survey work across the summer of 2022 to produce and updated Ecology Appraisal (NPA October 2022) and Bat Survey Report (NPA December 2022). In an Ecology Addendum (NPA June 2023) it sets out the rationale for the revised proposals (notably the reduction in the number of proposed dwellings). The Addendum report states;

“... the hedgerow at the north-eastern part of the site forms part of important north-south corridor for bats between North Bradley and the White Horse Business Park as they commute/forage from the woodlands to/from the south of Trowbridge to/from components of the Bath and Bradford-on-Avon Bats Special Area of Conservation (SAC) to the north.

Activity by all three bat species for which the SAC is designated were also recorded along the Site's north-western and south-eastern boundaries and as such Wiltshire ecology have requested, they too be defined as Core Bat Habitat.

Given the importance of north-eastern boundary in a landscape context a greater buffer than set out in the TBMS has been proposed along the Site's north-eastern boundary with the extent of Core Bat Habitat proposed to be extended by 15m through the provision of enhanced grassland management, scattered tree planting and a permanent water body.

Whilst the north-western and south-eastern boundaries are categorised as Core Bat Habitat, given they lead to urban habitats within North Bradley, reduced buffers were proposed along these boundaries.

In consultation with Natural England and Wiltshire ecology the principle of this approach, and deviation from the requirements of the TBMS, was supported given the importance of the north-south corridor between North Bradley and the White Horse Business Park.

The only variation to the proposals requested by Natural England was to increase the buffer to the species-rich hedge with trees along the south-eastern boundary, noting they accepted that the buffer to north-western boundary (along which no hedgerow is present) could be reduced/omitted.

As shown on the revised Indicative Masterplan (A17 21 26 SK10 Rev L) and Ecology Parameters Plan (NPA ZZ ZZ DR Y 1201 P02) the proposals have now effectively been shifted north-west to allow for an increased buffer of 17m from the edge of development along the south-eastern boundary, with the buffer along the north-western omitted.

Along the south-eastern boundary the Core Habitat will remain dark, as defined by the TBMS, with an associated 9.5m wide lighting buffer zone (with lux levels as defined by the TBMS). These lighting levels will in part be achieved through their being no first-floor windows on building elevations facing this boundary. At ground level there would be a close board fence to shield any light spill to this boundary.

Along the north-western boundary a minimum 10m buffer is proposed around a tree (T1 as described in the Update Ecology Appraisal) identified as having moderate potential to support roosting bats. This buffer area would also be kept dark (in part through housing here having no first floor windows that faced the tree). The only other tree identified as having bat roosting potential was T2 which was considered to have low potential to support roosting bats.

Whilst this proposals along the north-western boundary would technically lead to the loss of some Core Bat Habitat and that the buffers proposed along the south-eastern boundary aren't fully in accordance with the requirements of the TBMS, overall the proposed approach is considered (as agreed by NE and Wiltshire ecology) to protect the bat habitat more robustly than applying the standard TBMS buffers to all three boundaries.”

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Following consideration of the above report the Council's Ecology Officer has withdrawn their initial holding objection and undertaken a favourable 'Appropriate Assessment' as required under the Habitat Regulations. This also requires a separate consultation with Natural England who have signed-off the Appropriate Assessment confirming;

".... the proposal will not result in adverse effects on the integrity of the Bath & Bradford on Avon Bat SAC. Having considered the assessment, and the measures proposed to mitigate for all identified adverse effects that could potentially occur as a result of the proposal, Natural England is satisfied and thus we have no objection to the proposals, providing that all mitigation measures are appropriately secured in any permission given.

It is our view that the scheme will provide habitat and functionality for the local bat population and that it is acceptable because it can demonstrate no net habitat loss on-site."

The Parish Council's objection is based solely on that the application "*conflicts with Trowbridge's Bat Mitigation policy*" (which implies that there would be harm to bat core habitat). It is acknowledged that elements of the proposal conflict with parts of the Trowbridge Bat Mitigation Strategy, notably that core bat habitat should be retained and that there should be a minimum stand off of 15m from the development to the outside edge of the core bat habitat as set out in paragraph 151 of the TBMS.

151. In addition, to retention and enhancement of core bat habitat, **adequate buffer zones must be provided for retained, enhanced or newly created core bat habitat** (see Figure 6 below). It is likely to be necessary to buffer bat habitat features considerably from development in order to secure suitable habitat conditions and suitable light levels, taking into account the potential for private owners to fit their own external/security lighting in the future. A minimum standoff distance of **15m** from the development to the outside edge of any part of the bat core habitat is required to be provided as a buffer zone. The minimum dark buffer zone (Zone B) that must be provided from core bat habitat features is shown in Figure 6 below, together with associated lux level requirements. Further descriptions of acceptable land uses within the buffer zone is also provided in Section 8.2.

As set out in the proposal section (and the Ecology Parameters Plan) the core bat habitat would be lost on the north-western boundary of the application site; but significantly enhanced on the north-eastern boundary (which is adjacent to the most important bat route, by the H2.2 allocation). In view of the significant enhancements, it is considered that the overriding aim of the TBMS – which is to protect and enhance the overall core bat habitat to which the north-eastern and south-eastern boundaries are the most important – is achieved, thereby mitigating the loss on the north-western boundary. Furthermore, the 'Appropriate Assessment' is a rigorous, detailed and comprehensive assessment carried out by the Council's Ecology Officers overseen by Natural England. The Appropriate Assessment has concluded favourably, and therefore it must also be concluded that the relevant WCS core policy 50 (biodiversity) and the overarching aim of the TBMS has been complied with.

The Parish Council objection is based on the proposal not complying with the TBMS, and so also not complying with Policy 3 iv) of the Neighbourhood Plan. Policy 3 iv) states;

"iv. In view of the risks this development presents to the SAC, this development will be expected to be surveyed, designed and mitigated in full accordance with the Trowbridge Bat Mitigation Strategy. Full mitigation for loss of habitats must be achieved within the application boundary."

The policy identifies the risk to the SAC but also crucially allows for any loss of habitat to be mitigated within the application boundary, and the proposal fulfils this to the satisfaction of the Council's Ecology Officers and Natural England. Accordingly, a refusal decision based solely on the reason that parts of the TBMS are not being adhered could not be sustained in this case, this in the context of the wider aims of the TBMS (to enhance the overall core bat habitat) and Policy 3 iv) (in seeking to protect the SAC), and that mitigation for any loss would be achieved within the application boundary in any event.

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There is also a third party objection that states “*The 29 June Ecology Addendum specifies a 15m gap for the TBMS, so why have they only got a 9.5m gap (with No 54). Not enforcing the 15m gap would set a dangerous planning issue, opening up other developers to ask for the same*”. In response to this specific point, a 15m gap to No 54 is not required as the buffer only has to be applied from the development to the outside edge of any part of the bat core habitat. The boundary with No 54 is not the outside edge of core bat habitat.

The applicant has provided a plan (snipped below) which shows what would happen to the developable area of the site should the TBMS be fully followed. The development would reduce to 14 units, well below the allocation of 25 in the Neighbourhood Plan. The appearance and design opportunities of such a reduced proposal would be significantly affected by the very narrow developable area. Whilst the viability of such a scheme is unknown, it is considered that a development of this reduced size would be a lost opportunity to use the land efficiently, and would not assist the 5 year land supply, and would also be out of character with its surroundings (and there would also be lost affordable housing units). Any such proposal would also be closer to the key north-eastern boundary of the site that is adjacent to H2.2 and therefore would actually restrict the proposed enhanced increase of the core bat habitat as actually proposed.

It is acknowledged that the TBMS is not being implemented to the letter, however, it is considered that the overriding aim of the TBMS is to protect and where possible improve Bat Core Habitat. Due to the proposed boundary buffers, additional planting and pond area, the overall core habitat is proposed to increase over the existing site and therefore both protect and be of benefit to the SAC. It is for these reasons that there is no objection from the WC Ecologists and Natural England, and a favourable outcome for the Appropriate Assessment.



Extract from hypothetical layout plan should the TBMS be enforced in full

The Ecology Officers are also satisfied that the proposal would result in a net bio-diversity net gain.

9.3 Access and Highway Safety

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The application is accompanied by a Transport Assessment which addresses the impact of the proposal on the adjoining highway network. Following initial comments from the Council's Highways Officer an additional technical note addressing the access was received. This sets out that the access would be 5.5m wide and provided with adequate visibility splays along with other technical highway details. This shows that there would not be an unacceptable impact in highway safety terms. The Council's Highways Department agree with these conclusions. The proposed site access complies with current standards. In view of the above, there is no highway safety objection to this application.

Objections have been received over traffic levels and speeds along this road leading to the roundabout. The speed limit is 30mph. The roundabout opposite the Rising Sun public house should slow traffic, and any cars turning left into the site from Woodmarsh (from Trowbridge) would also slow the speed of following cars.

9.4 Drainage

The application is accompanied by a site-specific flood risk assessment and drainage strategy which are satisfactory as far as the Council's Drainage Officer is concerned. Whilst the Drainage Officer has sought further information and calculations, these can be considered by condition. In view of this there are no drainage objections to this application.

9.5 Archaeology and Heritage Matters – Listed buildings

Above the various tiers of planning policy and guidance is the over-arching statutory requirement under the Planning (Listed Buildings and Conservation Areas) Act 1990 to have special regard to the desirability of preserving Listed buildings or their setting (S16).

In this case the site is close to the Listed buildings in the burial ground and two non-designated heritage assets, but the Council's Conservation Officer is satisfied that there would be a neutral impact on these. With the revised plans – reducing the number of proposed dwellings to up to 23 – a greater buffer with the Kings Lodge and Listed building would be achieved anyway.

The application has also addressed initial objections from the Council's Archaeology Officer. The applicants undertook trial trenching and submitted an evaluation report, which was approved by Wiltshire Council's Archaeology Service. No further investigation is necessary on the site.

9.6 S106 Contributions

Core Policy 3 states that all new development will be required to provide for the necessary onsite and, where appropriate, off-site infrastructure requirements arising from the proposal. Infrastructure requirements will be delivered directly by the developer and/or through an appropriate financial contribution prior to, or in conjunction with, new development. This Policy is in line with the tests set under Regulation 122 of the Community Infrastructure Levy Regulations 2010, and Paragraph 55 of the National Planning Policy Framework. These are that contributions must be:

- Necessary to make the development acceptable in planning terms;
- Directly related to the development; and
- Fairly and reasonably related in scale and kind to the development.

The infrastructure items listed below are those that are relevant to the application site and are necessary in order to mitigate the impacts of the proposal. The applicant has agreed to provide these:

Affordable Housing

Core Policy 43 of the Wiltshire Core Strategy, as currently amended by the National Planning Policy Framework, sets out a requirement for 30% on-site Affordable Housing provision: on all sites of 10 or more dwellings; or on sites of between 5 - 9 dwellings if the development site is 0.5ha or greater, within this

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Community Area. Based on the proposed scheme of 23 residential units, there would therefore be a requirement to provide 7 affordable units on the site. To meet current demonstrable need the Affordable Housing units should be provided with a tenure mix of 4 Affordable Rented, 1 shared ownership and 2 first homes.

Education

Early Years Provision - a total 3 places at £17,522 = £52,566, (subject to indexation).

Primary School – “As part of the updating/revising process, we’ve incorporated the latest HLSS data into our forecasts and as a result, we no longer have a need to expand primary school places to meet the needs of this development.”

Secondary School – “the secondary school places case remains valid and has increased slightly as $21 \times 0.22 = 4.62$ rounded to 5 at £22,940 each = £114,700, (subject to indexation).”

Waste

£101 per dwelling – $23 \times 101 = £2,323$

Ecology

“£777.62 per dwelling (index linked from 2018) to be paid before commencement towards habitat mitigation detailed in Appendix 1 of the TBMS.”

Therefore $£777.62 \times 23 = £17,885.26$

The s106 must also identify who will be responsible for maintaining biodiversity habitat:

- a) Within the application site,
- b) Within the POS/northern and eastern boundaries and
- c) The replacement bat house located within the northern part of the site

The S106 must commit the body(ies) responsible for a), b) and c) to implement the LEMP for the lifetime of the development.

Public open space

Saved Policy LP4 of the Leisure and Recreation DPD states that where new development (especially housing) creates a need for access to open space or sport/recreation provision, an assessment will be made as to whether a contribution to open space or sport recreation is required. Saved Policy GM2 of the Leisure and Recreation DPD requires the management and maintenance of new or enhanced open spaces which will be included within the S106.

As the land around the site is needed to be included in the LEMP and for net bio-diversity net gain, off site contributions are required. Therefore a contribution of £27,599.81 to public open space and £5,862.24 to off site play facilities are required. Officers have identified that the Peace Memorial Trust Playing field and the play are contained are a target site for these off site contributions.

Occupants would have less than 250m walk to the Peace Memorial Trust Playing field.

Sports provision

£5,428 towards the upgrade of playing pitch and ancillary provision at Peace Memorial Trust Playing field and/or sports or ancillary provision within the vicinity of the land.

S106 Monitoring Fee

£250 per S106 term.

10. Conclusion

At the heart of the NPPF there is a presumption in favour of sustainable development, this requiring local planning authorities to approve development proposals that accord with the development plan without delay.

The North Bradley Neighbourhood Plan allocates the site for approximately 25 dwellings and this outline application proposes up to 23 units. Therefore, the principle of development is accepted. The outline includes details of access which has met the satisfaction of the highways officer. Whilst the proposal is not fully compliant with the Trowbridge Bat Mitigation Strategy, which states existing core bat habitats should be retained, the proposal would ensure that lost habitat is replaced and enhanced. The main driving aim of the Trowbridge Bat Mitigation Strategy is to enhance the overall bat habitat, and the proposal would achieve this to the satisfaction of both the Council's Ecology Officers and Natural England.

Also of relevance, the Council cannot currently demonstrate a 5-year supply of deliverable housing land; at the time of preparing this report the current supply figure as set out in the latest Housing Land Supply Statement is 4.6 years. The Council has been repeatably losing appeals for residential development in the last year or so on unallocated sites and sites that are contrary to WCS Core Policies 1 and 2 due to not being able to demonstrate demonstrable harm that outweighs the benefits (paragraph 11d - tilted balance test of the National Planning Policy Framework). As already set out, there are no adverse impacts that would significantly and demonstrably outweigh the benefits that this allocated site on the edge of a sustainable settlement identified for growth would bring.

The Parish Council objection is based essentially on the proposal being contrary to the Trowbridge Bat Mitigation Strategy (and therefore also being contrary to policy 3 iv of the North Bradley Neighbourhood Plan). However, policy 3 iv) allows for full replacement and mitigation of any lost habitat within the application boundary, to which this application secures.

Recommendation

To grant planning permission subject to the applicant first entering into a S106 agreement to deliver the essential infrastructure made necessary by the development set out at section 9.6 of this report, and subject to the following planning conditions -

Planning Conditions:

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

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

2. No development shall commence on site until details of the following matters (in respect of which approval is expressly reserved) have been submitted to, and approved in writing by, the Local Planning Authority:

- (a) The scale of the development;
- (b) The layout of the development;
- (c) The external appearance of the development;
- (d) The landscaping of the site;

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

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

3. An application for the approval of all of the reserved matters shall be made to the Local Planning Authority before the expiration of three years from the date of this permission.

REASON: To comply with the provisions of Section 92 of the Town and Country Planning Act 1990.

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

Site Location Plan (A17 21 26 SK01), Existing Survey/Site Plan (A17 21 26 SK02), Design and Access Statement, Transport Statement, Ecological Appraisal and Dusk Survey for Bats (All Ecology Ltd, July 2021) - all received 12 October 2021;

Update Ecological Appraisal (NPA, 20/01/2022) – Received 3 November 2022

Revised Proposed Site Access Plan (21073 - 010-B) – received 10 November 2022

Site Specific Flood Risk Assessment and Drainage Strategy (IMA-22-103 June 2023), Ecology Addendum (NPA 11257 103 – PO1), Ecology Parameters Plan (Drg No 11257 NPA ZZ ZZ DR Y 1201 P02 - (NPA, 05/08/2022)) and 11257 Biodiversity Metric 3.1 calculation tool - v 7 Layout Rev M Jun23 – all received 29 June 2023

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

NOTE: The indicative masterplan (Drg No A17 21 26 SK10 Rev L) and indicative colour masterplan (Drg No A17 21 26 SK12) are only indicative and do not therefore form part of the approved plan list.

5. No part of the development hereby permitted shall be first occupied until the site junction, access road, footways have been completed in accordance with the details shown on the approved plans (Proposed Site access 21073-010 Rev B (Nov 2022) and properly consolidated. The areas shall be maintained for those purposes at all times thereafter.

REASON: In the interests of highway safety.

6. No part of the development shall be first occupied, until the visibility splays and informal crossing points shown on the approved plans (Proposed Site access 21073-010 Rev B (Nov 2022), Visibility splays 2.4m x 43m, and informal crossing points have been provided with no obstruction to visibility at or above a height of 600mm above the nearside carriageway level. The visibility splays shall always be maintained free of obstruction

REASON: In the interests of highway safety.

7. The roads, including footpaths and turning spaces, shall be constructed so as to ensure that, before it is occupied, each dwelling has been provided with a properly consolidated and surfaced footpath and carriageway to at least base course level between the dwelling and existing highway.

REASON: To ensure that the development is served by an adequate means of access.

8. No development shall commence on site until details of the estate roads, footways, footpaths, verges, junctions, street lighting, sewers, drains, retaining walls, service routes, surface water outfall, vehicle overhang margins, embankments, visibility splays, accesses, carriageway gradients, drive gradients,

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car parking and street furniture, including the timetable for provision of such works, have been submitted to and approved by the Local Planning Authority. The development shall not be first occupied until the estate roads, footways, footpaths, verges, junctions, street lighting, sewers, drains, retaining walls, service routes, surface water outfall, vehicle overhang margins, embankments, visibility splays, accesses, carriageway gradients, drive gradients, car parking and street furniture have all been constructed and laid out in accordance with the approved details, unless an alternative timetable is agreed in the approved details.

REASON: To ensure that the roads are laid out and constructed in a satisfactory manner.

9. The development hereby permitted shall be carried out in accordance with the Ecological Parameters Plan. Drwg. No. 11257 NPA ZZ ZZ DR Y 1201. Rev. 02. (NPA, 05.08.2022). This document will form the basis for the site layout and will not be altered at Reserved Matters without detailed justification based on additional habitat and wildlife species surveys.

REASON: To protect the ecology on the site.

10. The development will be completed in accordance with the Biodiversity Metric 3.1 (NPA, 27/06/023) or a subsequent revised metric calculation submitted to and approved by the Local Planning Authority. This condition shall be discharged when a report has been submitted to and approved by the Local Planning Authority which demonstrates that the development has been completed in accordance with the approved metric calculation. The report will demonstrate for habitats and hedgerows and that the development will achieve at least 100% mitigation (i.e. no net loss) for land lost to development.

REASON: to meet the requirements of the Trowbridge Bat Mitigation Strategy.

11. Prior to the commencement of works, including demolition, ground works/excavation, site clearance, vegetation clearance and boundary treatment works, a Construction Environmental Management Plan (CEMP) shall be submitted to the local planning authority for approval in writing. The CEMP shall include a detailed plan showing detail of the avoidance, mitigation and protective measures to be implemented before and during the construction phase, including but not necessarily limited to, the following:

- A) Phasing plan for bat habitat creation and landscape works in the north and east of the site.
- B) Identification of ecological protection areas/buffer zones/bat habitat and tree root protection areas and details of physical means of protection, e.g. exclusion fencing and including who will be responsible for its installation.
- C) Location of construction compounds.
- D) Details on locations of any construction lighting (if required: Note: this must be kept away from boundary features).
- E) Working method statements for protected/priority species, such as nesting birds, and reptiles.
- F) Mitigation strategies already agreed with the local planning authority prior to determination, such as for great crested newts/bats; this should comprise the pre-construction/construction related elements of strategies only.
- G) Work schedules for activities with specific timing requirements in order to avoid/reduce potential harm to ecological receptors; including details of when a licensed ecologist and/or ecological clerk of works (ECoW) shall be present on site.
- H) Key personnel, responsibilities and contact details (including Site Manager and ecologist/ECoW).
- I) Timeframe for provision of compliance report to the local planning authority; to be completed by the ecologist/ECoW and to include photographic evidence.
- J) details of drainage arrangements during the construction phase

Development shall be carried out in strict accordance with the approved CEMP.

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REASON: To ensure adequate protection and mitigation for ecological receptors prior to and during construction, and that works are undertaken in line with current best practice and industry standards and are supervised by a suitably licensed and competent professional ecological consultant where applicable.

12. No development shall commence on site until a scheme for the provision and creation of a SuDs located in the northern part of the site/within the public open space area has been submitted to the LPA for approval. The SuDs shall be designed as a permanent waterbody with a diverse marginal structure using trees, shrubs and grasses to provide suitable aquatic habitat for foraging bats.

The scheme shall be completed in accordance with the approved details and in accordance with the timetable detailed in the approved scheme.

REASON: For the mitigation and enhancement of biodiversity.

13. No development shall commence on site until a Landscape and Ecology Management Plan (LEMP) has been submitted to and approved in writing by the Local Planning Authority. The LEMP shall be based on the approved Ecological Parameters Plan. Drwg. No. 11257 NPA ZZ ZZ DR Y 1201. Rev. 02. (NPA, 05.08.2022) the approved Biodiversity Metric 3.1 (NPA, 27/06/023) submitted with the application, or a revised Biodiversity Metric submitted and approved. The LEMP will include long term objectives and targets, management responsibilities and maintenance schedules for each ecological feature within the development, together with a mechanism for monitoring success of the management prescriptions, incorporating review and necessary adaptive management in order to attain targets.

The LEMP shall also include details of the legal mechanism(s) by which long-term implementation of the plan will be secured. The LEMP shall be implemented in full and for the lifetime of the development in accordance with the approved details.

REASON: To ensure the long-term management of landscape and ecological features retained and created by the development, for the benefit of visual amenity and biodiversity for the lifetime of the scheme.

NOTE: The s106 should have a clause that a management company will be required to manage the land required under the terms of the LEMP condition.

14. 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 Institute of Lighting Engineers in their publication GN01:2011, 'Guidance for the Reduction of Obtrusive Light' (ILP, 2011), 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.

This condition shall only be discharged when a post-development lighting survey conducted in accordance with section 8.3.4 of the Trowbridge Bat Mitigation Strategy has been submitted to the Local Planning Authority demonstrating compliance with the approved lighting plans, having implemented and retested any necessary remedial measures.

REASON: In the interests of the amenities of the area, to minimise unnecessary light spillage above and outside the development site and to core bat habitat meets the requirements of the Trowbridge Bat Mitigation Strategy.

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15. No development shall commence on site until a plan (details) for the selection, siting, positioning and installation of integral nesting features for bats and birds has been submitted to, and approved in writing by, the local planning authority.

The plan should show the green infrastructure that the development is to provide, illustrating how birds and bats using the boxes have access to the relevant habitat/food resource in nearby suitable habitat. The installation plan should be prepared in accordance with the requirements of BS 42021.

The integral nesting feature should identify, as a minimum:

- a) the bird/bat species likely to benefit from the proposed integral nest feature;
- b) the type of integral nest feature to be installed;
- c) the specific buildings on the development into which features are to be installed, shown on appropriate scale drawings;
- d) the location on each building where features are to be installed, shown on all appropriate building plans and elevations;

No dwelling shall be first occupied until the approved details of the integral nest box plan have been implemented in accordance with the approved details. All boxes shall be retained in good working order in perpetuity.

REASON: For the protection, mitigation and enhancement of biodiversity.

16. Details of the surface water drainage scheme, (including sustainable drainage details), the foul water drainage scheme and timetables for their implementation shall be submitted to the local planning authority for approval with or before the submission of reserved matters. No development shall commence until those schemes have been approved in writing by the local planning authority, and the surface water drainage scheme and the foul water drainage scheme shall then be implemented in accordance with the approved schemes and timetables, and thereafter retained.

REASON: In the interests of ensuring the site can be adequately drained.

NOTE: This will require calculations which demonstrate that the required 20% betterment against greenfield rates has been achieved for all storm events between the 1 in 1 year and the 1 in 100 year return period storm events. This will also require the applicant to undertake a sensitivity analysis on the network considering surcharged outfall conditions and has shown overland exceedance routes on the drainage plan for flows in excess of the 1 in 100 year plus climate change rainfall event.

Informatives:

1. The application involves creation of informal crossing points and lowered 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.
2. Wiltshire Council issues land drainage consents for discharges to ordinary watercourses and also for any works within 8m. The Environment Agency issue environmental permits for discharges to main rivers and any works within 8m, however we agree the flow rate for this as well). Within the calculations, the Additional Storage Volume factor must be set to zero and the margin for "flood risk" warning in hydraulic models been set to $\geq 300\text{mm}$.

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Western Area Planning Committee

MINUTES EXTRACT OF THE WESTERN AREA PLANNING COMMITTEE MEETING HELD ON 27 SEPTEMBER 2023 AT COUNCIL CHAMBER - COUNTY HALL, BYTHESEA ROAD, TROWBRIDGE, BA14 8JN.

49 PL/2021/09739: Land Rear of 54 Woodmarsh, North Bradley, BA14 0SB

Public Participation

- Francis Morland, local resident, spoke in objection to the application.
- Nigel Bedford, agent to the applicant, spoke in support of the application.
- Councillor Roger Evans, on behalf of North Bradley Parish Council, spoke in objection to the application.

The Senior Planning Officer, David Cox, introduced the report which recommended that the outline application be approved for the construction of up to 23 residential units including detailed access on the land to the rear of No. 54 Woodmarsh, North Bradley, with all other matters including appearance, landscaping, layout, and scale to be reserved, subject to planning conditions, and the applicant first entering into a S106 agreement to deliver the essential infrastructure made necessary by the development as set out within Section 9.6 of the report.

Key material considerations were identified including the principle of the development; ecology issues and the impact on bats as part of the Trowbridge Bat Mitigation Strategy (TBMS); access and highway safety; impact on neighbouring amenity; drainage issues; archaeology and heritage matters; and S106 contributions.

Members of the Committee then had the opportunity to ask technical questions of the Planning Officer.

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

The Unitary Division Member, Councillor Horace Prickett, then spoke in objection to the application.

A debate followed where the Bath and Bradford on Avon Bat Special Area of Conservation (SAC) and TBMS were discussed in respect of habitat and flight path concerns, the impacts of the increased traffic and light pollution created by the scheme, and who would be responsible for maintaining the green areas and existing bat habitats within the application site. The significant weight that Natural England, as a statutory consultee, carried in the planning process was highlighted alongside the lack of a 5-year housing land supply, with Members

noting that the proposed scheme proffered less housing than was allocated within the made Plan, and the impacts of the enhanced tree planting and master planned open space were discussed.

Other issues raised included the North Bradley Neighbourhood Plan, maintaining the separation between the village of North Bradley and Trowbridge, and the proportion of affordable housing that would be delivered within the scheme.

During the debate, a motion to grant planning permission was moved by Councillor David Vigar and was seconded by Councillor Trevor Carbin. Following a vote on the motion, it was:

Resolved:

The Committee GRANTED planning permission subject to the applicant first entering into a S106 agreement to deliver the essential infrastructure made necessary by the development set out within Section 9.6 of the report, and subject to the following planning conditions:

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

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

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

- (a) The scale of the development;**
- (b) The layout of the development;**
- (c) The external appearance of the development;**
- (d) The landscaping of the site;**

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

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

3. An application for the approval of all of the reserved matters shall be made to the Local Planning Authority before the expiration of three years from the date of this permission.

REASON: To comply with the provisions of Section 92 of the Town and Country Planning Act 1990.

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

Site Location Plan (A17 21 26 SK01), Existing Survey/Site Plan (A17 21 26 SK02), Design and Access Statement, Transport Statement, Ecological Appraisal and Dusk Survey for Bats (All Ecology Ltd, July 2021) - all received 12 October 2021;

Update Ecological Appraisal (NPA, 20/01/2022) – Received 3 November 2022

Revised Proposed Site Access Plan (21073 - 010-B) – received 10 November 2022

Site Specific Flood Risk Assessment and Drainage Strategy (IMA-22-103 June 2023), Ecology Addendum (NPA 11257 103 – PO1), Ecology Parameters Plan (Drg No 11257 NPA ZZ ZZ DR Y 1201 P02 - (NPA, 05/08/2022)) and 11257 Biodiversity Metric 3.1 calculation tool - v 7 Layout Rev M Jun23 – all received 29 June 2023

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

NOTE: The indicative masterplan (Drg No A17 21 26 SK10 Rev L) and indicative colour masterplan (Drg No A17 21 26 SK12) are only indicative and do not therefore form part of the approved plan list.

5. No part of the development hereby permitted shall be first occupied until the site junction, access road, footways have been completed in accordance with the details shown on the approved plans (Proposed Site access 21073-010 Rev B (Nov 2022) and properly consolidated. The areas shall be maintained for those purposes at all times thereafter.

REASON: In the interests of highway safety.

6. No part of the development shall be first occupied, until the visibility splays and informal crossing points shown on the approved plans (Proposed Site access 21073-010 Rev B (Nov 2022), Visibility splays 2.4m x 43m, and informal crossing points have

been provided with no obstruction to visibility at or above a height of 600mm above the nearside carriageway level. The visibility splays shall always be maintained free of obstruction

REASON: In the interests of highway safety.

7. The roads, including footpaths and turning spaces, shall be constructed so as to ensure that, before it is occupied, each dwelling has been provided with a properly consolidated and surfaced footpath and carriageway to at least base course level between the dwelling and existing highway.

REASON: To ensure that the development is served by an adequate means of access.

8. No development shall commence on site until details of the estate roads, footways, footpaths, verges, junctions, street lighting, sewers, drains, retaining walls, service routes, surface water outfall, vehicle overhang margins, embankments, visibility splays, accesses, carriageway gradients, drive gradients, car parking and street furniture, including the timetable for provision of such works, have been submitted to and approved by the Local Planning Authority. The development shall not be first occupied until the estate roads, footways, footpaths, verges, junctions, street lighting, sewers, drains, retaining walls, service routes, surface water outfall, vehicle overhang margins, embankments, visibility splays, accesses, carriageway gradients, drive gradients, car parking and street furniture have all been constructed and laid out in accordance with the approved details, unless an alternative timetable is agreed in the approved details.

REASON: To ensure that the roads are laid out and constructed in a satisfactory manner.

9. The development hereby permitted shall be carried out in accordance with the Ecological Parameters Plan. Drwg. No. 11257 NPA ZZ ZZ DR Y 1201. Rev. 02. (NPA, 05.08.2022). This document will form the basis for the site layout and will not be altered at Reserved Matters without detailed justification based on additional habitat and wildlife species surveys.

REASON: To protect the ecology on the site.

10. The development will be completed in accordance with the Biodiversity Metric 3.1 (NPA, 27/06/023) or a subsequent revised

metric calculation submitted to and approved by the Local Planning Authority. This condition shall be discharged when a report has been submitted to and approved by the Local Planning Authority which demonstrates that the development has been completed in accordance with the approved metric calculation. The report will demonstrate for habitats and hedgerows and that the development will achieve at least 100% mitigation (i.e. no net loss) for land lost to development.

REASON: to meet the requirements of the Trowbridge Bat Mitigation Strategy.

11. Prior to the commencement of works, including demolition, ground works/excavation, site clearance, vegetation clearance and boundary treatment works, a Construction Environmental Management Plan (CEMP) shall be submitted to the local planning authority for approval in writing. The CEMP shall include a detailed plan showing detail of the avoidance, mitigation and protective measures to be implemented before and during the construction phase, including but not necessarily limited to, the following:

- a) Phasing plan for bat habitat creation and landscape works in the north and east of the site.
- b) Identification of ecological protection areas/buffer zones/bat habitat and tree root protection areas and details of physical means of protection, e.g. exclusion fencing and including who will be responsible for its installation.
- c) Location of construction compounds.
- d) Details on locations of any construction lighting (if required: Note: this must be kept away from boundary features).
- e) Working method statements for protected/priority species, such as nesting birds, and reptiles.
- f) Mitigation strategies already agreed with the local planning authority prior to determination, such as for great crested newts/bats; this should comprise the pre-construction/construction related elements of strategies only.
- g) Work schedules for activities with specific timing requirements in order to avoid/reduce potential harm to ecological receptors; including details of when a licensed ecologist and/or ecological clerk of works (ECoW) shall be present on site.
- h) Key personnel, responsibilities and contact details (including Site Manager and ecologist/ECoW).
- i) Timeframe for provision of compliance report to the local planning authority; to be completed by the ecologist/ECoW and to include photographic evidence.
- j) details of drainage arrangements during the construction phase

Development shall be carried out in strict accordance with the approved CEMP.

REASON: To ensure adequate protection and mitigation for ecological receptors prior to and during construction, and that works are undertaken in line with current best practice and industry standards and are supervised by a suitably licensed and competent professional ecological consultant where applicable.

12. No development shall commence on site until a scheme for the provision and creation of a SuDs located in the northern part of the site/within the public open space area has been submitted to the LPA for approval. The SuDs shall be designed as a permanent waterbody with a diverse marginal structure using trees, shrubs and grasses to provide suitable aquatic habitat for foraging bats.

The scheme shall be completed in accordance with the approved details and in accordance with the timetable detailed in the approved scheme.

REASON: For the mitigation and enhancement of biodiversity.

13. No development shall commence on site until a Landscape and Ecology Management Plan (LEMP) has been submitted to and approved in writing by the Local Planning Authority. The LEMP shall be based on the approved Ecological Parameters Plan. Drwg. No. 11257 NPA ZZ ZZ DR Y 1201. Rev. 02. (NPA, 05.08.2022) the approved Biodiversity Metric 3.1 (NPA, 27/06/023) submitted with the application, or a revised Biodiversity Metric submitted and approved. The LEMP will include long term objectives and targets, management responsibilities and maintenance schedules for each ecological feature within the development, together with a mechanism for monitoring success of the management prescriptions, incorporating review and necessary adaptive management in order to attain targets.

The LEMP shall also include details of the legal mechanism(s) by which long-term implementation of the plan will be secured. The LEMP shall be implemented in full and for the lifetime of the development in accordance with the approved details.

REASON: To ensure the long-term management of landscape and ecological features retained and created by the development, for the benefit of visual amenity and biodiversity for the lifetime of the scheme.

NOTE: The s106 should have a clause that a management company will be required to manage the land required under the terms of the LEMP condition.

14. 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 Institute of Lighting Engineers in their publication GN01:2011, 'Guidance for the Reduction of Obtrusive Light' (ILP, 2011), 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.

This condition shall only be discharged when a post-development lighting survey conducted in accordance with section 8.3.4 of the Trowbridge Bat Mitigation Strategy has been submitted to the Local Planning Authority demonstrating compliance with the approved lighting plans, having implemented and retested any necessary remedial measures.

REASON: In the interests of the amenities of the area, to minimise unnecessary light spillage above and outside the development site and to core bat habitat meets the requirements of the Trowbridge Bat Mitigation Strategy.

15. No development shall commence on site until a plan (details) for the selection, siting, positioning and installation of integral nesting features for bats and birds has been submitted to, and approved in writing by, the local planning authority.

The plan should show the green infrastructure that the development is to provide, illustrating how birds and bats using the boxes have access to the relevant habitat/food resource in nearby suitable habitat. The installation plan should be prepared in accordance with the requirements of BS 42021.

The integral nesting feature should identify, as a minimum:

- a) the bird/bat species likely to benefit from the proposed integral nest feature;**
- b) the type of integral nest feature to be installed;**
- c) the specific buildings on the development into which features are to be installed, shown on appropriate scale drawings;**
- d) the location on each building where features are to be installed, shown on all appropriate building plans and elevations;.**

No dwelling shall be first occupied until the approved details of the integral nest box plan have been implemented in accordance with the approved details. All boxes shall be retained in good working order in perpetuity.

REASON: For the protection, mitigation and enhancement of biodiversity.

16. Details of the surface water drainage scheme, (including sustainable drainage details), the foul water drainage scheme and timetables for their implementation shall be submitted to the local planning authority for approval with or before the submission of reserved matters. No development shall commence until those schemes have been approved in writing by the local planning authority, and the surface water drainage scheme and the foul water drainage scheme shall then be implemented in accordance with the approved schemes and timetables, and thereafter retained.

REASON: In the interests of ensuring the site can be adequately drained.

NOTE: This will require calculations which demonstrate that the required 20% betterment against greenfield rates has been achieved for all storm events between the 1 in 1 year and the 1 in 100 year return period storm events. This will also require the applicant to undertake a sensitivity analysis on the network considering surcharged outfall conditions and has shown overland exceedance routes on the drainage plan for flows in excess of the 1 in 100 year plus climate change rainfall event.

Informatives:

1. The application involves creation of informal crossing points and lowered 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.
2. Wiltshire Council issues land drainage consents for discharges to ordinary watercourses and also for any works within 8m. The Environment Agency issue environmental permits for discharges to main rivers and any works within 8m, however we agree the flow rate for this as well). Within the calculations, the Additional Storage Volume factor must be set to zero and the margin for "flood risk" warning in hydraulic models been set to $\geq 300\text{mm}$.