

# AGENDA

---

**Meeting:** Eastern Area Planning Committee

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

**Date:** Thursday 25 January 2024

**Time:** 3.00 pm

---

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

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

This Agenda and all the documents referred to within it are available on the Council's website at [www.wiltshire.gov.uk](http://www.wiltshire.gov.uk)

---

## Membership:

Cllr Philip Whitehead (Chairman)

Cllr Paul Oatway QPM (Vice-Chairman)

Cllr Adrian Foster

Cllr Dr Brian Mathew

Cllr Kelvin Nash

Cllr Tony Pickernell

Cllr Iain Wallis

Cllr Stuart Wheeler

---

## Substitutes:

Cllr Mel Jacob

Cllr Sam Pearce-Kearney

Cllr Jerry Kunkler

Cllr Dominic Muns

Cllr James Sheppard

Cllr Caroline Thomas

Cllr Laura Mayes

Cllr Tamara Reay

---

## **Recording and Broadcasting Information**

Wiltshire Council may record this meeting for live and/or subsequent broadcast. At the start of the meeting, the Chairman will confirm if all or part of the meeting is being recorded. The images and sound recordings may also be used for training purposes within the Council.

By submitting a statement or question for a meeting you are consenting that you may be recorded presenting this and that in any case your name will be made available on the public record. The meeting may also be recorded by the press or members of the public.

Any person or organisation choosing to film, record or broadcast any meeting of the Council, its Cabinet or committees is responsible for any claims or other liability resulting from them so doing and by choosing to film, record or broadcast proceedings they accept that they are required to indemnify the Council, its members and officers in relation to any such claims or liabilities.

Details of the Council's Guidance on the Recording and Webcasting of Meetings is available on request. Our privacy policy can be found [here](#).

## **Parking**

To find car parks by area follow [this link](#).

## **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](#).

Our privacy policy is found [here](#).

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

# AGENDA

## Part I

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

1 **Apologies**

To receive any apologies or substitutions for the meeting.

2 **Minutes of the Previous Meeting** (*Pages 7 - 12*)

To approve and sign as a correct record the minutes of the meeting held on 2 November 2023.

3 **Declarations of Interest**

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

4 **Chairman's Announcements**

To receive any announcements through the Chair.

5 **Public Participation**

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 18 January 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 22 January 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**

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

**Rights of Way**

7 **North Tidworth Path No.11** *(Pages 13 - 32)*

To consider three objections to The Wiltshire Council North Tidworth Path No.11 Definitive Map and Statement Modification Order 2023, made under Section 53 of the Wildlife and Countryside Act 1981.

**Planning Applications**

To consider and determine the following planning applications.

8 **PL/2022/08744: Devizes Community Hospital, New Park Road, Devizes, SN10 1EF** *(Pages 33 - 76)*

Outline application (all matters reserved except for access) for part conversion and part redevelopment of the Devizes Community Hospital site to provide up to 58 no. residential dwellings (Use Class C3) and circa 67.7sqm flexible commercial unit (Use Class E), including the retention and conversion of two original buildings to the east of the site, with associated landscaping and parking.

9 **PL/2023/07628: Park House, Clench Common, Marlborough, SN8 4DU** *(Pages 77 - 90)*

A single new sustainable development dwelling at the land behind Park House. Proposed access via approved planning application (PL/2022/08144) for proposed stables and access. A custom build for a 3 bedroom with 2 parking bays.

10 **PL/2023/05917: 19 Manton Hollow, Marlborough, SN8 1RR** *(Pages 91 - 100)*

First floor rear extension.

11 **Urgent items**

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

## **Part II**

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

This page is intentionally left blank

## Eastern Area Planning Committee

---

### MINUTES OF THE EASTERN AREA PLANNING COMMITTEE MEETING HELD ON 2 NOVEMBER 2023 AT WESSEX ROOM - THE CORN EXCHANGE, MARKET PLACE, DEVIZES, SN10 1HS.

#### **Present:**

Cllr Philip Whitehead (Chairman), Cllr Paul Oatway QPM (Vice-Chairman), Cllr Adrian Foster, Cllr Dr Brian Mathew, Cllr Kelvin Nash, Cllr Stuart Wheeler, Cllr Dominic Muns (Substitute) and Cllr Caroline Thomas (Substitute)

#### **Also Present:**

Cllr Tamara Reay and Cllr Iain Wallis

---

#### 51. **Apologies**

Apologies for absence were received from:

- Cllr Iain Wallis, who attended only in his capacity as the Local Unitary Division Member, substituted by Cllr Dominic Muns.
- Cllr Anthony Pickernell, substituted by Cllr Caroline Thomas.

#### 52. **Minutes of the Previous Meeting**

On the proposal of the Chairman, Cllr Philip Whitehead, seconded by the Vice-Chairman, Cllr Paul Oatway QPM, it was:

##### **Resolved**

**To approve the minutes of the previous meeting, held on 5 October 2023, as a true and correct record.**

#### 53. **Declarations of Interest**

There were no declarations of interest.

#### 54. **Chairman's Announcements**

The Chairman welcomed Cllr Adrian Foster to the Committee. Cllr Foster would be replacing Cllr Sam Pearce-Kearney, who would now be a substitute.

#### 55. **Public Participation**

The Committee noted the rules on public participation.

#### 56. **Planning Appeals and Updates**

On the proposal of the Chairman, seconded by Cllr Kelvin Nash, it was:

### **Resolved**

**To note the appeals report for the period between 22 September and 20 October 2023, subject to an amendment to note that the officer recommendation was to approve PL/2022/00977 Land to the north of Horton Road.**

57. **PL/2023/02789: North Lower Park Farm, Whistley Road, Potterne, SN10 5TB**

#### Public Participation

- Mr William Jameson – spoke in opposition to the application.
- Ms Kerry Coleman – spoke in opposition to the application.
- Ms Justine Hanson – spoke in opposition to the application.
- Richard Cosker (RCC Town Planning) – spoke in support of the application.
- Mr Will Harley (WH Landscape) – spoke in support of the application.
- Mr Albert Wooldridge (Devizes Men’s Shed) – spoke in support of the application.
- Potterne Parish Council – Cllr Richard Clark – spoke in opposition to the application.

The Senior Conservation and Planning Officer, Jonathan James, introduced a report which recommended that the application for the creation of a community farm, including a farmhouse, farm track, rural employment units and associated works, be rejected for the reasons outlined in the report. Key details were stated to include the principle of development, the quality of design, as well as the landscape, environmental, historical, drainage, parking and highway impacts.

Attention was drawn to the late correspondence that had been received in relation to the application, a letter of objection relating to issues such as access and housing provision. The Senior Conservation and Planning Officer confirmed that the points raised in this letter had already been considered in the report.

It was highlighted that the site fell primarily within the divisions of Devizes North, Devizes Rural West, but with part of the proposed farm track being in Devizes South. It was also noted that the Committee and Local Members had had the opportunity to attend a formal visit to the site as well as the nearby vantage point of Gilletts Farm.

The Senior Conservation and Planning Officer explained that the site was outside of the defined limits of development in Devizes and Potterne, so would have urbanising effect on the character and appearance of the countryside, a historical and attractive landscape. The overall development would therefore



contradict a number of Wiltshire Core Strategies as outlined in the report, including Core Policy 51 (Landscape), Core Policy 34 (Additional Employment Land), Core Policy 2 (Delivery Strategy), Core Policy 1 (Settlement Strategy) and Core Policy 12 (Settlement Strategy for the Devizes Community Area). In addition, the proposals would contradict aspects of the Devizes Neighbourhood Development Plan as well as the principles set out in the National Planning Policy Framework 2023.

However, the Senior Conservation and Planning Officer, did note that, despite a number of objections based on road safety grounds, Wiltshire Council's Highway Officer did not believe that there would be such a severe impact as to justify road safety as a reason for refusal. Whilst the Highway Officer acknowledged that the scheme would likely lead to an increase in traffic movements along Whistley Road, the increase would not have a significant detrimental effect.

It was noted that the proposal included the creation of a new access track to the east of the community farm towards the Hillworth Road area of Devizes, designed to provide all weather access for animals. The track would be approximately 1.3km long and join an existing right of way through the site, although the width of the path had not been specified. The existing access tracks leading from Whistley Road would remain in place.

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

In response to a question about the relationship between the employment units and the community farm, the Senior Conservation and Planning Officer explained that they may be intended to support the community farm. He was not aware that the nearby community farm at Caenhill Countryside Centre had any plans to relocate to the proposed development, so it would provide an additional facility in the area.

As the application comprised of different elements, the community farm, rural employment units and farm track, it was asked whether the Committee would be able to approve some elements in isolation. The Senior Conservation and Planning Officer confirmed that the application would have to be considered as a whole.

Details were sought about the proposed parking facilities on site. The Senior Conservation and Planning Officer reported that there were spaces associated with the employment units and community farm. The farmhouse would also have sufficient parking. The spaces were not all clearly identified on the plan, but it was anticipated that the site manager would probably allocate spaces.

When asked about whether it would be possible to sub-divide the proposed community farm building, the Senior Conservation and Planning Officer stated that it would. He explained that the proposed community farm building was approximately 452m<sup>2</sup> on the ground floor and would contain a dedicated office space, kitchen and toilet facilities as well as the main work area. It would be

possible to further sub-divide the building as long as it involved an approved change of use. Whilst it would be possible to keep horses in the community farm building, it would not be classed as an agricultural use.

The Committee noted that floorplans of Units 6 and 7 of the proposed development indicated that they would each be divided into three units. The Senior Conservation and Planning Officer explained that the application had described Units 6 and 7 as two units, so that is what would be approved if the Committee were to grant permission for the development.

Further clarity was sought about the status of the farmhouse on the site given that it was an existing structure. The Senior Conservation and Planning Officer explained that there had previously been a dilapidated farmhouse on the site and that planning permission had been obtained to demolish it and replace it with a new dwelling and associated garage. The garage unit that had been approved was then expanded and built out as a residential dwelling without permission. However, as the structure was then lived in for a period in excess of four years, it was retrospectively given a certificate of lawfulness. This structure was the farmhouse listed as part of the application being brought to the Committee.

Members of the public then had the opportunity to present their views to the Committee as listed above. A representative from Potterne Parish Council spoke in opposition to the application.

The Unitary Division Members, Cllr Iain Wallis (Devizes North) and Cllr Tamara Reay (Devizes Rural West) then presented their views to the Committee, Cllr Wallis speaking, in support of, and Cllr Reay, in opposition to, the application.

The Senior Conservation and Planning Officer then had the opportunity to respond to points raised by the public, Parish Council and Unitary Division Members.

So that the Committee had something to debate, the Chairman, seconded by Cllr Adrian Foster, proposed that the application be refused, for the reasons outlined in the report.

A debate followed where issues such as road safety, compliance with previous applications and the demand for the proposed development was debated. The Chairman noted that compliance issues with previous applications could not be considered.

Some Members of the Committee welcomed the idea of creating a community farm, feeling that it would benefit the local area and help to support rural economy. However, some of those in support of the scheme felt that they would only be able to support the community farm in isolation from the other parts of the application, whilst others did not feel that it was an appropriate location for this type of development. At the conclusion of the debate, it was:

**Resolved**

**That the planning application be REFUSED for the following reasons:**

- 1. The site lies outside the Limits of Development of Devizes or Potterne within what is defined as countryside, whereby under Core Policies 1 and 2 of the Wiltshire Core Strategy, development is not permitted other than in circumstances permitted by other policies within this plan, as identified in paragraph 4.25.**

**Core Policy 34 of the Wiltshire Core Strategy supports the provision of additional employment land; however, the proposal does not fall within any of the criteria i) to iv) and so it fails to comply with this policy. In addition, the site is considered not to meet the sustainable development objectives of the Wiltshire Core Strategy policies and the National Planning Policy Framework (2023), is not commensurate in scale with its location, and would thereby adversely affect the local area, with inadequate justification for the economic and social needs and questions over whether it is supported by adequate infrastructure. The site occupies what is deemed to be an unsustainable location for the type of development proposed, outside of the defined Limits of Development for Devizes. The strategic policies for development do not support the creation of the type of development proposed within this location.**

**Core Policy 48 supports proposed residential development where it enables workers to live at or in the immediate vicinity of their place of work, in the interests of agriculture, forestry or other employment essential to the countryside. This policy is broadly in line with the requirements of the NPPF (para. 80) for such development, which states that planning policies and decisions should avoid the development of isolated homes in the countryside unless there is an essential need for a rural worker. No agricultural assessment has been provided in support of the application to justify that there is an essential need, including a functional or financial need for a rural workers' dwelling in this location.**

**The site falls outside of any defined Limits of Development and has not been brought forward under either the Neighbourhood Plan or allocated through the development plan document for the area. Therefore, the development fails to comply with the requirements of Core Policies 1 and 2 and thereby Core Policy 12, and is not supported by exception policies 34 and 48 of the Wiltshire Core Strategy.**

- 2. The proposed development, by reason of its urbanising effect, would have an adverse impact on the character and appearance of the area, causing irreversible loss of an attractive and historic landscape. It would therefore fail to protect, conserve and where possible enhance, landscape character, which is contrary to the provisions of the policies of the development plan and more**

**specifically Core Policy 51, Core Policy 52, Core Policy 57 and Core Policy 58 of the Wiltshire Core Strategy 2015; policies H1 and ESD1 of the Devizes Neighbourhood Development Plan 2016-2026 December 2015; as well as the principles set out within the National Planning Policy Framework (2023).**

58. **Urgent items**

There were no urgent items.

(Duration of meeting: 3.00 - 4.16 pm)

The Officer who has produced these minutes is Matt Hitch of Democratic Services, direct line 01225 718059, e-mail [matthew.hitch@wiltshire.gov.uk](mailto:matthew.hitch@wiltshire.gov.uk)

Press enquiries to Communications, direct line 01225 713114 or email [communications@wiltshire.gov.uk](mailto:communications@wiltshire.gov.uk)

WILTSHIRE COUNCIL

AGENDA ITEM NO 7

EASTERN AREA PLANNING COMMITTEE

25 JANUARY 2024

---

## WILDLIFE AND COUNTRYSIDE ACT 1981

### THE WILTSHIRE COUNCIL NORTH TIDWORTH PATH NO.11 DEFINITIVE MAP AND STATEMENT MODIFICATION ORDER 2023

#### Purpose of Report

1. To:
  - (i) Consider three objections to The Wiltshire Council North Tidworth Path No.11 Definitive Map and Statement Modification Order 2023 made under Section 53 of the Wildlife and Countryside Act 1981 (See **Appendix 1** for a copy of the Order).
  - (ii) Recommend that the Order be forwarded to the Secretary of State for Environment, Food and Rural Affairs (SoSEFRA) with a recommendation from Wiltshire Council that the Order is confirmed as made.

#### Relevance to the Council's Business Plan

2. Working with the local community to provide a rights of way network which is fit for purpose, making Wiltshire an even better place to live, work and visit.

#### Background

3. Wiltshire Council has statutory duties to maintain the record of public rights of way in Wiltshire (excluding the Borough of Swindon), to maintain the rights of way shown therein, and to assert and protect them for the use and enjoyment of the public. These duties are not discretionary.
4. The definitive map and statement is the legal record of public rights and is conclusive in law as to what it shows but this is without prejudice to the existence of a more extensive public right (s.56 of the 1981 Act). The Council has a duty to keep it under continual review and make orders to modify it when evidence shows it is in error.
5. Members of the public may apply to the Council to modify the definitive map and statement and they do so under the provisions of Schedule 14 to the 1981 Act and the Council must determine these applications by investigating all available relevant evidence and by making a modification order where it is considered it is shown on the balance of probability (i.e., it is more likely than not) that a change in the map and statement is required.

6. Wiltshire Council received an application dated 31 March 2004 for an Order to upgrade footpath North Tidworth 11 (NTID11) to a byway open to all traffic (BOAT) from its junction on the A3026 Ludgershall Road at OS Grid Reference SU 2389 4933 leading in a generally northerly direction to its junction with bridleway Collingbourne Ducis 21 (CDUC21) at SU 2446 5128. The application also applied to add a new section of BOAT from SU 2446 5128, the northerly junction of NTID11, leading north, northeast across Sunnyhill Down and the A342 to its junction with BOAT CDUC19 at SU 2459 5184. See full application route at page 3 of the officers Decision Report which can be found on Wiltshire Council's website within the register of definitive map modification orders which itself is found on the right of way page of the website. The full 130 page officer decision report can be found under application reference 2004/09, or using the following link [D/2004/009 - Rights Of Way - Wiltshire Council](#). The record of officer decision which summarises the decision report is attached to this report as **Appendix 2**.
7. In 2006 an Act of Parliament extinguished any public mechanically propelled vehicular (MPV) right that existed (s.67 Natural Environment and Rural Communities Act 2006) and that the highest public right that could exist is that of a restricted byway. A restricted byway is a route over which the public may pass and re-pass on foot, on or leading a horse, on a cycle or with a horse drawn cart or carriage. It is an offence prosecutable by the police for the public to use an MPV over one.
8. A significant amount of evidence was submitted by the applicant and has been investigated; the officers decision report explores this in detail. In considering historic public rights it is essential that the common law principal of 'once a highway, always a highway' is applied. In short, if a public right of way can be shown, on the balance of probability, to have existed in the past, no amount of disuse or neglect will extinguish that right. Only a defined legal event can stop up that right.
9. The application was considered in two sections, one to upgrade the route of footpath NTID11 to a BOAT and one to add a section of unrecorded BOAT north of footpath NTID11 leading into the parish of Collingbourne Ducis across the A342 and meet byway CDUC19. As per paragraph 7, the highest status capable of being recorded is now a restricted byway.
10. When considering historic documentary evidence officers categorise evidence based on its evidential weight and have drawn up a categorisation system. This system of categorisation has been devised by officers with regard to The Planning Inspectorate's Consistency Guidelines (last revised April 2016) and Chapter 6 of the book 'Rights of Way A Guide to Law and Practice – Fourth Edition' by John Riddall and John Trevelyan. Evidence is graded A through F, with documents in category A holding the most weight down through F. Examples of category A evidence are Inclosure Acts and awards, Acts for railways, waterways or roads and orders creating, extinguishing, or diverting highways as these documents document a legal creation, extinguishment, or diversion of a public highway. Other documents may demonstrate the reputation of a way or the physical existence of a way, but the purpose of that document may not have been to show the legal status of a highway or have any powers to do so. For example, although a way may appear on many commercial maps it does not necessarily carry as much evidential weight as if the way is shown in

two publicly consulted documents or created, say, as the result of an Act of Parliament (see section 8 of officers decision report, from page 55).

11. The applicant adduced documents to demonstrate the route of NTID11 should be upgraded to a restricted byway. None of these documents fell within category A, one fell within category B, with most documents adduced being commercial maps which fall within category E. The category B evidence affecting NTID11 is the 1844 North Tidworth Tithe map which shows the route of NTID11 as un tithable land, which may indicate it was considered a public road but not necessarily so. The purpose of the tithe map is to show which land was tithable, as the Planning Inspectorate guidelines state at 8.2.13 "*both public and private roads had the capacity to diminish the productiveness of land for the assessment of tithe*" and at 8.2.14 "*They may not necessarily be good evidence either of public rights or the nature of any public right that may exist*". The route is annotated with a location at its northern end "*to collingbourne*" which may be indicative of a public highway; however, the map includes other routes with annotations which are not excluded from tithable land and are not recorded public rights of way at this time. The map also depicts other un tithable tracks which are not currently recorded as public highways. The 1844 North Tidworth map is described as having "*an amateurish appearance*" in the book *The Tithe Maps of England and Wales* by Roger J.P Kain and Richard Oliver on page 560. Roger Kain being a professor specialising in Historical Geography and Map History and a fellow of the British Academy. The track shown on the North Tidworth Tithe map of 1844 should naturally continue into the parish of Ludgershall; however, no track is shown on the Ludgershall Tithe Map of 1841 at all. Overall, the only category B evidence in this case can be described as wholly inconclusive as to the rights over the track in question and in the words of Professor Roger Kain in reference to the 1844 North Tidworth map, "*amateurish*".
12. The vast majority of evidence in this case in support of the application are commercial maps which fall into category E. The Planning Inspectorate Guidelines state at 14.2.43 in reference to commercial maps "*They may not necessarily be good evidence either of public rights or the nature of any public right that may exist*" and at 14.2.46 "*Most maps are potentially helpful evidence of the physical existence of routes, especially if consistently shown. However, they are less helpful in terms of determining the status of the routes shown, and all mapping evidence is more helpful in conjunction with other evidence.*" Officers acknowledge there are a number of commercial maps showing the route in question as a road of various descriptions; however, it is clear commercial maps are not good evidence of the status of a way, rather the physical existence of a route, which is not in question. They may be used as supporting evidence in conjunction with other evidence, which in this case is lacking or where there is some evidence it is of weak or low evidential weight.
13. The '*amateurish*' grade B evidence, snippets of references to the route as an "old road" in parish council minutes and swathe of grade E evidence clearly shows a physical way has existed for many years in the general vicinity of the current recorded footpath. However, to amend the definitive map and status of the way the decision must be made on the balance of probabilities that the evidence is sufficient to justify such a change. The definitive map process in the early 1950s and subsequent inquiry into the route's status, which included the

landowner and Parish Council, agreed that the way should be recorded as a footpath in 1956. The Finance Act 1910 maps, which can be considered category B evidence, do not indicate the way was recorded as a public highway. The Pewsey Rural District Council Takeover Map c.1930 does not show the way as a public road at that time. Officers appreciate there is a balance of evidence in this matter and several documents may support the higher status of the route but the weight of those documents, in terms of evidential value, officers consider, is not heavy enough to tip the scales of the balance of probabilities for the reasons summarised in this report and fully explored in the officer's decision report.

14. Footpath NTID11 did not have a recorded width in the definitive statement and as a result of the thorough investigation officers undertook into the route it was clear a width could be recorded from the evidence of the physical appearance of the way. As such, an Order was made, which is subject to this report, to record a width for the way. This also gives the applicant and any other parties the opportunity to object to the decision not to upgrade the status of the way, by objection to this Order, as is their right.
15. A separate Order was made to record a new section of restricted byway north of footpath NTID11 in the parish of Collingbourne Ducis, as a result of the same DMMO application. Higher evidentially weighted documents were found for that section of the route, hence the different decision in comparison to the route subject to this Order. That Order to record a new section of restricted byway (also diverted to a more practical route) was made and confirmed without objection, that Order is not subject to this process or report.
16. An Order was made, The Wiltshire Council North Tidworth Path No.11 Definitive Map and Statement Modification Order 2022, on 14 June 2022 and was duly advertised, and attracted three duly made objections, one objection not duly made (made outside of the statutory objection period) and one representation. A copy of the 2022 Order is appended at **Appendix 3**.
17. Where objections are received to a Definitive Map Modification Order Wiltshire Council may not confirm or abandon the Order and must forward it to SoSEFRA for determination. However, it must first consider the representations and objections to the Order and make a recommendation to SoSEFRA regarding the determination of the Order.
18. The 2022 Order was presented to the Eastern Area Planning Committee at its meeting held on 1 December 2022 to determine the recommendation attached to the Order when sent for determination to SoSEFRA. The committee resolved that "the Wiltshire Council North Tidworth Path No.11 Definitive Map and Statement Modification Order 2022 is forwarded to the SoSEFRA with the recommendation that it is confirmed with modification. That modification being the wording within part 1 of the schedule for the Order where it reads " description of restricted byway to be added " it should read " description of footpath".
19. The Order was forwarded to SoSEFRA for determination on 5 January 2023. On 30 June 2023 the Planning Inspectorate on behalf of SoSEFRA informed Wiltshire Council that the Order contained a fundamental error which was fatal to the validity of the Order and as such he would not exercise his power or



modification to the Order. Therefore, the Order is considered invalid and is abandoned.

20. As a result Wiltshire Council has made a new Order to the same effect as the 2022 Order to determine the definitive map modification application made in March 2004. That Order relied on the same decision as the 2022 Order as no new evidence had been presented which affects the officer's original decision. A new Order, The Wiltshire Council North Tidworth No.11 Definitive Map and Statement Modification Order 2023, was made on 14 July 2023 and duly advertised. The Order attracted three duly made objections and one representation not objecting to the Order.
21. As the Order has attracted objections it must be considered in the same manner as the 2022 Order, by the Eastern Area Planning Committee and forwarded with a recommendation as to its determination to SoSEFRA.

### **Main Considerations for the Council**

22. Section 53(2) of the Wildlife and Countryside Act 1981 places a duty upon the Surveying Authority to keep the definitive map and statement of public rights of way under continuous review.
23. The Order is made under Section 53(3)(c) of the Wildlife and Countryside Act 1981, based on:  
  
*“the discovery by the authority of evidence which (when considered with all other relevant evidence available to them) shows-*  
  
*(iii) that there is no public right of way over land shown in the map and statement as a highway of any description, or any other particulars contained in the map and statement require modification.”*
24. Evidence is the key and therefore objections to the making of the Order must, to be valid, challenge the evidence available to the Surveying Authority. The Authority is not able to consider other considerations, such as the suitability of the way for use by the public, the proximity of any other paths or facilities, environmental impacts and any need or desire for the claimed route.
25. **Objections and Representations to the order:**  
  
**(1) Mr Bill Riley - Objection (Applicant)**

### **The Wiltshire Council North Tidworth Path No.11 Definitive Map and Statement Modification Order 2023**

*I object to the order.*

**Background:** *As you are aware, I applied for the order on 31<sup>st</sup> March 2004. As submitted, the application sought inter alia to upgrade North Tidworth Path No.11. On 27<sup>th</sup> January 2022 I was informed by the Council that the upgrade was refused, and subsequently, that I had no right of appeal, but that when the*

*order was made and advertised, I would have the opportunity to make representations.*

*My objection is made on the grounds that the Council has discovered no evidence that the way was only ever a footpath historically; and that cogent historical evidence (much of it in the Council's own archives) shows clearly that the way is an ancient public road for all traffic. Consequently, the order should be modified to record North Tidworth Path No.11 as a restricted byway.*

## **(2) Mr Alan Kind – Objection**

*Dear Sir*

### **The Wiltshire Council North Tidworth Path No.11 Definitive Map and Statement Modification Order 2023**

*Reference your order of 14 July 2023, to add a width to the definitive statement, I object on the following grounds.*

*You have made this order consequent on an application to modify the status of the way from footpath to restricted byway. You rejected that application, choosing instead to make this order.*

*I have seen the evidence in support of the application and have carried out some additional map research of my own. Based on all that evidence, and (importantly) on a proper construction of the view of the courts (which has barely been touched on in your report to committee), the correct status of the way is restricted byway, and the order should be modified accordingly.*

## **(3) Norman Beardsley – Objection (on behalf of Wiltshire Bridleways Association)**

*Dear Mr Harlow.*

*I write on behalf of Wiltshire Bridleways Association, (WBA), to register the Committee's objection to the Order as referred to under your reference NTID - 2023 Order.*

*This matter was again discussed at the WBA monthly committee meeting on Wednesday 06 September 2023.*

*The equine population of Tidworth and surrounding area has increased significantly over the last four years, due mainly to the considerable growth of the garrison towns of Tidworth and Larkhill. Consequently the need for safe off road, traffic free routes for equine and cycling use has grown proportionately.*

*North Tidworth Path no 11 (NTID11), if upgraded in line with the evidence originally presented under reference 2004/09, which WBA believe records the route in question as being a public route for all transport, would contribute considerably to that safe, traffic free option. However, should this information be proved as totally incorrect, then WBA ask that consideration be given to modifying the order to record North Tidworth path 11 as a Restricted Byway.*

**(4) Dave Buczynskyj – No comment (Senior Development Planner On behalf of Persimmon South Coast, an affected landowner).**

*Dear Craig,*

*Thank you for your email. I can confirm that Persimmon has no comment to make in response to your letter dated 08 August 2023.*

**Comments on the objections**

26. All three objections made in the statutory period from Mr Riley, Mr Kind and Mr Beardsley are of a very similar nature, i.e., they present no further evidence for the Council to consider and rely on the application. The reasons for making the Order set out in paragraphs 10-14 of this report and fully in the officer's decision report. Those being summarily, and in response to the objections, that the evidence is delicately balanced, but officers believe the weight of the evidence is not sufficient to make and confirm an order to upgrade the status of this route on the balance of probabilities. The point raised by Mr Beardsley regarding the benefit to off road users cannot be taken into consideration. The objectors have not raised any additional points to consider to those that were considered at the Order making stage. An independent inspector appointed by The Planning Inspectorate on behalf of the Secretary of State will determine the Order and officers will be guided by and implement that judgement. Wiltshire Council has a right to appeal the inspectorate's decision in High Court if deemed appropriate.

**Overview and Scrutiny Engagement**

27. Overview and Scrutiny Engagement is not required in this case. The Council must follow the statutory process which is set out under Section 53 of the Wildlife and Countryside Act 1981.

**Safeguarding Considerations**

28. Considerations relating to safeguarding anyone affected by the making of the Order under Section 53(2) of the Wildlife and Countryside Act 1981 are not considerations permitted within the Act. Any such Order must be made and determined based on the relevant evidence alone.

**Public Health Implications**

29. Any public health implications arising from the making of an Order under Section 53(2) of the Wildlife and Countryside Act 1981 are not considerations permitted within the Act. Any such Order must be made and determined based on the relevant evidence alone.

**Corporate Procurement Implications**

30. In the event this Order is forwarded to SoSEFRA there are several opportunities for expenditure that may occur, and these are covered in paragraphs 34 to 37 of this report.

### **Environmental and Climate Change Impact of the Proposal**

31. Any environmental or climate change considerations arising from the making of an Order under Section 53(2) of the Wildlife and Countryside Act 1981 are not considerations permitted within the Act. Any such Order must be made and determined based on the relevant evidence alone.

### **Equalities Impact of the Proposal**

32. Matters relating to the equalities impact of the proposal are not relevant considerations in Section 53 of the Wildlife and Countryside Act 1981.

### **Risk Assessment**

33. Wiltshire Council has a duty to keep the definitive map and statement of public rights of way under continuous review and therefore there is no risk associated with the Council pursuing this duty correctly. Evidence has been brought to the Council's attention that there is an error in the definitive map and statement of public rights of way which ought to be investigated and it would be unreasonable for the Council not to seek to address this fact. If the Council fails to pursue its duty it is liable to complaints being submitted through the Council's complaints procedure, potentially leading to complaints to the Ombudsman. A request for judicial review could be made with significant costs against the Council where it is found to have acted unlawfully.

### **Financial Implications**

34. The making and determination of Orders under the Wildlife and Countryside Act 1981 is a statutory duty for Wiltshire Council for which financial provision has been made.
35. Where there are outstanding objections to the making of the Order it must be determined by the Secretary of State. The outcome of the Order will then be determined by written representations, local hearing, or local public inquiry, all of which have a financial implication for the Council. If the case is determined by written representations the cost to the Council is £200 to £300; however, where a local hearing is held the costs to the Council are estimated at £300 to £500. A one-day public inquiry could cost between £1,500 and £3,000 if Wiltshire Council continues to support the making of the Order (i.e., where legal representation is required by the Council) and around £300 to £500 where Wiltshire Council no longer supports the making of the Order (i.e., where no legal representation is required by the Council and the case is presented by the applicant).
36. Where the Council objects to the Order, the Order must still be forwarded to the SoSEFRA for determination. As in the case of a supported Order, the possible processes and costs range from £200 to £3,000 as detailed at paragraph 35 above.
37. As the case is considering documentary evidence, with no witness evidence to cross examine, officers will request the Order to be resolved by written representations. However, this is subject to other parties' requests and SoSEFRAs decision on how to determine the Order.

## **Legal Implications**

38. Where the Council does not support the Order, clear reasons for this must be given and must relate to the evidence available. The applicant may seek judicial review of the Council's decision if he sees it as incorrect or unjust by them. The cost for this may be up to £50,000.

## **Options Considered**

39. Members should now consider the objections received and the evidence to determine whether Wiltshire Council continues to support the making and confirmation of the Order. The making of the Order has been objected to; therefore, the Order must now be submitted to the SoSEFRA for determination and members of the committee may determine the recommendation (which should be based upon the evidence) to be attached to the Order when it is forwarded to the SoSEFRA as follows:
- (i) The Order be confirmed without modification
  - (ii) The Order be confirmed with modification
  - (iii) Take a neutral stance on the determination of the Order.
  - (iv) The Order should not be confirmed

## **Reason for Proposal**

40. Unless the objections and representations are withdrawn the Order must be forwarded to the SoSEFRA for determination.
41. No new evidence has been presented in the objectors' submissions that has not been considered fully by officers during the initial investigation and decision process and subsequent decision report.
42. The documentary evidence in officers' opinion failed to meet the balance of probabilities test to upgrade the status of the route, as discussed in detail at 10-14 of this report and within the officer's decision report. The evidence did show that, where the route had no recorded width, a width could be taken from the documentary evidence and recorded, hence the making of this Order.
43. No new evidence has been adduced since the committee's recommendation of 1 December 2022 which recommended confirmation with modification of the 2022 order (that modification has now been amended in the 2023 order).

## **Proposal**

44. That The Wiltshire Council North Tidworth Path No.11 Definitive Map and Statement Modification Order 2023 is forwarded to the SoSEFRA with the recommendation that it is confirmed as made.

**Samantha Howell**

Director – Highways and Transport

CM10152/F

Report Author:  
**Craig Harlow**  
Definitive Map Officer

**Appendices:**

Appendix 1 - "The Wiltshire Council North Tidworth Path No.11 Definitive Map and Statement Modification Order 2023"

Appendix 2 - Record of Officer Decision (Summary of decision report)

Appendix 3 - "The Wiltshire Council North Tidworth Path No.11 Definitive Map and Statement Modification Order 2022"

**WILDLIFE AND COUNTRYSIDE ACT 1981**

**THE DEFINITIVE MAP AND STATEMENT FOR THE PEWSEY RURAL DISTRICT COUNCIL AREA DATED 1952 AS MODIFIED UNDER THE PROVISIONS OF THE WILDLIFE AND COUNTRYSIDE ACT 1981**

**THE WILTSHIRE COUNCIL NORTH TIDWORTH PATH NO.11 DEFINITIVE MAP AND STATEMENT MODIFICATION ORDER 2023**

This order is made by Wiltshire Council under section 53(2)(b) of the Wildlife and Countryside Act 1981 ("the Act") because it appears to that authority that the Definitive Map and Statement for the Pewsey Rural District Council Area Definitive Map and Statement dated 1952 as modified under the provisions of the Wildlife and Countryside Act 1981 require modification in consequence of the occurrence of events specified in section 53(3)(c)(iii) of the Act, namely the discovery by the authority of evidence which (when considered with all other relevant evidence available to them) shows: -

- (iii) that there is no public right of way over land shown in the map and statement as a highway of any description, or any other particulars contained in the map and statement require modification.

The Authority has consulted with every local authority whose area includes the land to which the order relates.

The Wiltshire Council hereby order that:

1. For the purposes of this Order the relevant date is 30th June 2023
2. The Definitive Map and Statement for the Pewsey Rural District Council Area Definitive Map and Statement dated 1952 as modified under the provisions of the Wildlife and Countryside Act 1981 shall be modified as described in Part I and Part 2 of the Schedule and shown on the map attached to the Order.
3. This Order shall take effect on the date it is confirmed and may be cited as The Wiltshire Council North Tidworth Path No.11 Definitive Map and Statement Modification Order 2023.

**THE COMMON SEAL of  
WILTSHIRE COUNCIL was  
hereunto affixed this  
14<sup>th</sup> July 2023**

**in the presence of:** *VERNON POTTER*  
*SENIOR SOLICITOR*

~~In the Presence of:~~

*[Signature]*  
Authorised Signatory  
Wiltshire Council



## SCHEDULE

### PART I

#### MODIFICATION OF DEFINITIVE MAP

##### Description of path or way

That length of path known as North Tidworth 11, shown between points A and B on the attached order plan, leading from its junction with the A.3026 in a north north easterly direction across Windmill Drive and over Windmill Hill to its junction with Collingbourne Ducis path no.21, with a width of between 3 and 8 metres to be recorded. A width of 3 metres from its junction with the A.3026 at SU 23895 49328 leading north east to SU 23926 49386, then width depicted as per Ordnance survey sheets Wiltshire 48.11(parcel 152) and 48.7( parcel 156a, from Ordnance survey grid reference SU 24392 51001 generally north, north east to SU 24451 51278 at its junction with path Collingbourne Ducis 21) , 1:2500 scale, 1900 editions and with an approximate length of 2.414km.

### PART II

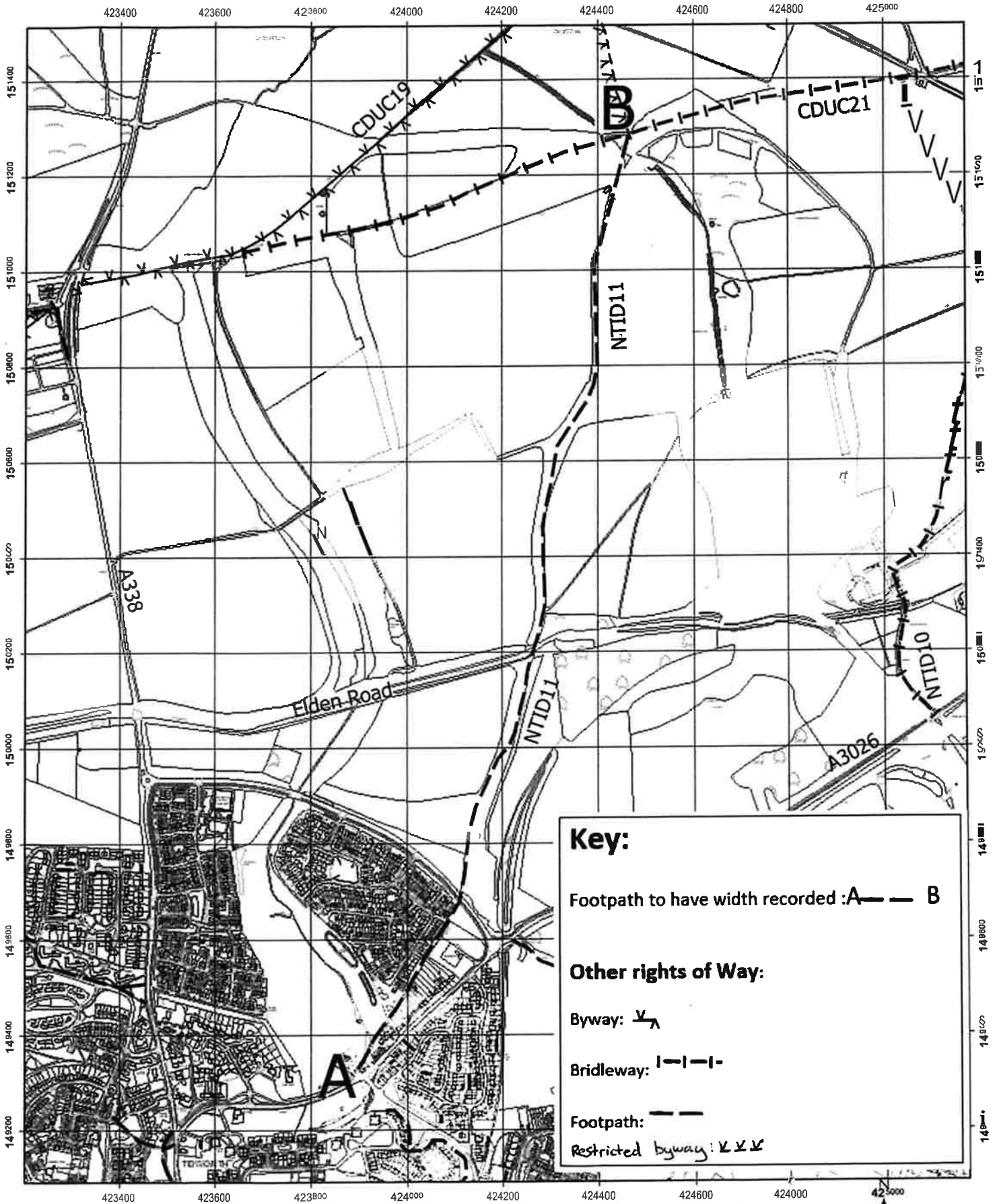
#### MODIFICATION OF DEFINITIVE STATEMENT

##### Variation of particulars of path or way

Parish	Path No.		
Tidworth	11	<p><b>FOOTPATH</b> From the Ludgershall road, A.3026, east of North Manor House, leading north-north-east over Windmill Hill to Collingbourne Ducis path no.21 on Sunnyhill Down.</p> <p>Width of 3- 8 metres. A width of 3 metres from its junction with the A.3026 at SU 23895 49328 leading north east to SU 23926 49386, then width depicted as per Ordnance survey sheets Wiltshire 48.11(parcel 152) and 48.7( parcel 156a, from Ordnance survey grid reference SU 24392 51001 generally north, north east to SU 24451 51278 at its junction with path Collingbourne Ducis 21) , 1:2500 scale, 1900 editions.</p> <p>Approximate length 2.414km</p>	53(3)(c)(iii)



# The Wiltshire Council North Tidworth Path No.11 Definitive Map and Statement Modification Order 2023.



© Crown Copyright and Database Rights 2023 Ordnance Survey Licence No 100049050

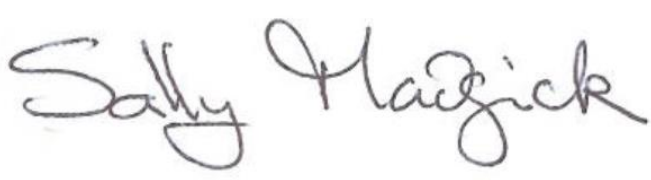
Scale 1:10,000 @A4

This page is intentionally left blank

**COVERING PAGE FOR DECISION REPORT  
WILDLIFE AND COUNTRYSIDE ACT 1981 S.53**

**Application to upgrade footpath North Tidworth 11 to a Byway Open To All Traffic and add a new section of Byway Open To All Traffic in the parish of Collingbourne Ducis**

Ref 2004/09

Name	Signature	Date	Approved Yes/No
Sally Madgwick Definitive Map and Highway Records Manager		05 Nov 2021	Yes
<b>From:</b>	Craig Harlow Definitive Map Officer		
<b>Date of Report:</b>	3rd November 2021		
<b>Return to:</b>	Craig Harlow		

**SUMMARY:**

1. Wiltshire Council received an application made under section 53 of the Wildlife and Countryside Act 1981 in March 2004 to upgrade footpath North Tidworth 11 to a byway open to all traffic and add a byway open to all traffic from the northern end of fp11 leading north across the A.342 to byway Collingbourne Ducis 19.
2. The application was supported by a summary of historical documentary evidence which the applicant believes demonstrates on the balance of probabilities the footpath should be upgraded and a new section of byway added to the map and statement.
3. Officers undertook a public consultation on the application. A number of responses were received which objected to the recording of a byway open to all traffic. Officers cannot consider the want, need, desirability or suitability of the route , only the evidence can be considered.
4. The case has been considered in two parts, the upgrading of footpath NTID11 and the addition of a byway leading north from that footpath in the parish of Collingbourne Ducis. Not only do the two sections apply different legal considerations, one being an upgrade of existing rights and one being an addition of rights, the two sections also have distinct evidence.
5. The upgrading of footpath NTID11 requires the evidence to show on the balance of probabilities that the route should be upgraded. All of the submitted evidence has been viewed and considered in detail . It is the officers' belief that the evidence is insufficient to show , on the balance of

probabilities, the route should be upgraded to a byway open to all traffic. However evidence exists that supports that a width should be recorded of between 3 and 8 metres for the footpath.

6. The addition of an unrecorded byway open to all traffic in the parish of Collingbourne Ducis is subject to a different test at the order making stage, that is whether there is a reasonable allegation that rights subsist over the route, though to confirm the order would require the further balance of probabilities test. The reasonably alleged test can only be defeated by incontrovertible evidence at the order making stage. Officers have considered the available evidence and based on the deposited plans of the Upavon and Andover Railway 1866, which record the route as a public road, and other supporting evidence, the reasonably alleged test has been met to record this route on the definitive map and statement. Whether an order recording this route is capable of being confirmed would be subject to the further balance of probabilities test and would take into consideration any further evidence adduced at that time.
7. The route to be recorded north of footpath NTID11 is subject to the Winchester case law, *R(Warden and Fellows of Winchester College and Humphrey Feeds Limited) v Hampshire County Council and SoSEFRA [2008] EWCA Civ 431*, which prevents this route being recorded as a byway open to all traffic. The case concluded that any applications to record a byway open to all traffic which are subject to s.67(3) of the Natural Environment and Rural Communities Act 2006, must be strictly compliant with schedule 14 (1) of the Wildlife and Countryside Act 1981. Applying the ruling of the court, this application, made in 2004, is not strictly compliant with Schedule 14 WCA81 and accordingly the saving of a public vehicular right is not saved by s.67(3) NERCA 2006. Further savings contained within s.67(2) of the 2006 Act were not found to apply and as a result the highest status that can be recorded would be a restricted byway (a right for pedestrians, equestrians, bicycles and carriage drivers, but no mechanically propelled vehicles).
8. As a result of the above, the route found to meet the reasonably alleged test, will record a restricted byway with a width of between 5 and 7.5 metres north of footpath NTID11 to its junction with CDUC19.
9. It has been suggested by the main landowner, the MOD, that if rights are found they may wish to seek to divert the route to a more practical route, this possibility can be explored with the landowner but will require the rights to be accepted and further legal considerations. This report has investigated whether the rights applied for exist and are capable of being subject to legal orders.

## RECOMMENDATION

**An order is made to add a recorded width for footpath NTID11 under section 53(3)(c)(iii) of the Wildlife and Countryside Act 1981 and an order is made to record a section of restricted byway within the parish of Collingbourne Ducis linking bridleway CDUC21 and byway open to all traffic CDUC19 under section 53(3)(c)(i) of the same act and that the orders are confirmed if no objections are made or are made and subsequently withdrawn.**

**WILDLIFE AND COUNTRYSIDE ACT 1981**

**THE DEFINITIVE MAP AND STATEMENT FOR THE PEWSEY RURAL DISTRICT COUNCIL AREA DATED 1952 AS MODIFIED UNDER THE PROVISIONS OF THE WILDLIFE AND COUNTRYSIDE ACT 1981**

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

This order is made by Wiltshire Council under section 53(2)(b) of the Wildlife and Countryside Act 1981 ("the Act") because it appears to that authority that the Definitive Map and Statement for the Pewsey Rural District Council Area Definitive Map and Statement dated 1952 as modified under the provisions of the Wildlife and Countryside Act 1981 require modification in consequence of the occurrence of events specified in section 53(3)(c)(iii) of the Act, namely the discovery by the authority of evidence which (when considered with all other relevant evidence available to them) shows: -

- (iii) that there is no public right of way over land shown in the map and statement as a highway of any description, or any other particulars contained in the map and statement require modification.

The Authority has consulted with every local authority whose area includes the land to which the order relates.


The Wiltshire Council hereby order that:

1. For the purposes of this Order the relevant date is 14<sup>th</sup> June 2022
2. The Definitive Map and Statement for the Pewsey Rural District Council Area Definitive Map and Statement dated 1952 as modified under the provisions of the Wildlife and Countryside Act 1981 shall be modified as described in Part I of the Schedule and shown on the map attached to the Order.
3. This Order shall take effect on the date it is confirmed and may be cited as The Wiltshire Council North Tidworth Path No.11 Definitive Map and Statement Modification Order 2022.

**THE COMMON SEAL of  
WILTSHIRE COUNCIL was  
hereunto affixed this  
14<sup>th</sup> day of June 2022  
in the presence of:**

}  
}  
}  
}  
}

**In the Presence of:**

  
(F. C. CAIN)  
Head of Legal Services



11888

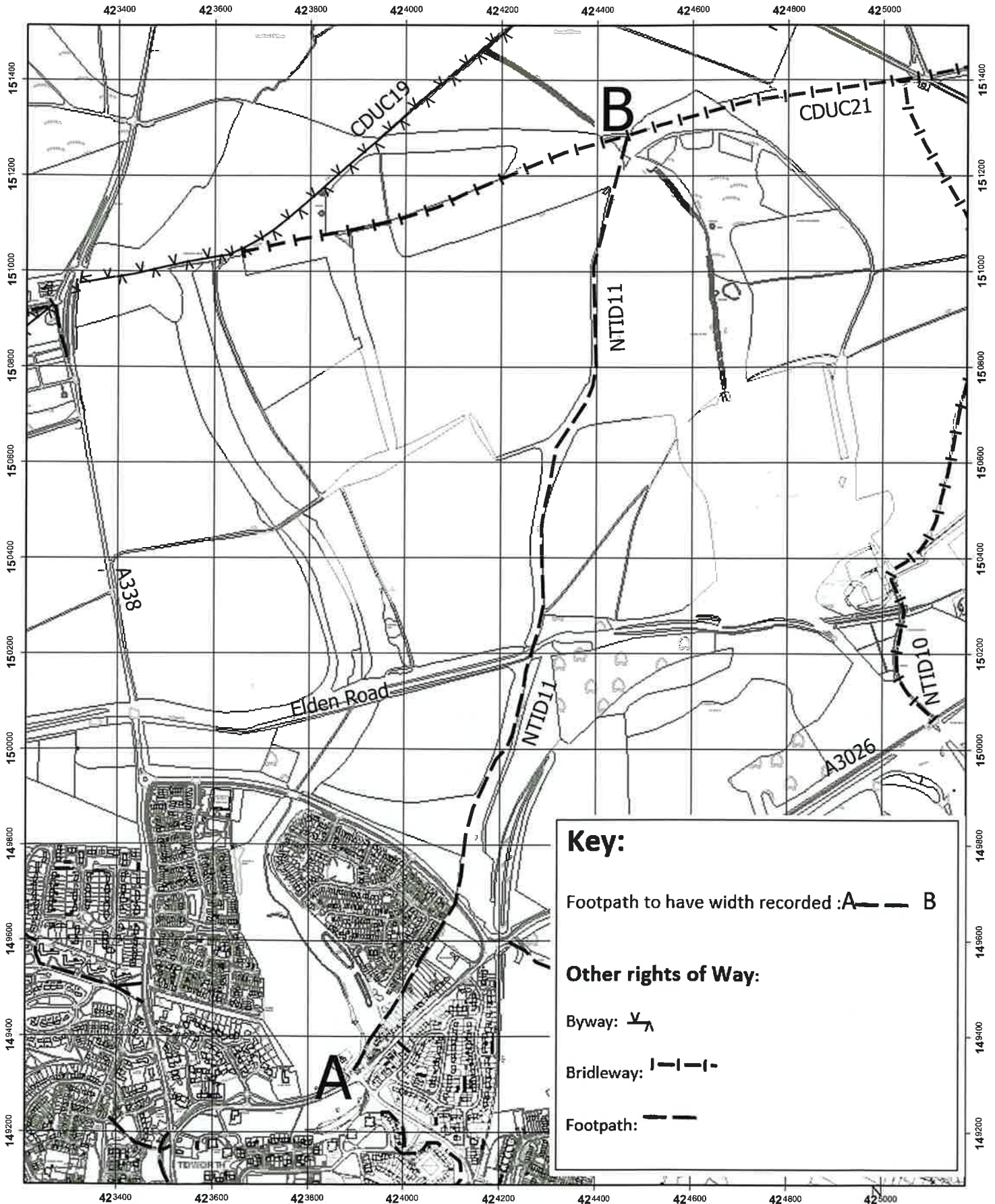
## SCHEDULE

### PART I

#### MODIFICATION OF THE DEFINITIVE STATEMENT

Parish	Path No	Description of restricted byway to be added	Modified under  Section 53(3) as specified
Tidworth	11	<p><b>FOOTPATH</b> From the Ludgershall road, A.3026, east of North Manor House, leading North-north-east over Windmill Hill to Collingbourne Ducis Parish boundary on Sunnyhill Down.</p> <p>Width of 3- 8 metres (from OS sheets 48.15,48.11 and 48.7 ,1:2500, 1900 edition)</p> <p>Approximate length 2.414km</p>	53(3)(c)(iii)

# The Wiltshire Council Parish of Tidworth, Path No.11 Definitive Map and Statement Modification Order 2022.



© Crown Copyright and Database Rights 2022 Ordnance Survey Licence No 100049050



This page is intentionally left blank



<b>Date of Meeting</b>	25 <sup>th</sup> January 2024
<b>Application Number</b>	PL/2022/08744
<b>Site Address</b>	Devizes Community Hospital, New Park Road, Devizes, Wilts, SN10 1EF
<b>Proposal</b>	Outline application (all matters reserved except for access) for part conversion and part redevelopment of the Devizes Community Hospital site to provide up to 58 no. residential dwellings (Use Class C3) and circa 67.7sqm flexible commercial unit (Use Class E), including the retention and conversion of two original buildings to the east of the site, with associated landscaping and parking.
<b>Applicant</b>	NHS Property Services
<b>Town/Parish Council</b>	Devizes
<b>Electoral Division</b>	Devizes North (Cllr Wallis)
<b>Type of Application</b>	Outline
<b>Case Officer</b>	Ruaridh O'Donoghue

## Reason for the application being considered by Committee

This application has been 'called in' for Committee determination at the request of the local division councillor, Iain Wallis, for the following reason:

- There is no provision of affordable housing

## 1. 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.

## 2. Report Summary

The main planning issues are considered to be:

- Whether the development is acceptable in principle (CP 1 and 2);
- Whether the scheme constitutes high quality design (CP 57);
- Whether the scheme would preserve or enhance the historic environment (CP 58)
- Whether the scheme would have an acceptable landscape impact (CP 51);
- Whether the proposal would have a negative effect upon highway safety including if there is sufficient parking for the proposed development (CP 61 and 64);
- Whether the site can be adequately drained without increasing flood risk elsewhere (CP 67);
- Whether there would be any harmful impacts upon protected species or habitats (CP 50)
- Whether there will be any land contamination / air quality issues (CP 55)?
- Are there any other planning issues raised by the development?

- What planning obligations are required to make the development acceptable in planning terms and are there any viability concerns preventing delivery of all the desired/required mitigation?

### 3. Site Description

The application site extends to approximately 0.84ha and is located to the north of Devizes Town Centre. The Kennet and Avon Canal runs to the north of the site, residential properties lie to the east, residential and commercial properties lie to the south with Devizes Wharf fronting the western side of the development. Figures 1 below shows the location of the development.



**Figure 1: Site Location**

The site comprises of several buildings of varying size, age, physical condition and architectural merit. The site is fully vacant with no operational healthcare facilities. These have all relocated to the

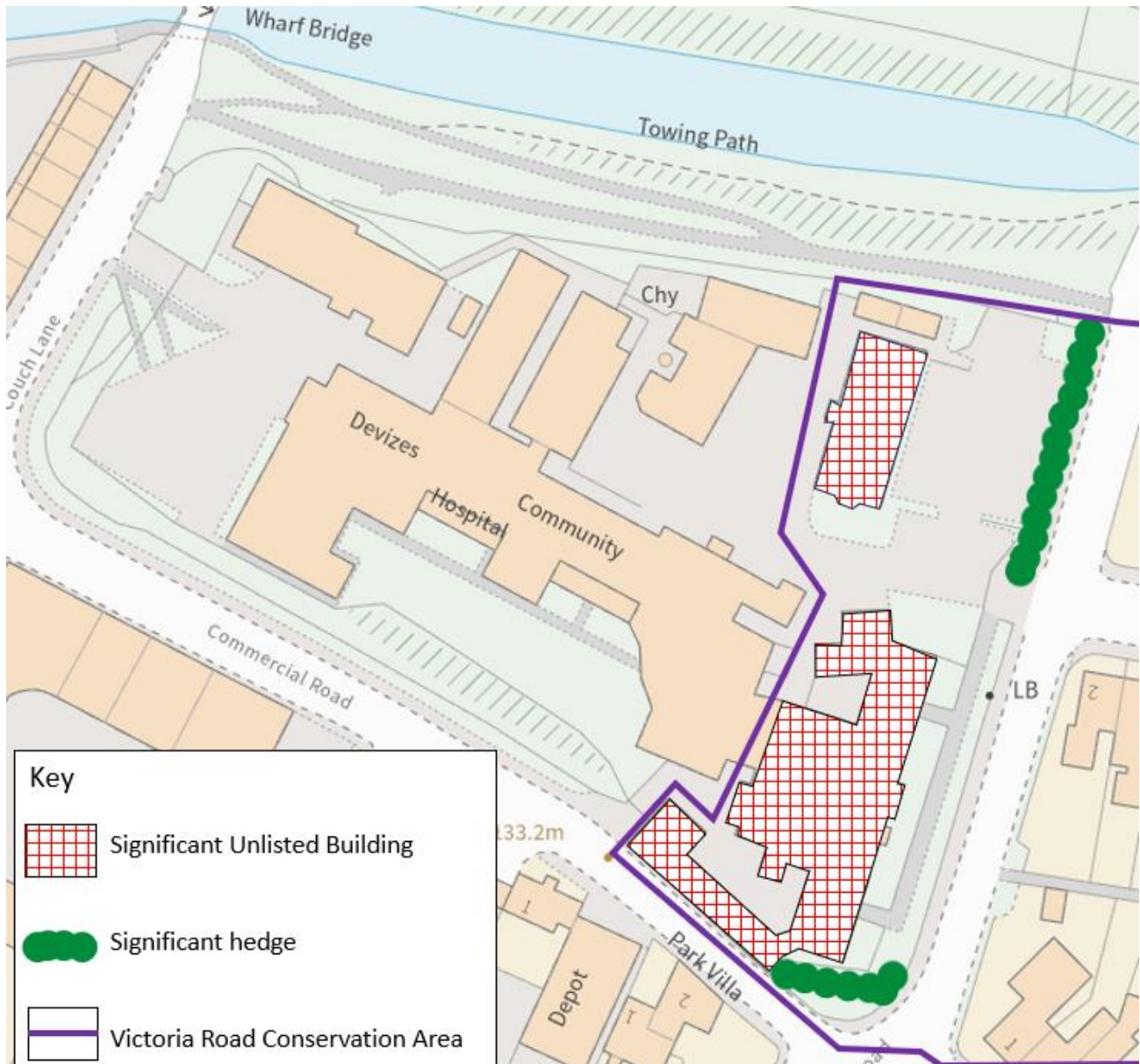
new Devizes ICC on Green Lane. The site is currently accessible from New Park Road to the east and Couch Lane to the west.

The site is located in an accessible location on the northern side of Devizes, with the town centre shops, services and facilities all within walking distance (e.g. The Market Place is 250m walk from the site).

With regards to any planning constraints affecting or covering the site, the following is noted:

For the purposes of CP 1 and 2, the site lies within the Limits of Development of Devizes.

Part of the site lies within the Victoria Road Conservation Area and contains significant unlisted buildings and hedges that make up that conservation area (see figure 2 below).



**Figure 2: Site Heritage Assets**

In terms of wider heritage assets, the southern and western boundaries of the site adjoin the Devizes Conservation Area and there are several grade II listed buildings and structures within close proximity, notably, Park Bridge, Wharf Bridge and St Mary's Cottages. Also, The Kennet and Avon

Canal, which runs to the north of the site, is considered to be a non-designated heritage asset (see figure 3).



DEV16, a Public Right of Way (PRoW) runs along the rear of the site as part of the Kennet and Avon Canal Towpath.

#### 4. Planning History of Application site

There is no relevant planning history relating to the application site. A previous application for security fencing around the site is not relevant to the current proposal for residential development.

#### 5. The Application

The application is for outline planning permission (with all matters reserved except for access) for the part conversion and part redevelopment of the Devizes Community Hospital site to provide up to 58 dwellings (Use Class C3) and a circa 67.7sqm flexible commercial unit (Use Class E), including the retention and conversion of two original buildings to the east of the site, with associated landscaping and parking.

A full description of the proposal is set out in the applicant's Planning Statement and Design and Access Statement. Figure 4 below shows an indicative site layout comprising the retained buildings (Block K and L) with a series of terraced housing (Blocks A1, A2, G and F) and some blocks of flats (Block H1, H2, H3 and J).



Figure 2 Site layout

#### Housing Mix

Whilst indicative at this stage, the layout suggests 34% of the mix would be houses, with the remainder being apartments/flats. The scheme is 100% market led as it has been concluded in a viability report (agreed upon by the Council's appointed reviewer (see section 9.11)) that the development would be unviable were it to deliver any affordable housing. The housing mix comprises 1-3 bed dwellings.

## Access and Car Parking

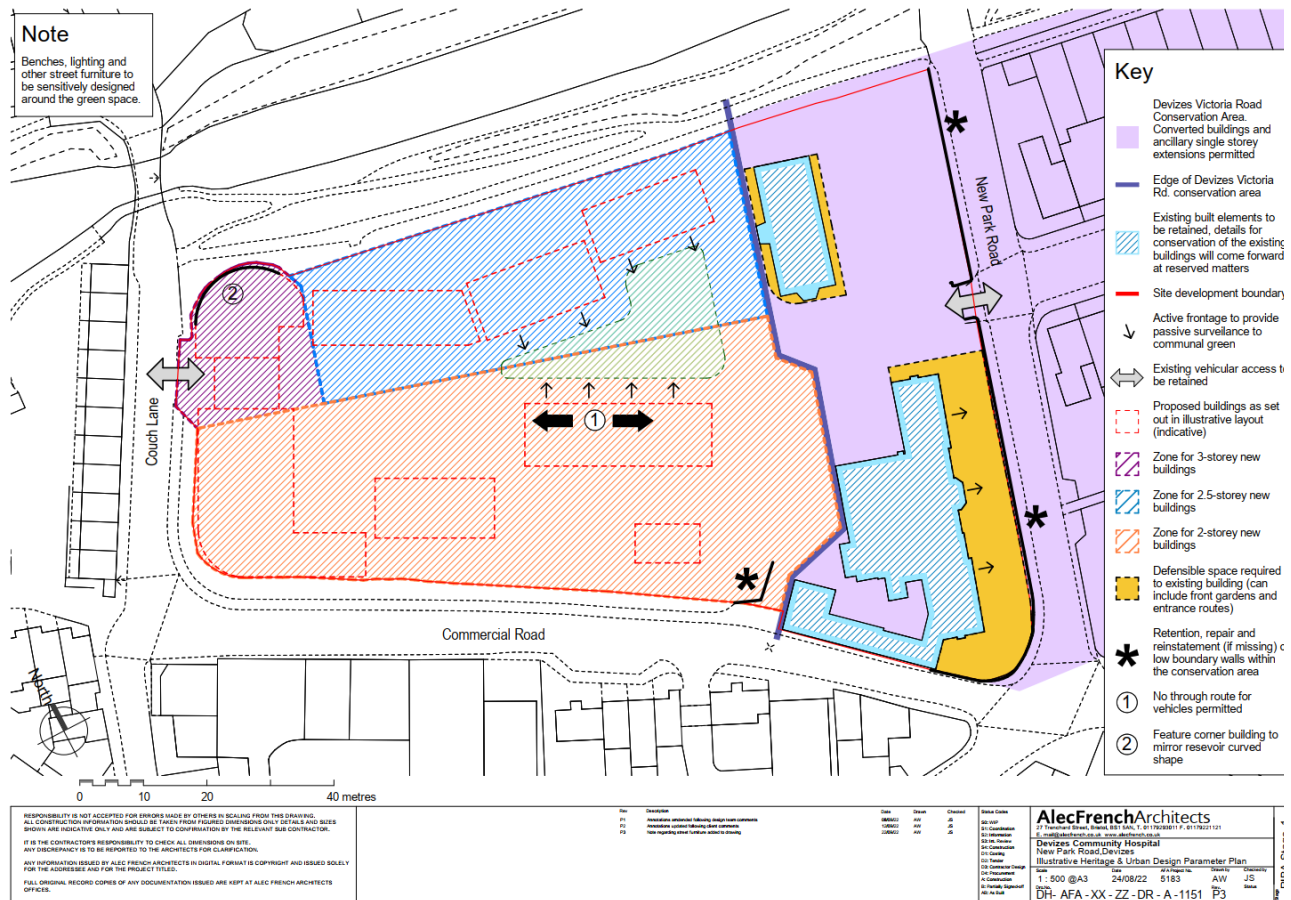
It is proposed to retain the two existing vehicular access points into the site i.e., the access from New Park Road and Couch Lane will remain as existing. Whilst indicative, a no through road is proposed through the site to avoid creating a rat run. This allows for increased green infrastructure on the site and is therefore welcomed.

In addition to the existing pedestrian access points, a connection is proposed to the north to link up with the Kennet and Avon Canal towpath and to the south onto Commercial Road.

Parking standards are below minimum policy requirements. The layout plan shows a total of 71 spaces whereas the indicative accommodation schedule would require a total of 112 spaces based on the housing types proposed (100 car parking spaces for residents and 12 visitor parking bays). However, prior to the submission of the application it was accepted by the local highway authority that a reduced parking standard could be applied as the site is within close proximity of the town centre.

## Urban Design and Heritage Parameters

Whilst this is an outline application, certain principles have been advanced to deal with urban design and heritage matters. Figure 5 below deals with these parameters. It shows that building heights will be predominately between 2 and 2.5 storey with one 3 storey element, what buildings are to be retained, where repair works are required to boundary walls, access points and other specific restrictions within the site such as preventing through access for vehicles. Although the plan shows proposed buildings as set out on figure 4, these are illustrative only and therefore, if this plan is conditioned it would not be expected that the building blocks would have to be as per this plan.



## 6. Planning Policy

The Wiltshire Core Strategy (adopted Jan 2015):

- CP1 – Settlement Strategy,
- CP2 – Delivery Strategy,
- CP3 – Infrastructure Requirements,
- CP12 – Spatial Strategy Devizes,
- CP43 – Providing affordable homes,
- CP45 – Meeting Wiltshire’s housing needs,
- CP46 – Meeting the needs of Wiltshire’s vulnerable and older people,
- CP50 – Biodiversity and Geodiversity,
- CP51 – Landscape,
- CP52 – Green Infrastructure,
- CP55 – Air Quality,
- CP56 – Contaminated Land,
- CP57 – Ensuring High Quality Design and Place Shaping,
- CP58 – Ensuring the Conservation of the Historic Environment,
- CP60 – Sustainable Transport,
- CP61 – Transport and New Development,
- CP62 – Development Impacts upon the transport network,
- CP63 – Transport Strategic
- CP64 – Demand Management, and
- CP67 – Flood Risk

Devizes Neighbourhood Plan

### Other

- The Wiltshire Waste Core Strategy (adopted 2009)
- Wiltshire Housing Site Allocations Plan (adopted Feb 2020)
- Policy WCS6 - Waste Reduction and Auditing
- The Wiltshire Local Transport Plan (LTP) and Car Parking Strategy
- National Planning Policy Framework
- Planning Practice Guidance (PPG)
- Circular 06/2005 – Biodiversity and Geological Conservation
- “The Setting of Heritage Assets: Historic Environment Good Practice Advice in Planning 3” (HE GPA3)
- 

## 7. Consultations

Devizes Town Council – Objection

An NHS consultant, Johnny Kidney, addressed the meeting to explain the illustrative layout provided, and present feedback offered by local residents.

Committee members expressed their concerns for the planning application on the following basis:

- a) The risk to the hedgerow and trees to the South of the illustration.
- b) The lack of 'affordable housing' available.
- c) That the plans do not meet the 'mixed-use' principle due to the lack of leisure and recreational facilities.
- d) The potential for antisocial behaviour.
- e) The lack of sustainable infrastructure.
- f) Overflow of cars due to a lack of parking spaces.

Four members of the public addressed the meeting and objected to the following:

- g) Household labelled E which would be overlooked.
- h) The risk to the hedgerow.
- i) The lack of consideration for disabled access external and internal to the residential properties.
- j) Any future marginalisation of sustainable infrastructure.

Following a discussion of these points, it was ultimately proposed by Councillor Ormerod, seconded by Councillor Giraud-Saunders and agreed that the committee rejects the proposal on the grounds of the risk posed by the single detached house to the hedgerow and tree to the South, its form, and the lack of affordable housing.

#### Devizes Town Council (Second Response)

In a recent meeting of Devizes Town Council's Planning Committee, there was a debate on the Viability Assessment produced for the outline planning application for the former Devizes Hospital site.

As part of the Council objection submission it noted that there was a lack of affordable housing within the plan even though there is a strong inference that the inclusion of affordable housing would make the project nonviable. Given this assertion, the Town Council is concerned the submitted Viability Assessment, on which a justification for the lack of 'affordable housing' was based was so heavily redacted.

Whilst the applicants have submitted a viability assessment by reputable surveyors, all the numbers have been redacted and therefore Devizes Town Council believes this renders the document all but incomprehensible to the interested reader.

It is the Town Council's view that the National Planning Practice Guidance, and the guidance is clear that viability assessments should be prepared on the basis that they will be made publicly available other than in exceptional circumstances. Even in those circumstances an executive summary should be made publicly available. Information used in viability assessments is not usually specific to that developer and thereby need not contain commercially sensitive data. In circumstances where it is deemed that specific details of an assessment are commercially sensitive, the information should be aggregated in published viability assessments and executive summaries, and be included as part of total cost figures. Where an exemption from publication is sought, the planning authority must be satisfied that the information to be excluded is commercially sensitive. This might include information relating to negotiations, such as ongoing negotiations over land purchase, and information relating to compensation that may be due to individuals, such as right to light compensation. The aggregated information should be clearly set out to the satisfaction of the decision maker. Any sensitive personal information should not be made public.

The Practice Guidance also emphasises that viability should be assessed during plan-making however it is not clear to the Town Council that this has happened, because the Hospital site is not allocated in either the Core Strategy or the Neighbourhood Plan and therefore the Town Council is requesting that this document is made available publicly or to the town Council so that if the application is called in and determined by committee, the Town Council can be assured that it fully understands the justification of the lack of affordable housing on the site.

#### Wiltshire Council Highways

No objection subject to conditions and S106 contribution.

#### Wiltshire Council Archaeology

I note from the supporting documentation that some preparatory work has been carried out on the built heritage issues surrounding the proposed development. I also note that no mention has been made of the sub-surface archaeological potential of the site that could be impacted by development



within current open spaces. It is known that the line of the outer bailey of the former Devizes Castle follows the current route of Commercial Road along the southern edge of the site, while the site itself was located on the periphery of the medieval town. What needs to be established at this stage is the degree to which the elements associated with the outer bailey and the remains of any other contemporaneous structures, have been impacted by the development of the Community Hospital and buildings that preceded it. It is my opinion that the current standing buildings that make up the hospital are likely to have severely truncated, if not wholly removed any previous archaeological features and/or deposits, while those parts of the site currently taken up by yards and car parks may have surviving elements of the medieval town beneath the layers of tarmac, concrete and hardcore. I would therefore advise that the archaeological potential of the site needs to be investigated via a programme of investigations, such as the archaeological monitoring of geotechnical trial pits and archaeological trial trench evaluation, although I would be open to suggestions from the applicant's archaeological consultants as to other methods of investigation that may be employed.

I would suggest that the above programme of investigation be carried out prior to the determination of any future planning application. Carrying out such a programme at the earliest available opportunity would give the applicant time to take on board the ramifications for the proposals if assets of high or national value were uncovered, and in the case of medium or low value assets being found, would enable the applicant to commission works to mitigate the impact of construction upon them without interfering with any construction timetables.

#### Wiltshire Council Drainage

No objection subject to conditions to cover the submission of a detailed drainage strategy, SUDs details and to conduct infiltration testing with the findings presented to the Council.

#### Wiltshire Council Public Open Space

They have no objections to the proposal. They set out that formal and informal recreation space can either be provided on site or off-site as part of a S106 contributions. An offsite leisure contribution is also required towards formal sports facilities within the vicinity of the development.

Wiltshire Council Public Protection Officer – No objection subject to conditions to cover contaminated land investigations, the submission of a scheme for ULEV vehicles, no burning of waste on the site and the permitted working hours of construction/demolition.

#### Wiltshire Council Landscape Officer

No objections. Having reviewed the LVA, green Infrastructure parameter plan, and indicative layout they are pleased to note that the scheme is landscape led with a large number of street trees included in the scheme. They also set out what they would expect as part of a detailed reserved matters application regarding hard and soft landscaping.

#### Wiltshire Council Education Officer

S106 contribution required towards early years and secondary education places.

#### Wiltshire Council Climate Change Officer

Offers advice and guidance on the latest policies and practises surrounding addressing the climate issues within new developments.

#### Wiltshire Council Affordable Homes Officer

30% of the development should be affordable, comprising 10 homes for affordable rent, 3 homes for shared ownership and 4 as first homes. S106 required to secure this.

#### Wiltshire Council Urban Designer

They are supportive of the design process to date, and have no objection to the proposal now submitted; the DAS and parameter plans set clear and positive requirements (in line with CP57) for designers at Reserved Matters to take forward, and should be conditioned accordingly.

#### Wiltshire Council Conservation Officer

No objection. As the NPPF states, heritage assets are an irreplaceable resource and it is important to conserve them in a manner appropriate to their significance. In heritage terms, this proposal complies with s.16 and s.72 of the P(LB&CA)A 1990, policy CP57 and CP58 of the WCS and heritage advice in the NPPF.

Wiltshire Council Waste Collection – No objection subject to a S106 contribution.

Wiltshire Council Ecology – Upon receipt of a further Ecological Impact Assessment, Green Infrastructure and Ecology parameters plan the Ecologist removed their objection to the scheme subject to conditions and further information being supplied at the reserved matters stage.

#### Canal and Riverside Trust

They have no objections to the development subject to a number of conditions and subject to an appropriate design and level of detail coming forward at reserved matters stage to address the issues that the Trust are concerned with.

### **8. Publicity and Subsequent Representations**

The application was advertised by:

- press notice,
- site notice,
- publication to the Council's website,
- neighbour notifications, and
- notification of interested local organisations and parties.

Fifteen letters of objection were received. The application has been the subject of consultation exercises, and the following is a summary of the position reached following these. This is a summary and does not purport to be a full recitation of all comments made. The comments made are summarised as follows:

#### Design

- Too many houses on the site.
- Some of the properties should, as a minimum, have doorways (interior and exterior) accessible to wheelchairs. Accessible bathrooms, and adaptable toilets and wash basins and kitchen workspaces/units are also desirable.
- This is an important development which forms part of the wider Wharf redevelopment scheme. The buildings must therefore reflect the principles set out in the 2011 Wharf Development Plan and 2022 Feasibility Update so they are in harmony with their surroundings.
- This site needs a strong connection to Central Wharf and should be amended to improve access on foot between the NHS site and the central wharf and connections to the tow path. This should include pavements and suitable lighting for existing connections to improve safety.
- The Upper Wharf area is identified for residential use in the master plan and therefore should not include any commercial development.
- Concerns regarding the height of the buildings at the Wharf side of the development, will it be 2 or 3 storeys?
- Design of the building next to the Wharf/cemetery bridge looks totally inappropriate and not in keeping with the area.
- The indicative layout fails to establish a clear built form, and instead seems to consist of a series of disjointed responses to individual features of the site.
- Hoped that proposals for the site would be incorporated into an overall redevelopment scheme for the whole Wharf area.

### Lack of affordable housing

- The assertion that they cannot provide affordable housing is ridiculous. It is also shameful for the NHS.

### Impact upon the area

- All they are trying to do is maximise profit by avoiding planning obligations to benefit the community.
- Not enough infrastructure in the town to cope with additional housing.
- Enormous expansion of the town has occurred in recent years but there has been little if any thought given to the infrastructure.

### Impact on Amenity

- In it's current position, any windows on the south side of the large detached house "E" will look directly into the bedrooms of houses on Royal Oak Court. The house is not in keeping with the rest of the plans.
- The indicative layout shows a detached house 'E' towards the E end of the frontage to Commercial Road. Semi-mature trees have become established in this space, which will conflict with the enjoyment of any house sited here.

### Access/Parking

- Not enough parking
- Will cause too much extra traffic travelling on New Park Street (A 361)
- Access into & out of Victoria Rd will be severely compromised
- Accessibility into and within some of the units - a development site linked to the NHS should have provision for special needs. It also seems pertinent to provide for the less abled at a site so accessibly close to the town centre.
- Accessibility along Commercial Road (New Park Road to Couch Lane) raises concerns of safety for pedestrians and the less abled.
- The proposed pathway from Commercial Road to the Canal is adds no value to the plans as there is no demand for this purpose. Access to the town and canal are more than adequately achieved from Couch Lane and New Park Road.
- Object to the creation of this new opening into Commercial Road and suggest that the main east and west access points into the site are more suitable and more than adequate for pedestrians, safer and connect into the existing and more suitable footways at these locations. The link as proposed in our view does not sit well with Core Policy 60 and T1 of the Neighbourhood Plan.
- More consideration should be given to pedestrian and vehicular access routes to and from the town centre. There needs to be free passage for emergency vehicles and safe movement for pedestrians on roads to the site as well as within the site.

### Ecology

- The reports attached to the planning application are not clear on the retention of the hedge to the South side (Commercial Road ) of the site. The environmental report downplayed the significance of this hedge. However, it is a green corridor and it does support wildlife including hedgehogs. The hedge also provides privacy for Royal Oak Court residents. The planning consent should be conditional on retaining a hedge along the south side of the site.
- The beech hedge at the corner of New Park Rd is a large roost for hedge sparrows and should be retained.
- Not enough swift boxes installed in new developments. Need to ensure swift boxes/bricks are incorporated into this development.

### Landscaping and Trees

The common yew sited by the planned building E appears in good health and should be retained.

## Other

- A development of this size should be expected to make a significant financial contribution to the wider wharf redevelopment scheme.
- The submitted viability assessment has been so heavily redacted that it is useless for interested parties and the community at large to understand the key factors underlying the asserted non-viability of affordable housing, or to judge the merits of the case for overriding the adopted Core Policy.

## **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

Devizes is identified as a Market Town in the WCS. Core Policy 1 identifies Market Towns as ones that will provide significant levels of jobs and homes. There is a presumption in favour of sustainable development within the Limits of Development (LoD) of Market Towns as identified by Core Policy 2.

As the site is within the LoD of Devizes, one can accept that it is a suitable location in principle for new housing. With regards the scale of housing proposed, 58 dwellings is not considered to exceed the growth levels invoiced at Market Towns i.e., significant levels of growth can be accommodated.

The Devizes Neighbourhood Plan, whilst not specifically allocating the site, states at Policy H2 that any sites within the LoD should:

- Be limited to clusters of no more than 65 dwellings.
- Demonstrate that access to health, education, retail and leisure facilities has been designed in such a way as to minimise dependence on the private car.
- Be designed so as to be related to the character of the surrounding area.
- Wherever practicable, contribute to the regeneration of the built environment in those areas of the settlement that would benefit.
- Enhance the public realm and connect to the green infrastructure of the settlement thus positively contributing to its development.

Whilst some of the criteria listed above will be addressed by other sections in this report, the site is for less than 65 dwellings and will ensure regeneration of a brownfield site. It is well connected to the town centre due to its close proximity, thus reducing car dependency and, it connects well to existing green infrastructure as it adjoins the Kennet and Avon Canal. Broadly, it can be concluded that in principle, it complies with Policy H2 of the Devizes NP.

The proposal can therefore be considered acceptable in principle.

However, it should be noted that what constitutes sustainable development in Wiltshire is the development plan when read as a whole. The development is considered acceptable in principle, but, whether it constitutes sustainable development depends very much on how it is measured against the other relevant policies of the development plan. These will be considered in the next sections of this report.

Furthermore, it is noted that the site is allocated in the emerging Local Plan which is at Regulation 19 stage as part of wider regeneration proposals for the Devizes Wharf. One can infer from this the direction of travel for the site is indeed to allocate it for housing in the Local Plan.

## 9.2 Need

It is noted that a number of locals have queried the need for further housing within Devizes. Comments have been made regarding the lack of infrastructure within the town and the significant need for facilities to support the large volumes of housing that have built in recent years within the town.

Although Wiltshire Council is only required to demonstrate 4 years' worth of housing land supply; it being a paragraph 77 (of the NPPF) authority, the site is within the Limits of Development of the town and thus a suitable and sustainable location for further housing. The NPPF is clear at paragraph 60 where it states the government aim to significantly boost the supply of housing and in that context housing figures within local plans are not maximums but minimums. This site can make an important contribution to this aim in a sustainable manner.

Furthermore, it should be noted that this is a regeneration scheme, on a brownfield site, and with such comes significant viability challenges, as can be seen by the applicant's own viability report. Whilst it may be the preference of some locals to see more infrastructure/facilities and affordable housing provided on the site, the Council must have regard to the commercial viability of the site if it is to ever see planning approvals get built out. In that regard, the developer has submitted a viability report which has been reviewed by the Council. It is clear that a market housing scheme is required to make the development stack up financially, and therefore, it is considered that the right balance has been struck here.

As set out previously the local plan review intends to allocate the site and, the Devizes Wharf Area Redevelopment & Feasibility Study (2022 update) includes this site in what it defines as the Upper Wharf Area and states that the potential exists to create a residential community here *“with a strong local character and identity, within easy walking distance of the shops and leisure facilities of the town centre.”* This study accompanies the Regulation 19 consultation documents for the Wiltshire Local Plan and is therefore part of the vision of emerging policy. It can therefore be concluded from this that this majority residential led proposal is in accordance with emerging policy/proposals.

Notwithstanding the above, the scheme does provide one E Class commercial unit which would support this area becoming a residential community and would compliment the wider town centre uses and the overall regeneration of Devizes Wharf.

## 9.3 Design and impact upon the character and appearance of the area

Core Policy 51 states that:

*“Development should protect, conserve and where possible enhance landscape character and must not have a harmful impact upon landscape character, while any negative impacts must be mitigated as far as possible through sensitive design and landscape measures.”*

This advice is echoed in paragraph 174 of the NPPF.

Core Policy 57 states that:

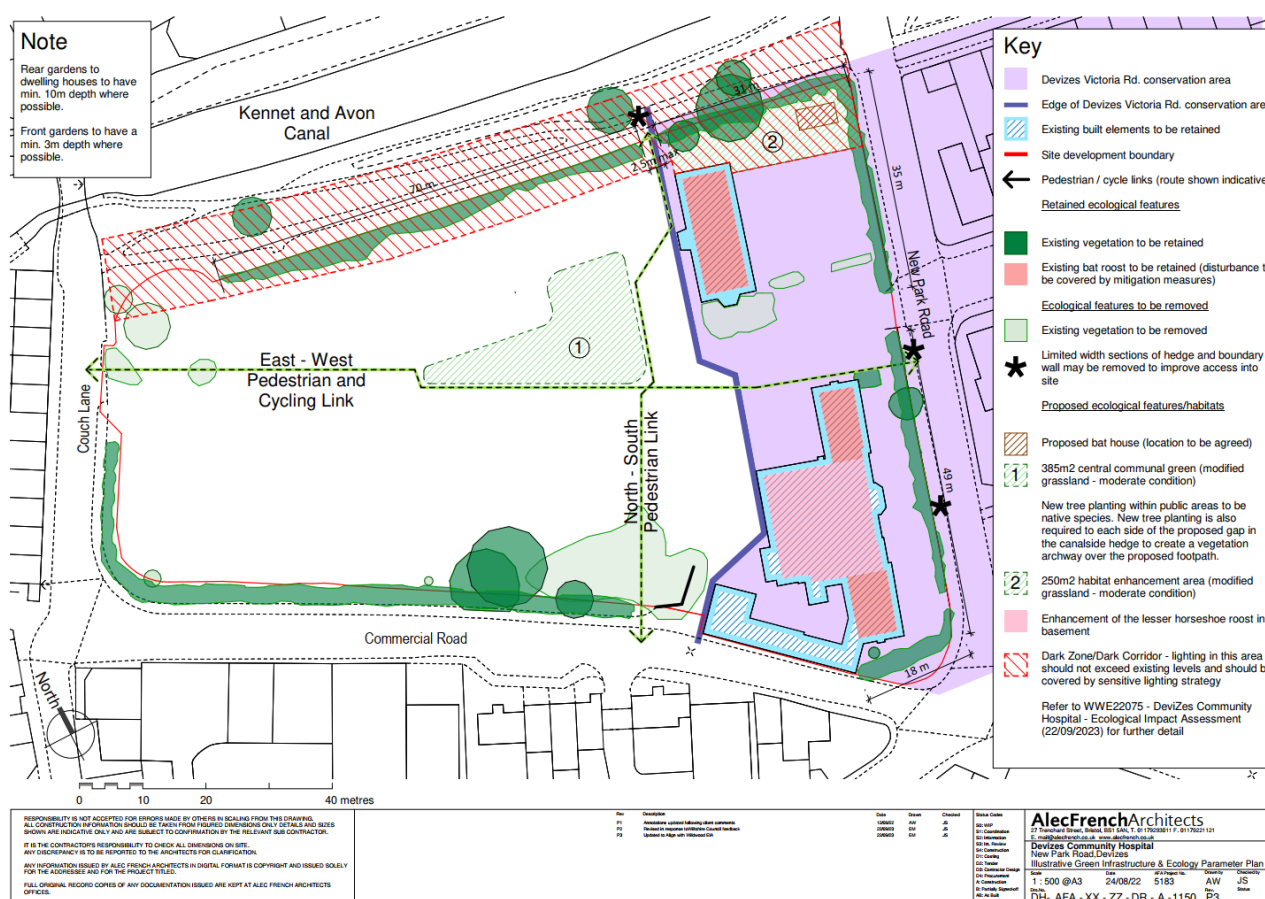
*“New development must relate positively to its landscape setting and the existing pattern of development by responding to local topography to ensure that important views into, within and out of the site are to be retained and enhanced. Development is required to effectively integrate into its setting and to justify and mitigate against any losses that may occur through the development.”*

The site occupies a location on the edge of the main built-up area of the town with the canal adjoining the northern boundary. As such, it is important that site addresses and interfaces well

with the townscape but also the rural fringe beyond. In that context, existing vegetation is to be retained along the northern boundary with some additional planting to ensure a better interface with the canal and rural landscape beyond. The hedging and walling that makes an important contribution to the Conservation Area is also set to be retained and where necessary enhanced. This ensure that the site can continue to address its existing urban boundaries in a positive manner. These details can be seen on figure 5 below which is a Green Infrastructure and Ecological Parameters Plan that was submitted with the application.

The above mentioned plan sets out what landscaping is to be retained and what areas of new landscaping are proposed. This plan would be conditioned to ensure sufficient space is retained to achieve suitable landscape mitigation. This will ensure a satisfactory landscape setting for the development both when viewed externally (outside the site) and from within it.

This fully squares with CP51 which allows for mitigation to be taken into account when assessing landscape impact. As this is an outline application, detailed landscaping proposals have not been supplied. Such details are considered necessary to provide a satisfactory landscape setting for the development as well as suitable mitigation for the built form. Such proposals should ideally form part of the reserved matter entitled 'landscape'. But officers are satisfied based on figure 5 below that this can be achieved.



The strategic planting (the planting not within private gardens) would be subject to further controls via the Landscape and Ecological Management Plan (to be conditioned – see Wiltshire Council Ecology response).

The Council's Landscape Officer is pleased with the amount of street trees proposed and that the scheme has been landscape led. They have made no objections to the proposal and thus one can infer that the scheme will meet the requirements of the above-mentioned policies i.e., that it will protect landscape character and not have any harmful visual effects upon the receiving landscape.

With the above conditions in place, it is the opinion of officers that a scheme of up to 58 units can be delivered on the site without giving rise to any adverse impacts to the surrounding landscape.

It is noted that the Canal & Riverside Trust have requested a canal side landscaping and boundary treatments scheme. However, this is an outline application where 'landscaping' is a reserved matter. As such, the condition is not necessary at this stage as these details can still be provided at REM stage. There would still be the opportunity to impose a condition at REM stage should the details not be sufficient. An informative to signpost the applicants to the comments from the Canal & Riverside Trust can instead be imposed.

Core Policy 57 requires a high standard of design in all new developments. It requires developments to demonstrate that their scheme will make a positive contribution to the character of Wiltshire by amongst other things:

- enhancing the natural and historic environment and existing built form;
- retaining important landscape and natural features;
- responding positively to the existing townscape and landscape in terms of building layouts, built form, height, mass, scale, building line, plot size, elevational design, materials, streetscape and rooflines;
- making efficient use of land whilst taking account of site characteristics and context
- having regard to the compatibility of adjoining buildings and uses and the impact on the amenities;
- ensuring legibility throughout the development; and,
- using a high standard of materials.

Whilst the majority of the site is in outline form, and therefore the detailed considerations in respect of design cannot be considered under the outline application (i.e., the layout, scale, appearance and landscaping of the development are points to be determined as part of a Reserved Matters application) the application has been accompanied by a supporting information. This information has been provided to demonstrate how the scheme could work in urban design terms and to also demonstrate that the proposal will not have an adverse impact on the character and appearance of area.

The indicative masterplan shows a scheme of 58 dwellings and circa 67m<sup>2</sup> of commercial space. With the net developable area in mind, this equates to approximately 69 dwellings per hectare. Although this figure appears high, given the sites location adjacent to the town centre, this is an ideal place for pushing a higher density of development and is supported by NPPF para 128 where it states that "*planning policies and decisions should support development that makes efficient use of land...*" and paragraph 129 that infers an uplift in density within town centre locations that are well served by public transport. It is considered that this number achieves the best use of the land without comprising on quality, and so is acceptable. It is also not too dissimilar to other nearby residential areas.

The design achieves acceptable parking standards for a town centerish location, ensures sufficient private amenity spaces for houses, provides adequate bin and bike storage, appropriate levels of strategic landscaping, open space and ecology buffers as well as sufficient road widths and pavements within the site. As such, it would be difficult to argue that this would be an over-development.

Naturally the presence of flats within a development proposal will push up the density of development and more critically, usually require greater building heights. The indicative layout plans show these building heights as being predominantly 2-2.5 storey with one 3-storey landmark building on the northwest corner. Further, the submitted urban design parameters plan (see figure 5) marks on it the various building height zones throughout the development e.g., where the 3 storey element will be located and where 2 storey elements will be. This fixes the maximum heights

of the various zones within the site to ensure compatibility with the surrounding development. Noting the presence of building within the vicinity of the site at greater or equal height to those proposed here (e.g., New Park Street), they heights set out on this parameter plan are not considered to impact upon the character and appearance of the area in a harmful manner i.e., it is compatible development.

In light of the above, the illustrative material accompanying the outline proposals is sufficient to demonstrate that the scale of development proposed can be delivered on the site without the appearance of overdevelopment and whilst ensuring a high quality design can be achieved with key policies elements relevant to the delivery of this scheme adhered too.

Whilst the DAS provides largely indicative material in relation to the outline proposals, it contains positive and clear requirements in line with CP 57 that a designer at REM stage can use e.g., the use of street trees and the landscape led nature of the design. It is therefore prudent to ensure that the development is carried out in general accordance with the DAS so that these principles can form the foundations blocks for the detailed design presented at reserved matters stage.

The scheme has also been the subject of detailed design assessment by the WC Urban Design Officer (UDO). In his response dated 22<sup>nd</sup> December 2022 the UDO states that:

*“The comprehensive Design and Access Statement explains the evolution of the design, through pre-app, and how the applicant has responded to my and other officer's recommendations, and I shall not repeat that here. In summary it adequately demonstrates how the site's constraints and opportunities have, together, shaped a credible, landscape-led design concept, which in turn has determined the site capacity and urban design parameters.*

*I am supportive of the design process to date, and have no objection to the proposal now submitted; the DAS and parameter plans set clear and positive requirements (in line with CP57) for designers at Reserved Matters to take forward, and should be conditioned accordingly.”*

It is clear from the above that the UDO accepts that a high-quality scheme is capable of being delivered at REM stage in line with the requirements of Core Policy 57 and Section 12 of the NPPF.

Other than the issue of neighbour amenity (for both existing and future occupants), which is covered in section 9.8 of this report, it is concluded that the principles enshrined in the illustrative material accompanying this outline application suitably demonstrate that design and landscape considerations are capable of being acceptable at reserved matters stage and would be in-line with local plan policies covering these matters.

Whilst noting comments from the locals about some of the contemporary proposals set out in the illustrative material and concerns regarding some of the building heights e.g., the 3-storey element, it must be pointed out that this is an outline application. The detailed design of the buildings including the architecture and materials employed would be considered as part of a future reserved matters application. Granting permission for this outline scheme is not granting permission for the scheme as set out on the indicative layout plan and illustrative material. This material is merely demonstrating one such way in which a scheme of up to 58 dwellings could be accommodated on the site. Clearly at REM stage scrutiny will be had over the detailed design of the buildings and public realm to ensure accordance with the design policy in place at the time and to ensure it fits in with the prevailing character of the area.

#### 9.4 Drainage and Flooding

Core Policy 67 seeks to ensure all new development includes measures to reduce the rate of rainwater run-off and improve rainwater infiltration to soil and ground unless site or environmental factors make these measures unsuitable.



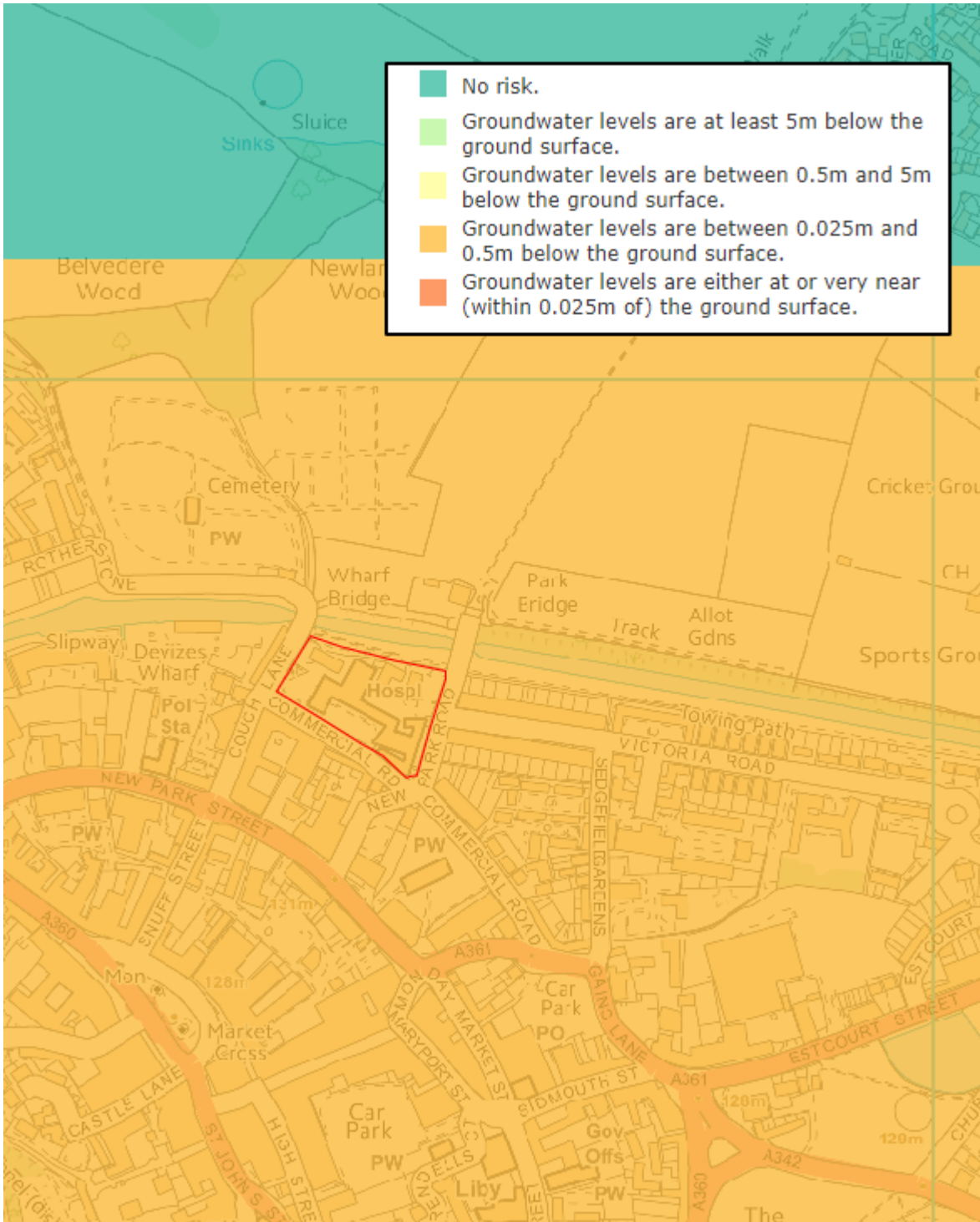
The NPPF at paragraph 173 requires all development not to increase flood risk elsewhere and to incorporate SUDS unless there is clear evidence this would be inappropriate. Paragraph 175 requires major developments to incorporate SUDS taking account of recommendations from the LLFA. They should have minimum operational standards and maintenance and where possible have multifunctional benefits.

The site-specific FRA has investigated all sources of flooding and concludes the following:

- There is a low risk of fluvial flooding due to the site being entirely within Flood Zone 1 (the lowest flood risk zone suitable for all types of development).
- There is a low risk of surface water flooding due to the raised nature of the site in comparison to the surrounds which are at a lower level.
- There is a low risk from sewer flooding due to the raised nature of the site's topography compared with its surrounds and the lack of any public sewers crossing the site.
- There is potential for groundwater flooding to be encountered on the site, but this is likely to be limited due to the raised nature of the site above the surrounding area.
- There is low risk of flooding from artificial sources i.e., the Kennet and Avon Canal due to the significant level change between the site and the canal.

The LLFA have reviewed the FRA and do not raise any objections to its broad conclusions.

The Wiltshire Council Strategic Flood Risk Assessment map (SFRA) shows the area as within a high ground water vulnerable zone (see figure 7 below) and at a level where this would be an issue requiring Sequential testing (ST) to be carried out (it is the bottom two levels in the key shown on figure 7 that trigger ST). ST requires applicants to consider if the development could be located in an area of lower flood risk i.e., on a suitable alternative site.



**Figure 7 – Extract from Wiltshire Council's SFRA**

However, the data contained within the SFRA is out of date and in need of review. When loading the online mapping there is a disclaimer as such on the homepage. Upon receipt of legal advice, it was confirmed that other sources of evidence should be used in conjunction with the SFRA to conclude upon whether or not ST is required in areas at risk from any or all sources of flooding. In light of the conclusions of the site-specific FRA and the comments from the LLFA in reviewing this document, it has not been necessary to insist upon ST. In any event, this would be brownfield development and it would probably be unlikely that a suitable alternative site could be found within Devizes central area that could achieve the same benefits as this redevelopment proposal would.

Furthermore, the applicants carried out a short appraisal of alternative sites within the LoD of Devizes that are of lower flood risk than the proposal, according to the SFRA – this document can be seen online having been completed in July 2023. The only sites available were industrial ones

on key employment areas within the town e.g. Hopton park Industrial Estate. Clearly these are not suitable alternative sites given the incompatibility of residential with industrial uses and processes. Additionally, these site are located further from the town centre and so less likely to achieve/promote the same levels of active travel that this proposal will.

Foul sewage will connect to existing Wessex Water infrastructure subject to their agreement and subject to any upgrades necessary to accommodate increase in flows. Surface water is proposed to be dealt with via SUDs using a combination of source control measures and infiltration (soakaways). Underlying geology would indicate this is feasible and indeed parts of the existing site are drained in this manner. Should this not be possible underground attenuation would occur with controls to ensure discharge is at an acceptable rate to ensure no increased flood risk.

The proposed drainage strategy is in line with Council's drainage hierarchy i.e., to consider infiltration first and is acceptable to the LLFA subject to conditions – namely the submission of a detailed drainage strategy that will need to take account of the advice and comments in the LLFA letter to the LPA dated 23<sup>rd</sup> December 2022.

To help reduce abstraction pressure on water resources and riverine ecosystems as well as contribute towards climate change resilience by minimising the impacts of drought, officers (including the Climate Change Officer) recommend a water efficiency condition be applied to the permission. The site is within Wessex Waters remit which is known to be a seriously water stressed area. In light of this and in the interests of sustainable development and climate change adaptation officers consider this condition to be necessary.

In addition to the above comments, the Canal and Riverside Trust also suggest a surface water drainage condition be applied to any consent given. They state that it may not be acceptable to discharge surface water into the canal in this location and that the operation of soakaways in this location has the potential to impact on the integrity of the waterway structure and water quality. Therefore any approved development should prevent damage to the waterway structure, protect water quality and protect users of the waterway. Their reasoning can be incorporated into the LLFA conditions to ensure it captures their concerns.

In compliance with the requirements of National Planning Policy Framework and Core Policy 67 of the WCS, and subject to the conditions proposed by the LLFA, the development could proceed without being subject to significant flood risk. Moreover, the development will not increase flood risk to the wider catchment area through suitable management of surface water runoff discharging from the site. The submission of a detailed surface water drainage strategy is proposed via condition with a signpost to the details requested by the LLFA in their consultation response to the LPA.

## 9.5 Biodiversity

Wiltshire Core Strategy CP50 states that:

*“Development proposals must demonstrate how they protect features of nature conservation and geological value as part of the design rationale. There is an expectation that such features shall be retained, buffered, and managed favourably in order to maintain their ecological value, connectivity and functionality in the long-term. Where it has been demonstrated that such features cannot be retained, removal or damage shall only be acceptable in circumstances where the anticipated ecological impacts have been mitigated as far as possible and appropriate compensatory measures can be secured to ensure no net loss of the local biodiversity resource, and secure the integrity of local ecological networks and provision of ecosystem services.*

*All development proposals shall incorporate appropriate measures to avoid and reduce disturbance of sensitive wildlife species and habitats throughout the lifetime of the development.*

*Any development potentially affecting a Natura 2000 site must provide avoidance measures in accordance with the strategic plans or guidance set out in paragraphs 6.75-6.77 of Wiltshire Core Strategy where possible, otherwise bespoke measures must be provided to demonstrate that the proposals would have no adverse effect upon the Natura 2000 network. Any development that would have an adverse effect on the integrity of a European nature conservation site will not be in accordance with the Core Strategy.”*

The northern boundary of the site adjoins the Kennet and Avon Canal (a local Wildlife Site) which is an important foraging and commuting corridor for bats and other wildlife species. The remainder of the site borders urban development which has limited ecological value. The site itself comprises a complex of partially occupied buildings, the older of which contains some day roosts for bats with the limited soft landscaping on the site offering negligible to low quality habitat.

The application was submitted with an ‘Ecological Impact Assessment’. Upon receipt of comments from the Wiltshire Ecologist an updated ‘Ecological Impact Assessment’ was submitted along with an ‘Illustrative Green Infrastructure and Ecology Parameter Plan’ (see figure 6 above).

The Wiltshire Ecologist has reviewed all the relevant documentation submitted and is content that there is sufficient information to enable a view to be formed that in principle, a development of up to 58 dwellings can be delivered on the site without having an adverse impact upon protected species or priority habitats. This view is premised on further information being submitted at REM stage. This includes:

- A Construction and Environmental Management Plan (CEMP)
- A Landscape and Ecological Management Plan (LEMP)
- Updated Biodiversity Metric
- Updated hibernation studies
- Updated bat survey report

It is also subject to full compliance with the mitigation measures outlined in the Wildwood Ecology Ecological Impact Assessment. Proposed mitigation and improvement proposals include:

- Pollution prevention measures
- Retention of northern boundary hedgerow or replanting of this hedgerow with a diverse mix of native species. Enhancement of eastern boundary hedgerow and replacement of southern boundary hedgerow. Planting of trees of benefit to wildlife.
- Sensitive lighting plan to protect bats and species using the Kennet and Avon Canal
- Enhancement of the basement in B1 for roosting bats, including lesser horseshoe
- Retention/re-creation of roosting features in buildings B1, B2a, B3 and B6
- Creation of new dedicated bat house
- Integrated nest bricks at a ratio of 1:1 nest brick to dwelling.

Noting the above comments from the Ecologist, it is the opinion of officers that these details must be conditioned on this outline application as they are matters that relate to the principle of development, not issues that fall under one of the reserved matters that would be considered at REM stage e.g., scale, appearance, layout and landscaping. As the Ecologist was content with these matters being left to REM stage, there is no issue with them being dealt with via condition post decision. A discussion with the Ecologist on this matter led to their agreement.

In light of the above, conditions to secure the submission of a CEMP, LEMP, updated bat reports, hibernation studies and revised biodiversity metric calculation are recommended. This is in addition to conditions to cover lighting details as well as ensuring compliance with the mitigation in the submitted ecological assessment. It is noted that the Canal & Riverside Trust have also

requested a lighting condition for similar reasons. These concerns would be covered by the condition suggested by the Ecologist.

In respect of the CEMP and LEMP, it is noted that these documents were submitted as part of the application. However, they were not considered satisfactory to the Ecologist and therefore, both of these documents require updating. Standard conditions to be imposed in respect of these but in reality, the applicant will be able to submit updated versions of the existing CEMP and LEMP taking account of the Ecologist's concerns. Furthermore, the Canal and Riverside Trust have requested details of any necessary method of safeguarding the waterway from damage or contamination during the construction phase of the development. The CEMP condition can of course ensure these details are also included.

As previously noted, the Ecological Report confirmed the presence of Day Roosts within the buildings that are to be retained on site. Construction work etc. is likely to have a significant impact upon these roosts and therefore, a European Protected Species (EPS) bat Mitigation Licence will need to be obtained for the lawful construction of this development.

With such condition in place, and subject to obtaining the EPS License, it can be concluded that the proposal will not have an adverse impact upon protected species or priority habitats.

## 9.6 Archaeology

It is known that the line of the outer bailey of the former Devizes Castle follows the current route of Commercial Road along the southern edge of the site, while the site itself was located on the periphery of the medieval town. What needs to be established at this stage is the degree to which the elements associated with the outer bailey and the remains of any other contemporaneous structures, have been impacted by the development of the Community Hospital and buildings that preceded it.

It is the opinion of the County Archaeologist that the current standing buildings that make up the hospital are likely to have severely truncated, if not wholly removed any previous archaeological features and/or deposits, while those parts of the site currently taken up by yards and car parks may have surviving elements of the medieval town beneath the layers of tarmac, concrete and hardcore. They advise that the archaeological potential of the site needs to be investigated via a programme of investigations.

It is noted that the County Archaeologist suggests that the programme of investigation be carried out prior to the determination. The applicant, however, has not chosen to do this prior to determination which is unfortunate. That said, it should be noted that there is nothing set out in legislation that mandates at which stage in the process things such as trial trenching should be undertaken i.e., whether it should be undertaken before or after consent (via a planning condition).

The risks of doing it via condition are ones that the applicant must take on board and are risks that in most cases impact the applicant only. Use of a precommencement condition will still mean that any potential archaeological value of the site is investigated before work commences and any follow on from this undertaken. This may mean the applicant would need to amend their planning permission if significant finds are uncovered but as stated, the risks are on the applicant's side.

In light of the above, your officers would contend that there is no reason why this issue cannot be left to condition. As stated, there is nothing in policy which mandates when such matters must be carried out. Furthermore, the site has been extensively developed which may have impacted upon any below ground assets – there is no concrete evidence to say there are definitely remains on site. In addition, it is noted that this is a brownfield site with viability concerns. The comfort of a permission before expenses are incurred on archaeological investigation are likely to help in the delivery of this site.

## 9.7 Impact upon the Historic Environment

Section 66 of the Planning (Listed Buildings and Conservation Areas) Act 1990 requires 'special regard' to be given to the desirability of preserving a listed building or its setting.

Section 72(1) of the Planning (Listed Building and Conservation Areas) Act 1990 also requires the Council to pay 'special attention' to the desirability of preserving or enhancing the character or appearance of designated Conservation Areas.

Paragraph 205 of the NPPF states that:

*"... when considering the impact of a proposed development on the significance of a designated heritage asset, great weight should be given to the asset's conservation. ... This is irrespective of whether any potential harm amounts to substantial harm, total loss or less than substantial harm to its significance."*

Paragraph 206 of the NPPF states that:

*"Any harm to, or loss of, the significance of a designated heritage asset (... from development within its setting), should require clear and convincing justification."*

Paragraph 207 of the NPPF states that:

*"Where a development proposal will lead to less than substantial harm to the significance of a designated heritage asset, this harm should be weighed against the public benefits of the proposal..."*

Paragraph 209 of the NPPF states that:

*"The effect of an application on the significance of a non-designated heritage asset should be taken into account in determining the application. In weighing applications that directly or indirectly affect non-designated heritage assets, a balanced judgement will be required having regard to the scale of any harm or loss and the significance of the heritage asset."*

Core Policy 57 of the Wiltshire Core Strategy states:

*"A high standard of design is required in all new developments, including extensions... Development is expected to create a strong sense of place through drawing on the local context and being complementary to the locality. Applications for new development must be accompanied by appropriate information to demonstrate how the proposal will make a positive contribution to the character of Wiltshire through... being sympathetic to and conserving historic buildings"*

Core Policy 58 of the Wiltshire Core Strategy echoes the above national policy in seeking the protection, conservation and, where possible, enhancement of heritage assets.

Wiltshire Council's Conservation Officer (CO) is satisfied that the Design and Access Statement and Heritage Statement provides sufficient information to understand the impact of the proposals and is proportionate to their scope. As such, the requirements of paragraph 200 of the NPPF have been met.

The Devizes community hospital site includes two buildings of local interest within the Devizes Victoria Road Quarter Conservation Area. The historic hospital buildings are non-designated assets and make a positive contribution to the conservation area, as well as to the setting of adjacent assets the Devizes conservation Area, the Park Canal Bridge, the listed buildings of St Mary's Church and St Mary's cottages. These buildings are being retained as part of the proposals and with the new areas of public realm, the scheme offers the potential for opportunities to

experience these assets in the locality as well as new views towards St Mary's Church and additional connectivity with the Canal. These are positive elements of the scheme.

The rest of the site comprises parking areas and more recent hospital buildings dating to between 1935 and the later 20th century. These buildings are outside the conservation area and of no architectural interest and do not contribute to the architectural interest of these assets. Their loss as part of the wider redevelopment of the site is therefore considered acceptable. What is put back as part of the redevelopment proposals is clearly key to the schemes overall acceptability in heritage terms. The general approach in the illustrative layout was agreed as part of pre-application discussions with the CO.

In light of the above, it is accepted that sufficient information and plans have been submitted at the outline stage to enable the CO to judge that a detailed design scheme can come forward at REM stage without having a harmful impact upon the historic environment. Ultimately, the CO concludes that:

*"In heritage terms, the proposals would help sustain the significance of the Devizes Victoria Quarter Conservation Area and provide a valuable future use for these currently unused buildings thus offering an opportunity for enhancement of these non-designated assets. The layout as proposed subject to detailed design, are also not considered to harm the setting of the adjacent designated assets."*

#### 9.8 Impact upon existing and future occupants reasonable standards of amenity

Core Policy 57 point vii. requires development to have regard to

*"...the compatibility of adjoining buildings and uses, the impact on the amenities of existing occupants, and ensuring that appropriate levels of amenity are achievable within the development itself, including the consideration of privacy, overshadowing, vibration, and pollution..."*

Although, the site plan is indicative, it has been submitted with a view to demonstrating an acceptable relationship can be achieved with existing properties to ensure no undue harm is caused to their reasonable living or occupancy conditions. It has also been submitted to show that 58 dwellings can be accommodated on the site whilst ensuring future occupants have appropriate standards of amenity.

With the above in mind, Block K and L on the illustrative layout plan are the two retained buildings and as such, their relationship with existing properties remains the same. They will not cause loss of privacy, light or have any overbearing impacts over and above the existing situation. Although they will now be in primarily residential use save for a small class E unit, this will not be incompatible with the adjoining properties which too are in residential use. Subject to suitable controls on the E class unit e.g., hours of operation and details of any extraction equipment etc. that may be required to operate it, this will not cause undue harm to the reasonable living conditions of the existing occupants. Such matters can be conditioned.

Blocks A1, A2 and J face into the development site itself with sufficient distances maintained between the other blocks to ensure appropriate levels of amenity are achievable for future occupants of the development site. They look out onto the Kennet and Avon Canal to the rear which raises no amenity concerns. Indeed, it will help to provide some natural surveillance of the towpath which can only be seen as a positive.

Block E is separated from the dwellings to the south by approximately 20m. Although at a higher level, with the proposed planting and boundary treatments, this is considered a sufficient distance to ensure amenity levels are preserved for existing occupants. With a clever arrangement of fenestration Block E should not cause any amenity issues for future occupants of the development site. The same assessment would apply to Block G.

Block F is within the development site itself and therefore, given distance would not overlook existing properties. Adequate separation distance has been maintained between it and other blocks to ensure appropriate levels of amenity are achievable for future occupants of the development site.

Blocks H1, H2 and H3 are a sufficient distance away from existing residential properties to ensure no undue harm to their reasonable living conditions. It is noted The Wharf properties are side on to the development site with a more or less blank gable facing the road. Other properties that adjoin these blocks are commercial or leisure uses.

From the above, it can be concluded that a realistic indicative layout plan has been submitted which demonstrates how 58 dwellings could be accommodated on the site whilst satisfactorily addressing the requirements of Core Policy 57 point vii. in respect of achieving appropriate levels of amenity for existing and future occupants. Officers are therefore satisfied allowing this outline application will not compromise the amenity levels of both future and existing occupants to a level that would be deemed unsatisfactory.

Furthermore, regarding the amenity impacts within the development site itself, no objections have been raised by the WC Urban Design Officer. The layout meets usual standards for new residential developments.

It is also noted that potential short-term disruption and disturbance from demolition and construction is not a ground to refuse an application and can be controlled care off a construction management plan. Such a condition is recommended by the Public Protection Officer (PPO) to ensure no impact to the amenity of existing occupants during this phase of the development. A CEMP was submitted with the application but, in light of ecology concerns and updated one is necessary and will be conditioned. The applicant will be able to capture any issues regarding the impact on existing occupants that may have been overlooked in the updated CEMP.

In addition the PPO advises that a report is submitted detailing the history of the site in relation to potential contamination and if any is found, a strategy for remediation. This is to ensure the site is free from any harmful pollutants or contamination that may affect the health and wellbeing of future occupants. However, it is noted that a contaminated land study has been submitted with the application which contains recommendations for further ground investigation work to be undertaken. It is suggested that a condition be imposed to ensure compliance with the recommendations in the Phase 1 Desk Study Report by Jubb Consulting Engineers Ltd. with findings submitted to the LPA and, if necessary, a remediation strategy.

#### 9.10 Highways

Core Policy 60 and 61 of the WCS states that the Council will use its planning and transport powers to help reduce the need to travel particularly by private car, and support and encourage the sustainable, safe and efficient movement of people and goods within and through Wiltshire. One of the stated ways of achieving this is by planning developments in suitable locations.

Paragraph 115 of the NPPF states that:

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

The site lies within the Limits of Development of Devizes in an edge of town centre location, within an accessible walking distance of a wide range of day-to-day services and facilities and therefore in a suitable location. That said, New Park Street does act as a barrier to safe walking and cycling routes to and from the town centre to the site. As part of a wider strategy for Devizes improvements are to be made to New Park Street to make it more pedestrian and cycle friendly. Contributions are requested to fund some of these improvements, notably, the upgrading of the Zebra crossing



at the junction with Couch Lane to a Toucan one (more detail on this Section 10). However, the improvements will incentivise access to and from the town centre by means other than the private car.

Public transport services including bus stops are available within a short walking distance. Buses operate fairly frequently from the Market Place to places such as Bath, Melksham, Westbury, Salisbury, Swindon Trowbridge and are timed such that the bus can be used for a range of employment, retail, leisure and educational purposes. Some operate on an hourly frequency. This demonstrates regular connections to a range of destinations and, as such, provide the opportunity for journeys to / from these destinations to be undertaken by bus (rather than car). As such, officers conclude that the site is within a sustainable location.

The proposed access points are the same as existing. The LHA are happy to accept residential use of these accesses and as such, they can be considered safe and suitable. However, other than a mention on a parameter plan to state existing accesses are to be retained, no details drawings have been provided of them. To ensure they remain safe and suitable once the detailed layout plans have been submitted, details of the any works to the accesses needs to be secured via condition. If no works are required, then no details will need to be submitted. The condition provides a flexible approach to save the applicants having to revise the outline consent were such works deemed to be necessary.

The site itself provides car and cycle parking provision to the satisfaction of the LHA. It is noted that parking provision is below minimum standards and that locals do have concerns regarding this point. That said, it is a town centreish location where opportunities for active travel exist which should place less demand on the need for a car. Furthermore, preapplication discussions were had with the applicant and the view was taken to reduce the amount of proposed parking in the interests of the character and appearance of the development/area. The original proposals saw a sea of parking in the middle of the development which limited the amount of green space and landscaping that could be provided with the site and did not create an attractive setting for the heritage assets or indeed the aesthetics of the public realm in general. Where there are obvious barriers to the deliver of full parking standards e.g., design or heritage issues, then policy PS6 of the Local Transport Plan allows for discounting. This would appear to be the case here.

In addition to the above the current use of the site as a hospital will in itself have generated overflow parking which is likely to have had an impact on the surrounding area. This is the fall-back position. Also, there is a certain element of buyers beware when looking at new developments like this within town centre locations where perhaps parking provision is not a guarantee. Prospective purchases would have to factor this in and make alternative arrangements e.g., going car free or cycling. Providing more parking spaces within a location such as this does little to incentivise active travel and would only encourage more car usage at the site.

Whilst comments have been raised regarding traffic generation from the site and the impacts this will have on the network, this issue has been addressed in the Transport Assessment submitted by the applicants and no objections have been raised by the LHA on the matter. In summary, the traffic generated from the site has been calculated using TRICS data (data taken from a comparable development use) and has been netted against the current trip generation to and from the site. It was found that there would be less movements with the proposed development in the AM and PM peaks (surveyed 07:00 to 10:00 and 16:00 to 19:00) than the current use of the site as a hospital.

Furthermore, given the sites location within close proximity to the town centre, you can reasonably assume that a lot of trips that may otherwise be undertaken by private car can be done so on foot or by cycling i.e., the vast majority of Devizes services and facilities are within walking or cycling distance from the site.

Although there may be some increases at other times of the day compared with the current use of the site this would be outside of peak travel times when the network has capacity to accommodate these additional traffic flows.

The impacts of construction traffic can be effectively monitored through a construction management plan which as already mentioned, is recommended as a condition.

To conclude on highways, the construction of the proposed development would not have an unacceptable impact on highway safety and would not have a 'severe' residual cumulative impact on the road network. As such, there are no highway reasons that would warrant withholding planning permission for the proposed development.

Conditions will of course be required to ensure access, parking (including cycle parking) and turning areas are laid out prior to occupation of the various units and maintained for the lifetime of the development in the interests of highway safety.

#### 9.11 Financial Viability / Developer Contributions

Core Policy 43 states that on sites of 5 or more dwellings, affordable housing (AH) provision of at least 30% will need to be delivered and transferred to a Registered Provider. As the site is clearly over this threshold of 5 dwellings, AH should be provided. It is noted however that Core Policy 43 states that:

*"The provision of affordable housing may vary on a site-by-site basis taking into account evidence of local need, mix of affordable housing proposed and, where appropriate, the viability of the development."*

Regarding viability of a development, the RICS guidance entitled Financial Viability in Planning (2012) defines the terms as:

*'An objective financial viability test of the ability of a development project to meet its costs including the cost of planning obligations, while ensuring an appropriate Site Value for the landowner and a market risk adjusted return to the developer in delivering that project.'*

The viability guidance within the PPG makes clear that the Residual Land Value generated must be above the estimated Benchmark Land Value (BLV) for comparable land in the local market for the site to be considered viable.

To accompany this application, a Financial Viability Appraisal (FVA) has been submitted by Montagu Evans LLP to assess the maximum reasonable amount of affordable housing that the proposed development is able to provide. A summary of the appraisal results is shown below in table 1 and this shows, contrary to the PPG advice that the RSL is lower than the BLV.

Proposed Scheme - Appraisal Inputs & Outputs			
Income	Quantum	Basis	
Private Residential	58	£350 per sq. ft.	£15,400,700
Commercial Space	729 sq. ft.	£13 per sq. ft. @ 7.50%	£126,360
Commercial Purchaser's Costs			-£8,592
<b>Total Income</b>			<b>£15,518,468</b>
Costs			
Construction Costs (incl. contingency)		Cost Estimate	£12,014,000
Professional Fees		10.00%	£1,201,400
CIL		Estimate	£200,000
S.106		Estimate	£300,948
Marketing		1.50% of private residential GDV	£231,011
Sale Agent Fees		1.00% of GDV	£155,185
Sale Legal Fees		0.25% of GDV	£38,796
Letting Fees		15% of Market Rent	£1,422
Developer's Return		20% of GDV	£3,105,412
Finance		7.00%	£778,798
<b>Total Costs</b>			<b>£18,026,971</b>
<b>Residual Land Value</b>			<b>-£2,508,503</b>
<b>Benchmark Land Value</b>			<b>£1,750,000</b>
<b>Viability Deficit</b>			<b>-£4,258,503</b>

Table 1 – Summary of Results of the Viability Appraisal

The viability report concludes in section 9 that:

*“In accordance with the requirements of the RICS Professional Statement Financial viability in planning: conduct and reporting (May 2019), we have carried out a sensitivity analysis on the proposed scheme appraisal. A 10% increase in private residential sales values with a concurrent 10% decrease in total construction costs would increase the residual land value to £105,833 which represents a reduced viability deficit of -£1,644,167 when compared to a Benchmark Land Value of £1,750,000.*

*This viability appraisal therefore demonstrates that the development is unable to viably support any affordable housing.”*

In light of the above submissions, the Council commissioned Dixon Searle Partnership (DSP) to carry out an independent review of the ‘Financial Viability Assessment’ (FVA) and Gardiner and Theobald Cost Consultants (G&T) to undertake a review of the submitted build cost estimate. The latter findings are included in the DSP report. The review undertaken has reached a broadly similar conclusion to the Montagu Evan FVA.

They (DSP) claim that the submitted approach taken in the report appears to be appropriate overall in terms of the principles in use. They agree with most of the assumptions as fair however, there are a few aspects that are queried or where a difference of opinion exists. That said, it is their overall conclusion that their appraisal of the FVA undertaken *“indicates that the scheme is unlikely to be able to support a contribution to affordable housing based on current costs and values.”* They also state that:

*“Viewing the above results, whilst applying DSP and G&T’s assumptions results in a more positive view of the viability of the scheme than that of the applicant, the scheme remains a long way from what would typically be considered a reasonable level of market profit.”*

Core Policy 3 of the WCS requires the submission of an ‘open book’ viability assessment by an independent third party (on terms agreed by the council but funded by the developer) in the event of concerns that infrastructure requirements may render the development unviable. As highlighted above, such an exercise has taken place and, in that regard, the requirement of the policy has been met.

Accordingly, it is the view of officers that the application should be determined on the basis of there being no affordable housing provision. Of course, it follows that without providing affordable housing the scheme will conflict with Core Strategy policy on AH (CP43). However, this conflict must be considered in the context of the overarching Core Policy 3 (Infrastructure Provision) which, as explained above, does allow for reduced, or even no, infrastructure provision where there is non-viability.

Whilst the concerns of the locals are noted in respect to the site not delivering any AH, the conclusions of the above are clear. To insist upon the provision of AH would make the scheme unviable.

Despite the conclusions of the viability report, it should be noted that the scheme is still delivering a package of benefits/contributions to the town and these will also need to be weighed in the planning balance alongside the policy conflict referred to in this section. These benefits include, but are not limited to the following:

- Certainty of regeneration of a brownfield site offering a mixed-use development with public open space and public realm improvements.
- The restoration of heritage assets on the site and their long-term safeguarding through allowing appropriate new uses.
- Active travel improvements within the vicinity of the site, notably, along New Park Street which will benefit more users than just the future occupants of the development site.
- Off-site leisure and recreation improvements within the vicinity of the site which will be of benefit to users in general as well as the future occupants of the development site.

The above benefits – and notably the regeneration of the site – must be weighed against the inability of the proposal to deliver infrastructure and related contributions. These benefits will not otherwise materialise if the AH contributions are insisted upon and/or the application is refused for this reason as the resulting non-viability and uncertainty would prevent the development from happening and so the status quo would remain i.e., it will become derelict and overtime, an unsightly site positioned in a key area with an uncertain prospect for its future.

Furthermore, it would not be the first brownfield site to be granted consent with no policy required AH contributions. There is still an option to deliver AH under grant funding e.g., from agencies such as Homes England. This has indeed happened elsewhere in Wiltshire.

### 9.12 Community Infrastructure Levy (CIL)

The new dwellings would be liable for CIL in any event. The site would fall under charging zone 2 where the sum equates to £85 per square metre of residential floor space created. Floor space calculations can only be provided at detailed design stage and thus CIL calculations would be based upon the approved scheme at reserved matters stage.

## **10. Section 106**

Core Policy 3 advises that ‘All new development will be required to provide for the necessary on-site 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 57 of the National Planning Policy Framework. These are:

- 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 requested by consultees. Each request has been measured against the above tests in order to establish whether or not it is a CIL compliant request. Those requests that are not CIL compliant cannot be asked for/included with the s106.

### Affordable Housing

CP43 states that on dwellings of 5 or more affordable housing provision of at least 30% will be provided and transferred to a Registered Provider. CP45 also requires affordable dwellings to address local housing need and to incorporate a range of different types, tenures, sizes of homes in order to create a balanced community. CP46 requires in suitable locations, new housing to meet the needs of vulnerable people will be required.

A scheme of this size would generate the need to provide 17 AH units at nil subsidy. In light of the conclusions of section 9.11, AH cannot be delivered on site at nil subsidy and therefore this is not being sought in the s106.

### Education

The NPPF (paragraph 99) encourages Local Authorities to ensure that sufficient choice of school places is available to meet the needs of existing and new communities. In order to ensure this, Core Policy 3 lists the provision of education as a priority 1 theme where it is required due to the impacts of a development proposal.

The provision of 58 dwellings will result in extra demands being placed on the local education facilities. Wiltshire Council has the responsibility of accommodating residents of the proposed development in their schools.

In order to cope with the extra demand and alleviate capacity concerns, the following contributions are required:

- Early Years - A total contribution of £105,132 is required to go towards the funding of 6 pre-school places within the area at £17,522 per place. The Early Years Officer has advised that the existing Early Years provision will not be able to support the needs of additional families requiring Early Years and Childcare in this area as they are all operating at high capacity.
- Primary School – There is currently capacity across all the in-area schools to accommodate the needs of this development without the need for expansion of provision.
- Secondary School – There is currently no spare capacity at a secondary level in the Devizes at Devizes School. The proposal would generate a need for 9 places at a cost of £22,940. A total contribution of £206,460 would therefore be required which will be put towards expansion provision at Devizes School.

Failure to provide the contributions would result in the proposed development creating school capacity problems. Without the proposed contributions, the proposed development would have an

unacceptable impact on the community and potentially lead to the need for pupils to travel further to access education facilities.

The levels of contribution are suggested by the Schools Place Commissioning Officer of Wiltshire Council. This figure would vary depending on housing mix and the size of the scheme delivered at REM stage.

The costs calculated is considered fair and reasonable in line with the standards applied to all new housing developments in Wiltshire and is directly related to the increase in population as a consequence of the proposed development. It is therefore a CIL compliant request.

### Waste and Recycling

The Wiltshire Core Strategy at para 4.41 (CP3) identifies sustainable waste management facilities as essential components of daily life and therefore critical to delivering our strategic goal of building more resilient communities. Waste management is listed as place shaping infrastructure under priority theme 1 of Core Policy 3 of the WCS.

The provision of bins, and the services required to support waste collection, is a burden on the Council that is directly related to new developments. The sum requested here directly relates to the size of development proposed i.e., 58 units. Table 2 below shows the total cost for this development.

<b>Property type category</b>	<b>Contribution per house/per category</b>	<b>Quantity</b>	<b>Total</b>
Individual house	£101	20	£2,020
Bin store for block of 6-10 flats	£815	1	£ 815
Bin store for block of 11-14 flats	£		£ 0
Bin store for block of 15-18 flats	£2,276	2	£ 4,552
		<b>Total</b>	<b>£ 7,387</b>

**Table 2 – Cost of Provision of Waste and Recycling Containers**

This contribution is directly related to the development and is specifically related to the scale of the development, as it is based on the number of residential units on site. It is therefore a CIL compliant request.

### Leisure and Play

The principle of obtaining quality open spaces and opportunities for sport and recreation is stated in paragraph 102 of the NPPF. Core Policy 52 of the WCS supports this by stating that accessible open standards should be in accordance with the adopted Wiltshire Open Space Standards. Open space is listed as place shaping infrastructure under priority theme 2 of Core Policy 3 of the WCS.

To comply with the above policy it is necessary to secure on-site public open space or off-site contributions to ensure the health and well-being of the future occupants of the development site. The increase in population caused by the development will have an impact on existing leisure facilities and, it is therefore also necessary to upgrade a local facility to cater for the likely increased demand.

The provision of public open space (POS) is to serve the needs of the future occupants of the housing scheme and thus its provision on-site or off-site is directly related to the development. The improvements to off-site leisure facilities directly relates to the increase to the local population caused by this development.

As such, the requests made by the Public Open Space Team are CIL compliant ones.

A scheme of up to 58 Dwellings would generate a requirement for 570.72 m<sup>2</sup> Casual Open Space & 431.52m<sup>2</sup> Equipped Play Space. It is noted from the Design & Access Statement there is some provision for open space on-site but no equipped play space.

The POS Team would require either on-site play to be provided as a LEAP as per the Council's play specifications, or an off-site contribution of £62,138.88 to upgrade facilities in the vicinity of the development. All on-site POS & Play would need to be secured and managed in Perpetuity; Wiltshire Council will not adopt the on-site POS & Play.

In addition to this the development would generate a requirement for 2380.32m<sup>2</sup> of Sports space which would equate to an off-site contribution of £23,803.20. This contribution is targeted for the upgrade of the Devizes School Astro Carpet at Devizes Sports Club. Failing that, it would need to go to sports, pitch or ancillary provision within the vicinity of the land.

### Public Art

Core Policy 57 criterion xii refers to the integration of art and design in the public realm as a means of securing high quality design in new developments. It is an integral part of achieving design quality and does add value to a development. Its necessity stems from the requirement set out in local plan policy (Core Policy 57) to achieve a high standard of design in all new developments.

Public Art and streetscape features are listed as place shaping infrastructure under priority theme 2 of Core Policy 3 of the WCS and that such infrastructure can be met through the use of planning obligations.

The Planning Obligations Supplementary Planning Document (October 2016) refers to the 2011 guidance note of art and design in the public realm [page 31, paragraph 10].

In addition, the NPPF recognises that cultural wellbeing is part of achieving sustainable development and includes cultural wellbeing within the twelve core planning principles that underpin both plan-making and decision-taking. The PPG complements the NPPF and states that *"Public art and sculpture can play an important role in making interesting and exciting places that people enjoy using."*

The contribution would be spent within the development site itself on a scheme of public art to add value to this development and this development alone. It is thus directly relatable.

The contribution is directly related to the type and scale of the development, as it is requested on a per-residential-unit basis and is considered sufficient to enable a meaningful art project to be commissioned and delivered on site that will add value to the design of the development. It is therefore a CIL compliant request.

A public art contribution of £300 per dwelling is requested for the applicant to deliver the integration of public art for this site and no more than 10% of this should be spent upon the production of a public art plan. The total sum for 58 dwellings would therefore be £17,400.

### Highways & Public Right of Way

Core Strategy policies 60 and 61 objectives are to reduce the need to travel particularly by private car, and support and encourage the sustainable, safe and efficient movement of people and goods within and through Wiltshire and identify that new development should be located and designed to reduce the need to travel particularly by private car, and to encourage the use of sustainable transport alternatives.

The vast majority of Devizes is within cycling distance of the site and a significant amount including the town centre is in walking distance. However, to realise this potential, new infrastructure will be required – especially to reduce the severance impact of New Park Street and link the site with other E/W active travel infrastructure. Significant regard will also be required to the existing footways as many are of substandard width or not present. New Park Street has also been identified in the emerging Local Cycling and Walking Infrastructure Plan (LCWIP) for improvement by improving crossings and the creation of a two way cycle track.

The proposed development is also within the Devizes Air Quality Management Area. The proposed development could exacerbate the existing areas of poor air quality in Devizes by adding car trips particularly on the A361. Known hotspots include Brewer Corner which is around 0.5km from the site. In line with Core Policy 55, the development will need to demonstrate how they can effectively mitigate emission levels in order to protect public health etc.

To realise the above Core Policies ambitions, improvements to encourage walking and cycling should be provided by this development.

Such requests are listed under Core Policy 3 as infrastructure priority theme 1. The following planning obligations are sought by the LHA:

- A contribution of up to £10k to the implementation of the Devizes wayfinding strategy should be sought to help encourage pedestrian and cycle trips to/from the site to destinations within Devizes.
- An off site contribution towards the delivery of walking and cycling schemes identified in the Devizes LCWIP.
- The full Travel Plan should include green travel vouchers being offered to households of £300 / £150 where the lower figure is for those households with an occupant entitled to concessionary travel.
- A Travel Plan monitoring fee of £7500 (£1500 pa over 5 years) should be sought.
- Contribution towards physical map amendment and printing. £500 for both walking and cycling maps.

The contributions above are directly related to the development as they secures pedestrian and cycle improvements along routes future occupants would use or provide incentives to occupants to encourage active travel. Officers considers this sum to be fair and reasonable in terms of scale and kind with the required financial contributions reflecting the costs of the improvements necessary to make the route from the development to the town centre etc. more pedestrians and cycle friendly. As such, the above requests are considered CIL compliant.

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

It should be noted that at the heart of the NPPF there is a presumption in favour of sustainable development requiring local planning authorities to approve development proposals that accord with an up-to-date development plan without delay; and where there are no relevant development plan policies, or the policies which are most important for determining the application are out-of-date, permission should be granted unless (taken from paragraph 11d of the NPPF):

- The application of policies in the NPPF that protect areas or assets of particular importance provides a clear reason for refusing development proposed; or
- any adverse impacts of doing so would significantly and demonstrably outweigh the benefits, when assessed against the policies in the NPPF taken as a whole;

With regards to the above, the proposal does accord with the development plan when taken as a whole (save for the lack of AH provision). For the purposes of the revised NPPF Wiltshire Council is a 'paragraph 77 authority'; 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 housing need – it is now only required to identify and update annually a supply of specific deliverable sites sufficient to provide a minimum of four years' worth of housing which it can demonstrate. The tilted balance under paragraph 11d is therefore not engaged.

However, as the development is considered to accord with the development plan when taken as whole, whether or not the tilted balance is engaged or not does not in this instance have a material impact on the officer's conclusions as, engaged or otherwise, the development is still deemed to be acceptable. Furthermore, there are no policies within the Framework that protect areas or assets of particular importance that, when applied, would provide a clear reason for refusing this development.

In order to reach a recommendation on the application, it is clear from the above proposals and planning considerations that the following applies:

- The application site occupies an important position within the town and wider Devizes Wharf area and therefore, its redevelopment should be a priority (indeed its inclusion with the Local Plan Review would suggest this).
- There are a number of constraints identified in the FVA which limit the number of viable solutions which can be delivered on the site.
- The current application represents a viable and funded scheme which the applicant assures is capable of delivery.

With the above in mind and within this context, the following benefits and harms are noted.

#### The benefits

##### *Regeneration of a derelict brownfield site adjacent to the town centre:*

This is a reasonable significant proposal to redevelop the Devizes Hospital site providing not just housing but a small amount of commercial floor space, new public open space and connectivity to the Kennet and Avon Canal. It will see the heritage assets on the site restored and their long-term vitality and viability safeguarded. The redevelopment of the site will prevent it from becoming completely derelict and without use a potential eyesore to the town. This point should be afforded substantial weight.

##### *Provision of market housing:*

Although the Council is a NPPF paragraph 77 Authority and therefore only required to demonstrate a 4YRHLS (which it can do), in the context of NPPF paragraph 60 which sets out the Government's objective of significantly boosting the supply of homes, this development would make an important contribution to this aim in a sustainable location. It would add to the Council's housing land supply and should still attract substantial positive weight.

##### *Economic growth and expenditure:*

The NPPF at paragraph 81 states that "*significant weight should be placed on the need to support economic growth and productivity...*" The scheme will see investment into this part of Devizes with a modest amount of new commercial floor space being provided which, once operational will provide jobs and economic expenditure in the town.

There will also be a boost to the economy through the provision of all associated construction jobs with a development of this scale. After all, the construction industry has been highlighted by the government as one of the key areas for growth post pandemic and more generally.

Positive weight can also be attributed to the economic expenditure from future occupants of the development site within the local economy.

These economic benefits should be afforded significant weight.

I

### The harms

Certain policies of the development have been breached purely on the basis that they require obligations that the developer is unable to meet due to viability concerns. The obligations/contributions are required to mitigate the full impacts of the development. As a result, the following policy is conflicted with:

- Core Policy 43 – Not providing 30% of the dwellings as affordable.

Ordinarily, this conflict should be afforded significant weight, notably the lack of AH provision which is regrettable. However, Core Policy 3 caters for this scenario and requires an 'open book' viability assessment which has been carried out and which concludes that the development would be unviable with AH provision.

In light of development plan policy allowing for contributions not to be met in full if there are viability concerns, the conflict with the policies identified above should be given reduced weighting. The scheme simply would not be deliverable if they were to be insisted upon. If this were the case then, the site would in all probability remain derelict as it is now vacated by the NHS and the benefits the scheme will deliver would not be realised. This is arguably a worse/more harmful outcome.

Furthermore, it should be noted that the site may deliver AH by grant funding (a realistic prospect that has been demonstrated on other sites e.g., Kingston Mill in Bradford upon Avon, whereby the grant from Homes England acts as a 'Golden Brick' to enable development to commence on site.

### Neutral

It is noted that lack of identified harm against policies of the WCS is not a benefit of the scheme but would be a neutral aspect of it. The lack of technical objections raised to the development and its conformity with the development plan are therefore neutral points within the balance.

### Conclusion

It is the opinion of officers that the substantial benefits of revitalising a now vacant site that has the potential to become an eyesore through dereliction, outweighs its inability to delivery all the desired/required mitigation. Notably,

- the regeneration of the site;
- the safeguarding of heritage assets;
- economic growth and expenditure; and,
- the provision of market housing.

The harm identified above, does not outweigh the substantial benefits that this development would deliver and it is therefore the opinion of officers that this development should be approved.

### **RECOMMENDATION:**

**That planning permission be GRANTED, subject to first completion of a planning obligation/Section 106 agreement covering the matters set out in this report, and subject also to the planning conditions listed below.**

### **CONDITIONS**

- 1 The development hereby permitted shall be begun either before the expiration of three years from the date of this permission, or, where relevant, 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 (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 in part 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 documents:

- Drg Ref: DH- AFA - XX - RF - DR - A - 1000 Rev P2 Location Plan
- Drg Ref: DH- AFA - XX - ZZ - DR - A - 1151 Rev P3 - Heritage & Urban Design Parameter Plan
- Drg Ref: DH- XX - ZZ - DR – 1150 Rev P3 - Ecological Parameters Plan

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

5 The development shall be carried out in general accordance with the design principles set out in the Outline Planning Design and Access Statement Rev P1 (01/11/22).

REASON: The Design and Access Statement sets out clear and positive requirements (in line with Core Policy 57 of the Wiltshire Core Strategy) for designers at Reserved Matters to take forward.

6 No development shall commence within the area indicated within the red outline until:

a) A written programme of archaeological investigation, which should include on-site work and off-site work such as the analysis, publishing and archiving of the results, has been submitted to and approved by the Local Planning Authority; and

b) The approved programme of archaeological work has been carried out in accordance with the approved details.

REASON: The matter is required to be agreed with the Local Planning Authority before development commences in order that the development is undertaken in an acceptable manner, to enable the recording of any matters of archaeological interest.

- 7 No development shall commence on site until an intrusive phase II ground investigation has been carried out over the site. The investigation shall be in line with the recommendations set out in Section 7.3 of the Phase 1 Desk Study Report by Jubb Consulting Engineers Ltd. dated August 2022.

A report detailing the phase II investigation and risk assessment shall be submitted to and approved in writing by the Local Planning Authority.

If the report submitted indicates that remedial works are required, full details shall be submitted to the Local Planning Authority and approved in writing and thereafter implemented prior to the commencement of the development or in accordance with a timetable that has been agreed in writing by the Local Planning Authority as part of the approved remediation scheme. On completion of any required remedial works the applicant shall provide written confirmation to the Local Planning Authority that the works have been completed in accordance with the agreed remediation strategy.

REASON: To ensure that land contamination can be dealt with adequately prior to the use of the site hereby approved by the Local Planning Authority.

- 8 The development hereby approved shall not commence until a Construction and Environmental Management Plan (CEMP) has been submitted to and approved in writing by the local planning authority. The CEMP shall include details of the following relevant measures:
- i. An introduction consisting of a construction phase environmental management plan, definitions and abbreviations and project description and location;
  - ii. A description of management responsibilities;
  - iii. A description of the construction programme;
  - iv. Site working hours and a named person for residents to contact including telephone number;
  - v. Detailed Site logistics arrangements;
  - vi. Details regarding parking, deliveries, and storage;
  - vii. Details regarding dust mitigation;
  - viii. Details of the hours of works and other measures to mitigate the impact of construction on the amenity of the area and safety of the highway network;
  - ix. Communication procedures with the LPA and local community regarding key construction issues – newsletters, fliers etc;
  - x. Details of how surface water quantity and quality will be managed throughout construction (notably upon the Kennet & Avon Canal);
  - xi. Details of the safeguarding measures to deal with the following pollution risks:
    - the use of plant and machinery
    - wheel washing and vehicle wash-down and disposal of resultant dirty water
    - oils/chemicals and materials
    - the use and routing of heavy plant and vehicles
    - the location and form of work and storage areas and compounds
    - the control and removal of spoil and wastes
  - xii. Details of safeguarding measures to highway safety to include:
    - A Traffic Management Plan (including signage drawing(s))

- Routing Plan and vehicle log and means to submit log to the Highway Authority upon request
- Details of temporary/permanent Traffic Regulation Orders
- pre-condition photo survey - Highway dilapidation survey
- Number (daily/weekly) and size of delivery vehicles.
- Number of staff vehicle movements.

xiii. In addition, the Plan shall provide details of the ecological avoidance, mitigation and protective measures to be implemented before and during the construction phase, including but not necessarily limited to, the following:

- Pre-development species surveys including but not exclusively roosting bats, otter, water vole and birds.
- Phasing plan for habitat creation and landscape works including advanced planting proposals including pre-development provision of TBMS zones A and B and predevelopment provision of hedgerow mitigation/ translocation along Firs Hill A361.
- Identification of ecological protection areas/buffer zones and tree root protection areas and details of physical means of protection, e.g. protection fencing.
- Working method statements for protected/priority species, such as nesting birds, reptiles, amphibians, roosting bats, otter, water vole, badger and dormice.
- 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.
- Key personnel, responsibilities and contact details (including Site Manager and ecologist/ECoW).
- Timeframe for provision of compliance report to the local planning authority; to be completed by the ecologist/ECoW and to include photographic evidence.

xiv. Details of safeguarding measures for the Kennet & Avon Canal including excavation, earth movement and foundations, piling risk assessments and method statements.

There shall be no burning undertaken on site at any time.

Construction and demolition hours shall be limited to 0800 to 1800 hrs Monday to Friday, 0800 to 1300 hrs Saturday and no working on Sundays or Bank Holidays.

The development shall subsequently be implemented in accordance with the approved details of the CEMP.

REASON: To minimise detrimental effects to the neighbouring amenities, the amenities of the area in general, detriment to the natural environment through the risks of pollution, dangers to highway safety and to prevent damage and pollution to the Kennet & Avon Canal, during the construction phase and in compliance with Core Strategy Policy 62.

**INFORMATIVE TO APPLICANT:**

The applicant is advised to take account of the comments from the Wiltshire Council Ecologist to the Local Planning Authority dated 30th November 2023 when updating the CEMP document.

- 9 Prior to the start of construction, a Landscape and Ecology Management Plan (LEMP) shall be submitted to and approved in writing by the Local Planning Authority. 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 the 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 and funding 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.

**INFORMATIVE TO APPLICANT:**

The applicant is advised to take account of the comments from the Wiltshire Council Ecologist to the Local Planning Authority dated 30th November 2023 when updating the CEMP document.

- 10 No development shall commence on site until a final drainage strategy incorporating sustainable drainage details has been submitted to and approved in writing by the Local Planning Authority. The development shall not be first occupied until the drainage strategy has been constructed in accordance with the approved details.

**REASON:** To ensure that surface water runoff from the site can be adequately drained with no flooding on site for a 1 in 100 year plus climate change rainfall event, to ensure that the flood risk from all sources will be managed without increasing flood risk to the development itself or elsewhere and to ensure the development will have an acceptable impact on the integrity of the Kennet and Avon Canal waterway structure and its water quality.

**INFORMATIVE TO APPLICANT:**

The details within the strategy should address the comments contained within the Lead Local Flood Authority's consultation response letter to the Local Planning Authority dated 23rd December 2022 and those of the Canal & Riverside Trust in their letter to the LPA dated 16th December 2022.

- 11 Prior to commencement of development a walking and cycling movement framework plan shall be submitted to and approved by the Local Planning Authority. The walking and cycling movement framework plan shall include full details of route design, construction and material treatment, with all cycle and pedestrian routes complying with current national and local guidance as appropriate. All routes shall be designed to accommodate all abilities, with change of level, including steep ramps or steps avoided unless agreed by the Local Planning Authority. The walking and cycling movement routes, as identified in the approved plan, shall be completed in all respects in accordance with the approved plan and maintained as such thereafter prior to first occupation.

**REASON:** To ensure safe and convenient walking and cycling routes to the site are provided in the interests of highway safety and sustainability in compliance with Core Strategy Policy 60, 61 and 62.

- 12 No development shall commence on site until a strategy for Electric Vehicle charging points has been submitted to and approved by the Local Planning Authority. The strategy shall seek to avoid delivering dwellings that may not be directly served by a charging point. Prior to first occupation

of each individual dwelling unit allocated a charging point, the dwellings charging point shall be made operational and ready for use.

REASON: In the interests of mitigating the impact of the development on the environment in accordance with Core Policy 60(vi).

- 13 The dwellings shall be constructed to meet as a minimum the higher Building Regulation standard Part G for water consumption limited to 110 litres per person per day using the fittings approach.

REASON: The site is in an area of serious water stress requiring water efficiency opportunities to be maximised, to mitigate the impacts of climate change in the interests of sustainability, and to use natural resources prudently in accordance with the National Planning Policy Framework.

INFORMATIVE TO APPLICANT:

The development should include water-efficient systems and fittings. These should include dual-flush toilets, water butts, water-saving taps, showers and baths, and appliances with the highest water efficiency rating (as a minimum). Greywater recycling and rainwater harvesting should be considered.

- 14 No new signage or wayfinding shall be erected until details have been submitted to and approved in writing by the Local Planning Authority. Development shall be carried out in accordance with the approved details.

REASON: In the interests of the visual amenities of the area, preserving the character, appearance and setting of heritage assets subject to and/or affected by this proposal, and in the interests of promoting active travel.

- 15 Prior to occupation of the flexible commercial unit, a schedule of opening hours shall be submitted to and approved in writing by the Local Planning Authority. The unit shall be operated in accordance with the approved schedule of opening hours.

REASON: To ensure the creation/retention of an environment free from intrusive levels of noise and activity in the interests of the amenity of the area.

- 16 Prior to use commencing in any non-residential building that requires mechanical air extraction or ventilation systems, a scheme of works for the control and dispersal of any atmospheric emissions from them, including odours, fumes, smoke & other particulates, shall be submitted to and approved in writing by the Local Planning Authority. The works detailed in the approved scheme shall be installed in their entirety before the operation of the use hereby permitted. The equipment shall thereafter be maintained in accordance with the manufacturer's instructions for the lifetime of the development.

The scheme must include full technical details and a risk assessment in accordance with Appendix 2 and 3 respectively of the EMAQ "Control of odour and noise from commercial kitchen exhaust systems" Guidance (Gibson, 2018).

REASON: To ensure the creation/retention of an environment free from intrusive levels of noise and activity in the interests of the amenity of the area.

**INFORMATIVE:**

In discharging this condition we recommend the applicant ensures that the ventilation system discharges vertically at a height of at least 1m above the heights of any nearby sensitive buildings or uses and not less than 1m above the eaves.

- 17 No works shall be undertaken to the existing accesses unless full construction details have been submitted to and approved in writing by the local planning authority. Prior to first occupation, any proposed works to the accesses shall be completed in all respects in accordance with the approved details and maintained as such thereafter.

**REASON:** To ensure a safe and sufficient vehicular access is provided in the interests of highway safety and in compliance with Core Strategy Policy 60, 61 and 62.

- 18 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 have been submitted to and approved in writing by the Local Planning Authority. The plans will be 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), and Guidance note GN08-18 "Bats and artificial lighting in the UK", issued by the Bat Conservation Trust and Institution of Lighting Professionals.

The approved lighting shall be installed and maintained in accordance with the approved details and no additional external lighting shall be installed.

**REASON:** In the interests of the amenities of the area, the character, setting and appearance of the heritage assets, to minimise unnecessary light spillage above and outside the development site and to ensure lighting will not have an adverse impact on ecology and the Kennet & Avon Canal.

- 19 Deliveries and collections for the flexible commercial unit shall be restricted to 08:00 – 21:00 Monday to Sunday (including Bank Holidays). No deliveries or collections shall take place outside of these hours.

**REASON:** To ensure the creation/retention of an environment free from intrusive levels of noise and activity in the interests of the amenity of the area.

- 20 The first reserved matters application will include a revised Biodiversity Metric Calculation in accordance with the Green Infrastructure and Ecology Parameters Plan (Drg Ref: DH- XX - ZZ - DR – 1150 Rev P3) using the latest calculation methodology and recalculated to reflect the details of the reserved matters application. The calculation will be supported by a revised plan for Habitat creation and enhancements demonstrating the extent and area of each habitat in ha / m2. Accurate development boundaries will be overlaid on the plan to allow accurate scaling and location of mitigation measures. The calculation will demonstrate for both habitats and hedgerows that the development will achieve 100% mitigation (i.e. no net loss) for land lost to development. Development shall be carried out in accordance with the approved details.

**REASON:** To comply with Core Policy 50 of the Wiltshire Core Strategy which requires no net loss of biodiversity and paragraph 180 d) of the National Planning Policy Framework which seeks to secure net gains for biodiversity to enhance the natural and local environment.



21 No reserved matters application will be determined until an updated Bat Survey (including hibernation studies) and Assessment Report has been submitted to and approved in writing by the local planning authority. The report shall contain details of updated survey work to establish the current status of the site for roosting bats, as well as an updated assessment of the development on bats and all necessary mitigation measures.

REASON: To ensure the development incorporates appropriate and up-to-date mitigation for protected species.

22 The development shall be carried out in strict accordance with Section 5 of the Wildwood Ecology Ecological Impact Statement (dated September 2023) and Table 6.1 and 6.2 of the JH Ecology Ecological Impact Assessment (Document ref: 21/1437).

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

23 The development hereby permitted shall not be first occupied until cycle parking and bin storage facilities have been provided in full and made available for use in accordance with details to be submitted to and approved in writing by the Local Planning Authority. The cycle parking and bin storage facilities shall be retained for use at all times thereafter.

REASON: To ensure that satisfactory facilities for the parking of cycles and storage of waste are provided and to encourage travel by means other than the private car.

24 No dwelling shall be occupied until the parking spaces together with the access thereto, have been provided in accordance with the approved plans.

REASON: In the interests of highway safety and the amenity of future occupants.

Informatives: (5)

25 REFERENCE TO SECTION 106 AGREEMENT:  
This permission shall be read in conjunction with an Agreement made under Section 106 of the Town and Country Planning Act, 1990 and dated the \*\*/\*\*/\*\*\*\*.

26 COMMUNITY INFRASTRUCTURE LEVY (CIL):  
The applicant is advised that the development hereby approved may represent chargeable development under the Community Infrastructure Levy Regulations 2010 (as amended) and Wiltshire Council's CIL Charging Schedule. If the development is determined to be liable for CIL, a Liability Notice will be issued notifying you of the amount of CIL payment due. If an Additional Information Form has not already been submitted, please submit it now so that we can determine the CIL liability. In addition, you may be able to claim exemption or relief, in which case, please submit the relevant form so that we can determine your eligibility. The CIL Commencement Notice and Assumption of Liability must be submitted to Wiltshire Council prior to commencement of development. Should development commence prior to the CIL Liability Notice being issued by the local planning authority, any CIL exemption or relief will not apply and full payment will be required

in full and with immediate effect. Should you require further information or to download the CIL forms please refer to the Council's Website <https://www.wiltshire.gov.uk/dmcommunityinfrastructurelevy>.

27 MATERIALS AND ARCHITECTURAL DETAILS:

Core Policy 57 point xii. requires the use of a high standard of building materials and finishes in all new developments. The site in question forms a key part of the Devizes Wharf regeneration project and contains as well as adjoins a number of heritage assets. As a result of this, the applicant is advised that the local planning authority would expect to see details of all external materials as well as large-scale details of architectural features including parapets, windows, (including elevations and sections of the windows, head, sill and window reveal details), external doors, vents and extracts, rainwater goods submitted as part of a reserved matter 'appearance'.

28 EUROPEAN PROTECTED SPECIES LICENSE REQUIRED:

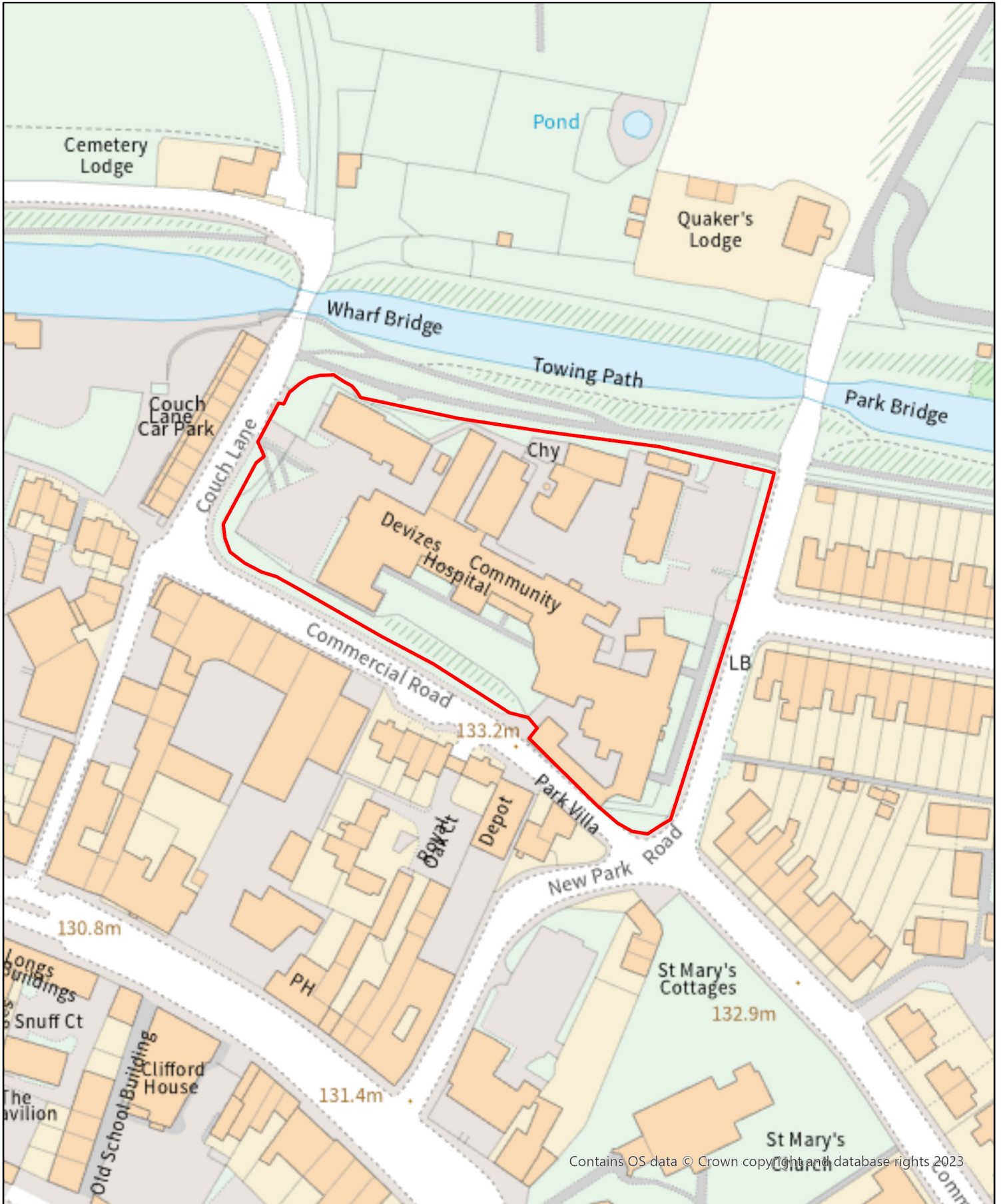
Under the Conservation of Habitats and Species Regulations 2017, it is an offence to harm or disturb bats or damage or destroy their roosts.

Planning permission for development does not provide a defence against prosecution under this legislation. The applicant is advised that a European Protected Species Licence will be required before any work is undertaken to implement this planning permission.

29 CANAL AND RIVERSIDE TRUST:

The applicant's attention is drawn to the comments from the Canal & Riverside Trust in its letter to the Local Planning Authority dated 16th December 2022. Notably that:

- A canalside landscaping and boundary treatments scheme shall be included in the reserved matters submissions. The scheme shall indicate the size, species and spacing of planting, the areas to be grassed, and the treatment of hard surfaced areas. No trees shall be planted within 5 metres of the waterway; and that,
- The applicant is advised to contact David Wilson, Works Engineer by email to [Enquiries.TPWSouth@canalrivertrust.org.uk](mailto:Enquiries.TPWSouth@canalrivertrust.org.uk) to discuss which elements of the proposal should comply with the Canal & River Trusts 'Code of Practice for works affecting the Canal & River Trust'.



Contains OS data © Crown copyright and database rights 2023



This page is intentionally left blank

## REPORT TO EASTERN AREA PLANNING COMMITTEE

Report No.

<b>Date of Meeting</b>	25 <sup>th</sup> January 2024
<b>Application Number</b>	PL/2023/07628
<b>Site Address</b>	Park House, Clench Common, Marlborough, SN8 4DU
<b>Proposal</b>	A single new sustainable development dwelling at the land behind Park House. Proposed access via approved planning application (PL/2022/08144) for proposed stables and access. A custom build for a 3 bedroom with 2 parking bays.
<b>Applicant</b>	Mr Nick Herridge
<b>Town/Parish Council</b>	FYFIELD AND WEST OVERTON
<b>Electoral Division</b>	Marlborough West
<b>Grid Ref</b>	53.593639, -5.551065
<b>Type of application</b>	Full Planning
<b>Case Officer</b>	Meredith Baker

### Reason for the application being considered by Committee

This application has been brought before the Committee at the request of Councillor Jane Davis should the application be recommended for refusal, on the basis a debate about the sustainability of the location of the development occurs.

#### 1. Purpose of Report

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

#### 2. Report Summary

The proposed development would result in the erection of one dwelling outside the recognised Limits of Development in conflict with the Settlement Strategy for Wiltshire as set out in Core Policy 1 and Core Policy 2 of the Wiltshire Core Strategy and is furthermore considered an isolated home contrary to the aims and commentary within Paragraph 84 of the National Planning Policy Framework (NPPF). The harm of the proposed development would significantly and demonstrably outweigh its benefits when assessed against the NPPF.

It is also deemed that by reason of its siting, design and arrangement of the proposal, the development would be harmful to the visual amenities of the area and to landscape character. Furthermore, the proposal would be introducing new built form with a new orientation which is not following the existing form of the area in the special rural landscape of the North Wessex Downs National Landscape and would not enhance or preserve the special rural character or appearance of the designation. As such the development is considered contrary to Core Policies 51 and 57 of the Wiltshire Core Strategy and the NPPF.

The development furthermore seeks to use an unsafe access onto the public highway which is considered substandard for an increased/residential use and would be harmful to highway safety. The access proposed would result in vehicles accessing the highway in close proximity

to a bend in the road with unsatisfactory visibility splays. This use of this vehicular access for the residential use associated with the proposed development is therefore considered to give rise to unacceptable highway safety issues and would be contrary to Core Policies 57 and 61 and the NPPF.

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

### 3. Site Description

The application site comprises the rear portion of the existing residential plot of Park House. The land is currently being used as residential garden and has several mature trees. The application site is located in a rural area, with the cluster of buildings forming Clench Common to the northeast. The site is washed over by the North Wessex Downs National Landscape.

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



### 4. Relevant Planning History

PL/2023/02983 – Proposed dwelling on land behind Park House with proposed access via approved planning application (PL/2022/08144) – Withdrawn 02.06.2023

PL/2022/08144 – Erection of timber stables on a concrete pad with an area of hardstanding. Improvement to field access – Granted 13.12.2022

## 5. The Proposal

The application seeks planning permission for the erection of a new, two-storey, three-bedroomed property with associated hardstanding within the rear garden of the existing dwelling of Park House. The dwelling would be a 'H' shape with a mix of two storey and single storey elements. The proposed external materials would comprise oak weatherboard cladding walls on a brick plinth, with sections of the brickwork extending the full ground floor height, and Phalempin red handmade roof tiles (in Val de Seine (104) colouring).

*Proposed scheme:*



East Elevation



West Elevation



North Elevation



South Elevation

## **6. Planning Policy**

### National Planning Policy Framework (NPPF) (2023)

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

Planning Practice Guidance (PPG)  
National Design Guidance

### Wiltshire Core Strategy (WCS):

Core Policy 1: Settlement Strategy  
Core Policy 2: Delivery Strategy  
Core Policy 14: Marlborough Community Area  
Core Policy 41: Sustainable Construction and Low Carbon Energy  
Core Policy 44: Rural Exceptions Sites  
Core Policy 45: Meeting Wiltshire's Housing Needs  
Core Policy 48: Supporting Rural Life  
Core Policy 50: Biodiversity and Geodiversity  
Core Policy 51: Landscape  
Core Policy 57: Ensuring High-Quality Design and Place-Shaping  
Core Policy 60: Sustainable Transport  
Core Policy 61: Transport and Development  
Core Policy 62: Development Impacts on the Transport Network  
Core Policy 64: Demand Management

### Other Documents and Guidance

Waste Storage and Collection: Guidance for Developers  
Revised Wiltshire Planning Obligations Supplementary Planning Document (October 2016)  
Wiltshire Local Transport Plan 2011 – 2026 – Car Parking Strategy (March 2011)  
North Wessex Downs Area of Outstanding Natural Beauty Management Plan 2019-2024  
Wiltshire Character Assessment

## **7. Consultation responses**

Fyfield and West Overton Parish Council: "Support."

Ecology Officer: No objection subject to conditions.

Highway Officer: Objection.

## **8. Publicity**

The application has been advertised by letter to local residents and by site notice. Two third party representations have been received in support of the application. One representation



outlining that they consider the eco proposal submitted would be a benefit and would enhance the area.

## **9. Planning Considerations**

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

### Principle of Development

- Wiltshire Core Strategy (WCS)

Core Policy 1 'Settlement Strategy' of the WCS outlines a settlement strategy which identifies the settlements where sustainable development will take place to improve the lives of all those who live and work in Wiltshire. Core Policy 2 'Delivery Strategy' of the WCS outlines there is a presumption in favour of sustainable development at the Principal Settlements, Market Towns, Local Service Centres and Large Villages and development should be restricted to within the limits of development other than in exceptional circumstances (in circumstances as permitted by other policies within this plan, identified in paragraph 4.25).

The site lies within the open countryside and is not part of any built-up settlement.

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

### National Planning Policy Framework

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

For rural housing, paragraphs 82-84 of the NPPF are the most relevant to the consideration of this proposal for a new dwelling. Paragraph 83 of the NPPF states that to promote sustainable development in rural areas, housing should be located where it will enhance or maintain the viability of rural communities. Furthermore, Paragraph 84 of the NPPF states that planning decisions should avoid development of isolated homes in the countryside unless one or more of the following circumstances apply:

- a) there is an essential need for a rural worker, including those taking majority control of a farm business, to live permanently at or near their place of work in the countryside;
- b) the development would represent the optimal viable use of a heritage asset or would be appropriate enabling development to secure the future of heritage assets;

- c) the development would re-use redundant or disused buildings and enhance its immediate setting;
- d) the development would involve the subdivision of an existing residential building; or
- e) the design is of exceptional quality, in that it:
  - is truly outstanding, reflecting the highest standards in architecture, and would help to raise standards of design more generally in rural areas; and
  - would significantly enhance its immediate setting, and be sensitive to the defining characteristics of the local area.

In addressing the proposed development, the first consideration is whether the site is in an isolated location. The NPPF does not provide a definition of what constitutes 'isolated' development. Therefore, in considering whether or not the current application site is 'isolated', reference has been given to case law. *Braintree DC v SSCLG* [2018] Civ 610 ('the Braintree case') considered the assessment of isolation. The term 'isolated' was considered by the Court of Appeal who upheld a High Court decision that concluded the word 'isolated' should be given its ordinary meaning as being 'far away from other places, buildings and people; remote'. Lindblom LJ held that, in the context of paragraph 55 of the previous NPPF (2012) (now paragraph 84 in the NPPF 2023), 'isolated' simply connotes a dwelling that is physically separate or remote from a settlement. Whether, in a particular case, a group of dwellings constitutes a settlement, or a 'village', for the purposes of the policy will again be a matter of fact and planning judgment for the decision-maker. The Court rejected the argument that the word 'isolated' as set out within the NPPF could have a dual meaning, being physically isolated or functionally isolated (isolated from services and facilities).

In applying the guidance to the current case, the proposed development is situated outside of the hamlet of Clench Common which is situated to the north-east. This has been agreed by the agent whereby within the Planning Statement it outlines within the location section that 'the application relates to land at the above address, sited outside of the village of Clench Common, close to the town of Marlborough, Wiltshire.'

Whilst acknowledging that Clench Common is not a dense settlement, the main form lies around the junction between the A345 and the public highway which goes to the south east. The application site would be in excess of 750m from this meaningful collection of dwellings that forms Clench Common. Whilst there are dwellings in the wider locality, there are sporadic in nature and would not be visually connected to the application site. The site is situated in close proximity to the existing dwelling (Park House) and Park Farm Bungalow, together with the agricultural buildings. Whilst these buildings are noted, they (and other sporadically located dwellings in the area), would not form a group of houses or a meaningful collection of dwellings as you would expect in places such as a hamlet, village or settlement. There is a visual and physical separation from the nearest settlement and as such, the application site is considered to be isolated and would not contribute to the enhancement or maintenance of a viable rural community. It is noted that a permission in principle application was granted permission at appeal under reference 20/04621/PIP, whereby the inspector concluded that the site was not isolated given its proximity to other properties. This is a material difference to this application being assessed, whereby the PIP application was within the meaningful collection of dwellings forming Clench Common (just south of the junction with the A345) whereby this dwelling would be visually and physically separated from the settlement and is considered isolated.

In turn, this isolated siting is considered to be contrary to guidance contained within the NPPF, notably paragraph 84. Whilst paragraph 84 does allow isolated dwellings in certain circumstances, it is not considered that this dwelling would accord with any of these criteria. Namely that the proposal is not for a rural worker, enabling development, re-use of a redundant/disused building or subdivision of an existing dwelling. In relation to criterion e)

which refers to design of exceptional quality, this will be addressed further within the character of the area section below however is also not considered to fall under this criterion.

- Sustainable development

Core Policies 1 and 2 of the Core Strategy identifies areas of where sustainable development will take place to improve the lives of all those who live and work in Wiltshire. This approach is to provide the sustainable development, in particular due to the intention to reduce the need to travel (an approach agreed by Planning Inspectors such as within APP/Y3940/W/21/3280947).

It is noted that the site is located within an area with very limited services and facilities. As assessed previously the application site is isolated and is visually and physically separated from a settlement. The closest 'settlement' is Clench Common, which is not formally designated as a settlement within the Core Strategy. Clench Common has no services or facilities for daily living and thus travel to other settlements is required (such as for schools, shops, amenity areas or places of worship etc.) It would be expected that occupants would go to Marlborough or Pewsey for these services and facilities (though Oare does have very limited services and facilities such as a primary school and church). Given the distances to these settlements and the nature of the routes (which will be commented upon below) it is not considered that the application site is in a sustainable location.

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

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

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

Cycling has the potential to be a viable substitute to car trips of up to 5km. Average speeds are thought to be ~24 kmh. In this regard Pewsey is beyond 5km when using the A435 whereby Marlborough and Oare would just be within the 5km distance. Whilst the distance to Marlborough and Oare are noted, given the nature of the highway of the roads, and notably the A345 which would need to be utilised, this is not considered suitable for the majority of cyclists. The A345 is unlit and primarily at the national speed limit, which would deter all but the most experienced of cyclists.

In relation to bus stops, the closest to the site would be on the A345 circa 0.6 miles away. Whilst the bus stop is noted, the route to this is not a convenient with no immediate pavements outside the site and lighting etc. As such this bus stop is not considered to mitigate the concerns over the siting of the dwellings and there would be an overreliance of the use of a private car for future occupants.

This assessment is similar to that made for the PIP application (reference 20/04651/PIP) which also assessed that a dwelling within the meaningful collection of buildings forming Clench Common was unsustainable in siting as "the roads near the site are generally unlit rural lanes with no footpaths, in some instances where the shape of the road limits forward visibility. These circumstances do not lend themselves to a safe use by pedestrians and would be

unlikely to encourage cycling to the services and facilities, in particular at times of darkness or adverse weather conditions.... The site is poorly located in terms of access to services and facilities by modest of transport other than by private motor vehicle and there would be a high degree of dependence on travel by car.” It is acknowledged that under this appeal, the inspector did note that the NPPF acknowledges that opportunities to maximise sustainable transport solutions will vary between urban and rural areas and that development in one village may support services in a village nearby. In this regard the current application is a materially different scenario as the application site is isolated from the built-up area of Clench Common so does not form part of the ‘village’ whereby under Paragraph 83 of the NPPF it states “to promote sustainable development in rural areas, housing should be located where it will enhance or maintain the vitality of rural communities... Where there are groups of smaller settlements, development in one village [*officer emphasis*] may support services in a village nearby.

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

In particular under Section 9 of the NPPF promotion of sustainable transport is sought. Within paragraph 114 it outlines that applications for development should ensure that appropriate opportunities to promote sustainable transport modes can be taken up. Given the reliance of the use of a private car as above, the proposal is considered contrary to this part of the NPPF and the environmental objective of the NPPF under paragraph 8 which outlines:

- c) an environmental objective – to contribute to protecting and enhancing our natural, built and historic environment; including effective use of land, helping to improve biodiversity, using natural resources prudently, minimising waste and pollution, and mitigating and adapting to climate change including **moving to a low carbon economy** [*officer emphasis*].

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

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

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

Climate Strategy 2022-2027 and outlines that the proposal would be a low-impact carbon building and would utilise photovoltaics (eight on the southern elevation). Furthermore, it is outlined that the building construction would contain embodied energy, use off-grid energy and drainage solutions and would harvest water. As the application is only for one dwelling and is isolated in nature and would have a strong reliance on the private motor vehicle, the environmental role of the development, including the fact it is 'eco' is considered to be limited.

- Summary on the principle of development

The principle of the proposed development would be contrary to the Development Plan, notably Core Strategy 1, 2 and 14. The updated version of the NPPF with amended provisions in relation to the requirements for demonstration of five-year housing land supply has no bearing on this.

In having regard to the NPPF, particularly paragraph 8 in relation to sustainable development and paragraphs 83 and 84 in regard to Rural Housing, the application site is considered to be isolated in siting and unsustainable and thus would not accord with the aims within the NPPF.

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

### Design and Visual Impact

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

The application site is located within a rural location and is situated within the North Wessex Downs Area National Landscape, within which there is a duty to have regard to the purpose of conserving and enhancing natural beauty.

The application site is the rear part of the existing garden of Park House and therefore would not involve any adverse change of use of land from agricultural to residential. Consideration has first been afforded to the proposed plot and the remaining plot for the existing dwelling of Park House. The surrounding area is generally characterised by detached dwellings within large and spacious plots and of a low density. The proposed development seeks to divide the existing garden to form two residential plots and is a form of 'back land' development, which in turn substantially reduces the space around the existing dwelling of Park House. Whilst the plots are not adversely small in nature overall, the depth of the 'rear garden' to the existing dwelling of Park House is not considered in-keeping with the general pattern of development whereby there is ample space around the rural properties. The 'private' rear portion of the garden of Park House would only be circa 8m which appears out of keeping with low density nature of the rural locality. This arrangement, due to the division in close proximity to the existing house of Park House is not considered of high-quality design which is in-keeping with the general character of the area where dwellings are situated within spacious plots. The proposal would also result in additional large built form and consolidation of this part of the rural area.

Secondly, attention has been afforded towards the proposed dwelling and its impacts upon the visual amenity of the area and its design. The proposed scale of the dwelling is considered large by reason of its height and footprint however, is not out of keeping with the locality whereby the sporadic dwellings are of various scales and the existing Park House is of a similar/larger footprint and is also two storey in nature. In relation to the design of the dwelling,

the red brick and timber clad walls with roof tiles is considered acceptable and would not be harmful to the general character and appearance of the area (considered in isolation from other matters addressed below). It is claimed within the Sustainable Development Supporting Planning Statement that the NPPF gives weight to outstanding or innovative design (assuming in relation to Paragraph 84). In this regard, whilst an 'eco' home in relation to its construction, the design is not of exceptional quality that it reflects highest standards in architecture and would help raise standards of design more generally in rural area or would significantly enhance its immediate setting, and be sensitive to the defining characteristics of the local area. The 'eco' nature is of a desired design, and the external appearance is typical of a new dwelling and does not have a level of cluttered appearance due to the mixed nature of single storey, one and a half and two storey additions. As such the design is not considered to be of exceptional quality under this part of the NPPF however, the design itself is not considered harmful or of low-quality.

Whilst the scale and design of the dwelling is considered acceptable when noting the surrounding sporadic properties, it is considered that the provision of a dwelling in this location, together with the access and the dwelling's orientation would be harmful to the rural character of the area and street scene. Whilst situated within an existing residential garden, the orientation of the dwelling would bring a new dwelling with a frontage over open fields to the east. The existing dwelling of Park House is appropriately orientated to the public highway, which somewhat contains the views over the landscape within the National Landscape. The new dwelling is proposed to not relate to the public highway network and would be orientated to the landscape. Although it is acknowledged that there are mature trees which are to remain on site which would screen some views of the dwelling, views over the fields (from the public highway, in particular close to the junction of the A345) would likely still be afforded to the new dwelling, including through the new access point through the existing residential boundary). Furthermore, as these trees are not protected by way of tree preservation orders they could be removed at any point. The orientation of the dwelling, together with the siting and arrangement is therefore considered not to conserve or enhance the character and the local distinctiveness of the landscape and would be harmful to the landscape character and the special rural characteristics of the North Wessex Downs National Landscape.

In summary, whilst the detailed design and scale are not wholly unacceptable, the presence of a dwelling in this particular location together with its orientation and arrangement, is considered to be harmful to the visual amenities and landscape character of the area and the special qualities of the North Wessex Downs National Landscape. As such the proposal would not be sympathetic, nor would it enhance the character or amenity of the area and cannot be successfully integrated within the landscape and surrounds. The proposed development is therefore contrary to the National Planning Policy Framework (2023), Core Policies 51 and 57 of the Wilshire Core Strategy

#### Residential Amenity

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

- Amenity of future occupants

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

It is noted that the existing amenity space for the existing dwelling of Park House would be substantially reduced as a result of this proposal. Whilst as explored previously this arrangement is considered out of keeping with the character of the area, is not considered

harmful to the amenity of the occupants of Park House. There would still be adequate space for private enjoyment.

- Residential Amenity

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

The nearest residential unit would be the existing dwelling on site which would be circa 15m away from the proposed dwelling. Given the siting off the proposed shared boundary and intervening distance it is considered that the proposal would not give rise to any unacceptable impacts in terms of overbearing effect or loss of outlook. Whilst some overshadowing would occur to the existing dwelling and the remaining amenity space, given the siting off the boundary and orientation, the overshadowing would not be so significantly adverse as to warrant an objection.

With regard to openings, there would be a form of first floor opening in the northern elevation which would face the existing dwelling and its retained amenity space. Although this opening is noted, it serves the landing area and not a habitable room. Due to the nature of the space, whereby it is a travelling space rather than an area for social congregation, it is not deemed that this opening would give rise to unacceptable overlooking or loss of privacy. There would also be views afforded from the east and west elevation towards the existing dwelling however, the views would be oblique in nature and thus not considered harmful in nature.

In considering the impacts upon other dwellings in the area, given the intervening distance and orientation the proposal would not give rise to any adverse impacts upon amenity. Park Farm Bungalow is circa 47m away (and has no shared boundary) and Dog House to the south west is in excess of 200m away over the adjacent agricultural fields. As such there would be no adverse impacts upon neighbouring amenity from the proposed development.

### Highways

- Locational sustainability

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

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

- Access and Parking

The proposal comprises a single, three-bedroomed dwelling which would utilise an approved access point under planning reference PL/2022/08144 for an equestrian use. Firstly, the parking provision has been considered, and under the Wiltshire Local Transport Plan 2011 – 2026 – Car Parking Strategy (March 2011) a three bedroomed dwelling is expected to provide a minimum of two parking spaces on site. In this respect, hardstanding is proposed to be laid to the north east corner of the dwelling, and as demonstrated on the site plan would be for the parking of two cars. Additional space is also provided which could allow vehicles to turn on site and exit the site in a forward gear. An EV Car Charging Point is also indicated on the proposed site plan. Given that two parking spaces are provided, together with some space to

turn on site, it is considered that there is adequate parking provision on site and no objection is raised in this regard.

Attention is now afforded towards the proposed access. As previously outlined, the access would be utilising a previously approved, but not yet implemented in full, access point under planning reference PL/2022/08144. It must however be noted that this access was only permitted on the basis of an agricultural/equestrian use, and the use for residential means is considered a material change. In particular the comings and goings would be materially different to that previously approved, noting that the stables permitted as for the owners of Park House only – and controlled as such under Condition 5 of PL/2022/08144 which the reason for the condition stating “any commercial use of the track or building would give rise to fresh planning considerations, including traffic generation and the potential impact on the amenity of nearby properties and the rural character of the site within the North Wessex Downs AONB.”.

Under the previous application the Local Highway Officer reviewed the application and stated that the access is poorly located close to the bend of the highway with restricted visibility. Whilst acknowledging it was an existing field access (for agricultural means) equestrian activity could see a large increase in vehicle movements. Whilst noted that it is was an existing access, the equestrian use was considered acceptable on balance as the applicants live next door, so the daily movements for personal equestrian care would not result in daily vehicle movements through the highway access, and thus would not be a significant highway safety concern beyond the agricultural situation.

In comparison, the proposed development is introducing a new use for the access point whereby daily movements are expected, and would be a significant increase in movements beyond an ad hoc equestrian and agricultural use (in particular given the stables are restricted by condition to remain in the ownership of Park House). The Local Highway Officer has reviewed the current application and has objected on the basis of increased vehicular movements through an unsuitable access (due to the poor visibility). The permitted access was only deemed acceptable on the basis of a very low level of vehicular movements. The vehicular access is considered substandard for the vehicle movements associated with a new dwelling, and given the poor visibility on a highway bend, would give rise to adverse harm to highway safety. It is not considered that any conditions could be imposed to overcome the concern given the unacceptable location and geometry of the access point on the highway bend.

It is therefore considered that the proposed vehicular access would be unacceptable for the residential dwelling and would give rise to adverse highway safety impact as a result of its siting. A refusal reason is therefore recommended in relation to the highway safety.

### Ecology

Core Policy 50 to the WCS seeks to conserve and enhance biodiversity. The application was supported by a Preliminary Ecological Appraisal which has been reviewed by the Council's Ecology Officer.

The contents of the report were agreed by the Ecology Officer, who is satisfied that they have followed best practice guidance. The report contained mitigation measures to be implemented during construction to protect the sensitive ecological features on the site. It was considered that the mitigation measures could be controlled as part of the recommended Construction and Environmental Management Plan.

Inclusion of biodiversity enhancement measures in the form of integrated bat, bird and bee boxes was welcomed by the Ecology Officer. It was therefore recommended that a condition



is imposed that the exact positioning of these features on the building is controlled by way of condition. The locations of the features should be guided by a professional ecologist and the enhancements remain available for the targeted species for the lifetime of the development.

In this instance the proposal was being recommended for approval, these conditions would have been deemed reasonable and necessary in the interest of biodiversity. Furthermore, the recommended informatives would have been imposed and a condition preventing any external lighting on site. With these conditions, the application would have been considered acceptable in terms of ecology in accordance with Core Policy 50 and guidance contained within the NPPF.

### Trees

The application site has a large number of mature trees and vegetation and these trees are not protected by being covered by tree preservation orders or by being situated within a Conservation Area. The application has therefore been supported by an Arboricultural Survey & Report. This report confirms that five trees would be removed on site which include four classified as 'C' and one classified as 'U'. The removal of the trees outlined would allow the dwelling to be on site as well as the removal of trees to allow the new access from the previously approved track. The report outlines that a 'no dig' driveway would be required to the east of the site and other mitigation measures proposed including protective fencing during construction works, no storage of materials within the root protection areas and the planting of five new trees on site to replace those felled to facilitate the development. The tree protection measures are outlined on the submitted site plan.

Due to the unprotected nature of the trees, the loss of the trees, whilst undesirable, is not objected to. The contents of the tree report are acceptable, and with the protection of the remaining trees on site (whereby a condition would have been recommended that the works accord with the tree report and the site plan) the proposal is acceptable in terms of its impacts upon trees on balance. It is noted that the replacement planting of trees has not been identified on the site plan submitted and thus if the application was recommended for approval a condition would be sought for proposed landscaping on site to control the planting of the replacement trees.

### S106 contributions/CIL

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

### Conclusion/Planning Balance

The site falls within the 'open countryside' and does not apply with Core Policies 1 and 2. The proposal does not fall within any of the WCS exception policies. The proposed site is located within the North Wessex Downs National Landscape which is a protected area. As assessed in above in this report, it has been identified that harm would be caused to the character and appearance of the National Landscape through the isolated positioning, siting, orientation and arrangement of the development, along with the unacceptable highway safety impacts.

It is noted that the dwelling is proposed to be 'eco' in nature and would incorporate sustainable construction measures. There would also be a limited social and economic benefit resulting from the construction of the new property and its subsequent occupation, as noted within the principle of development section of this report.

Notwithstanding the benefits identified, the identified harm of the proposed development significantly and demonstrably outweighs those benefits. In conclusion, taking all material planning considerations into account, the development is not considered to represent

sustainable development as required by Paragraph 11 of the NPPF. The application is therefore recommended for refusal.

**RECOMMENDATION:**

That planning permission be REFUSED for the following reasons:

1. The proposed development is located outside of the defined limits of development and within the 'open countryside.' The open countryside siting would not provide a suitable location for housing as it would conflict with the residential development strategy under Core Policies 1, 2 and 14 of the Wiltshire Core Strategy and the NPPF (2023). There is no justification for departing from the Development Plan Policies or any other material considerations to establish the principle of development which would be of sufficient weight to allow for the creation of an additional dwelling on the site.
2. The proposed development would, by reason of its siting, orientation and arrangement, be harmful to the visual amenities of the area, the landscape character and the special qualities of the North Wessex Downs National Landscape. As such, the proposal would not be sympathetic to nor would it enhance the character and visual amenity of the landscape, and it could not be successfully integrated within the landscape. The proposed development is therefore contrary to the National Planning Policy Framework (2023) and Core Policies 51 and 57 of the Wiltshire Core Strategy.
3. The proposed development seeks to use a substandard access onto the public highway with unacceptable visibility splays in close proximity to a bend in the highway. The use of the access for residential purposes associated with the proposed development is considered to give rise to adverse highway safety concerns and would result in inconvenience of the traffic on the highway network. The proposed development would give rise to an unacceptable highway safety situation contrary to Core Policies 57 and 61 of the Wiltshire Core Strategy and the National Planning Policy Framework (2023).
4. The proposed development, by reason of the distance to local services, facilities and amenities, would likely result in heavy reliance on the use of private motor transport for the majority of day-to-day activities, which is in conflict with the principles of sustainable development and the aims of reducing the need to travel, contrary to Core Policies 60 and 61 of the Wiltshire Core Strategy and the National Planning Policy Framework (2023).

## REPORT TO EASTERN AREA PLANNING COMMITTEE

Report No. 4

<b>Date of Meeting</b>	25 January 2024
<b>Application Number</b>	PL/2022/05917
<b>Site Address</b>	19 Manton Hollow, Marlborough, SN8 1RR
<b>Proposal</b>	First floor rear extension
<b>Applicant</b>	Mr & Mrs S & V Crighton
<b>Town/Parish Council</b>	MARLBOROUGH
<b>Electoral Division</b>	Marlborough West
<b>Grid Ref</b>	53.598289, -5.494782
<b>Type of application</b>	Householder Planning Permission
<b>Case Officer</b>	Joe Leesam

### Reason for the application being considered by Committee

This application has been brought before the Committee at the request of Councillor Davies should the application be recommended for approval, on the basis that the proposal is an overdevelopment of the site.

#### 1. Purpose of Report

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

#### 2. Report Summary

The proposed development would involve the replacement of the existing roof with one that has a steeper pitch, along with the erection of a first-floor rear extension.

It is considered that the proposal would not result in any adverse impacts on visual or residential amenity, nor highways, such as to warrant the refusal of planning permission.

It is therefore considered that the proposed development accords with the Development Plan; as such, the application is recommended for approval subject to conditions.

#### 3. Site Description

The application site comprises a single storey bungalow located at the end of a residential street which is made up of a mix of single storey and two storey dwellings. The building is painted brick in a grey colour with double Roman tiled roofing. It is situated on the western edge of the settlement of Marlborough. To the north and east of the site lie other residential properties, to the south lies the A4 (Bath Road), and to the west is an unclassified road (Downs Ln). There is mature foliage on the boundary of the rear garden and to the side of the property which disguises the property's view from these roads. The application site is also washed over by the North Wessex Downs National Landscape.

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



#### 4. Planning History

K/39832 - The erection of a single storey extension to form en-suite bathroom – Approved with Conditions 13/09/2023.

17/08911/FUL - Proposed single storey extension to South & West elevations – Approved with Conditions 07/11/2020.

K/20966 - Loft conversion incorporating dormer window – Approved with Conditions 09/12/1993.

#### 5. The Proposal

Planning permission is sought for the replacement of an existing roof with a steeper-pitched roof and the erection of a first-floor rear extension.

The originally proposed plans involved a similar rear extension without a barn hip, but no raising of the existing roof's ridgeline. Revised plans were requested due to the likely negative impact upon visual amenity that the undisguised rear extension would have imposed upon the street scene. While the new plans incorporate a larger amount of built form added to the property, they ultimately ensure that it retains the appearance of a single storey bungalow.

Proposed scheme:



## 6. Planning Policy

### National Planning Policy Framework (NPPF)

- Section 2 (Achieving sustainable development)
- Section 4 (Decision-making)
- Section 12 (Achieving well-designed places)

- Planning Practice Guidance (PPG)
- National Design Guidance

## Wiltshire Core Strategy (WCS):

Core Policy 14: Marlborough Community Area  
Core Policy 51: Landscape  
Core Policy 57: Ensuring High-Quality Design and Place-Shaping  
Core Policy 62: Development Impacts on the Transport Network

## Other Documents and Guidance

Wiltshire Local Transport Plan 2011 – 2026 – Car Parking Strategy (March 2011)  
Draft Marlborough Area Neighbourhood Plan 2021-2036 – Referendum Version  
The North Wessex Downs Area of Outstanding Natural Beauty Management Plan

## **7. Consultation responses**

### **Original Plans:**

Marlborough Town Council: “At the Planning Committee meeting held 14 August 2023, it was resolved that Marlborough Town Council objects to this application on the grounds of overdevelopment and out-of-scale visual appearance/design”

Highway Officer: “The proposed extension will lead to a property with 5 bedrooms . To meet adopted parking standards there should be adequate space for the parking of 3 cars (spaces to measure 2.4m x 4.8m).

To be satisfied that the requirement can be met the applicant should provide a drawing to show this is achievable.

No part of the approved development shall be occupied until enough space for the parking of 3 vehicles together has been provided in accordance with details submitted to and approved in writing by the Local Planning Authority. The said space shall not be used other than for the parking of vehicles or for the purpose of access.

REASON: To ensure that adequate provision is made for parking within the site in the interests of highway safety.”

### **Revised Plans:**

Marlborough Town Council: “At the Planning Committee meeting held 13 November 2023 it was RESOLVED: that Marlborough Town Council objects to this application on the grounds of overdevelopment and out-of-scale visual appearance/design”

Highway Officer: “I am happy with the revised drawings and parking layout”

## **8. Publicity**

The application has been advertised by letter to local residents. Four third party representations have been received raising concern as follows (in summary):

### **Original Plans:**

- Scale of the proposal is overdevelopment.

- Construction of a roof which is up to 2 metres higher and stretching half the width of the property creates an overwhelming, out of character gable end on the north elevation.
- The front porch may restrict any future scope to improve limited on site parking.
- Concerns regarding the lack of a site notice being posted.
- Consideration and supervision would be important and appreciated with regard to timing deliveries and access to site due to the turning circle serving the whole estate and other major building projects being underway.
- Concerns regarding parking arrangements.
- Objections to velux window on the north aspect of the first-floor extension due to overlooking of number 20.

#### **Revised Plans:**

- Inappropriate scale and proportion for the site and setting.
- Concerns regarding access for construction vehicles.
- Concern regarding loss of daylight for neighbouring properties.
- The description given for the Manton Hollow environment surrounding No. 19 is misleading.
- The original consultees suggested by the applicant were inappropriate and imply that the objections this application would provoke were anticipated.
- There have been several other 1 to 2-storey redevelopments in Manton Hollow but to date but none have provoked the negative neighbour impact this proposal has received.
- A 6-bedroom proposal is out of scale and inappropriate for the location.

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

### **9. Planning Considerations**

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

#### Principle of Development

The proposed plans relate to a 'householder' proposal within the domestic curtilage of the property; namely, a roof replacement and a rear extension. The host dwelling is an unlisted residential property with no Article 4 directions in place to restrict alterations to the dwellinghouse. It is therefore considered that the principle of the roof replacement and rear extension is acceptable subject to other material considerations as assessed below.

## Design and Visual Impact

The main change which will be visible from public vantage points is the raised ridge height for the main body of the dwellinghouse. The ridgeline will remain lower than the highest section of the neighbouring 18 Manton Hollow's roof so the new height of the roof would not appear out of keeping in the street scene. While the immediately adjacent properties present as single storey bungalows, there are many two-storey dwellings and chalet style bungalows in the street and there is a wide variety of styles in the immediate residential area. The neighbouring 18 Manton Hollow was recently the subject of a planning consent for a loft conversion which only added built form to the rear of the property and not to the front. It is recognised that the scale of the neighbouring extension is smaller than the proposed scheme for this application, but the impact upon the street scene is comparable as the host dwelling maintained its appearance as a single storey dwelling from the front. The material difference between the two applications in terms of impact upon the street scene is the raising of the roof pitch and ridge height which has resulted in objections from some neighbouring residents and the parish council due to the works being more extensive than originally proposed. However, the raising of the roof pitch will allow the property to maintain its appearance as a single storey dwelling within the street and will have the added benefit of blocking the view of the proposed rear first floor extension. The proposed roof pitch would not appear out of character within the wider street; as previously mentioned, the ridgeline would be lower than the highest section of the roof at 18 Manton Hollow and 22 Manton Hollow benefits from a similar roof pitch to that proposed, with the inclusion of two dormer windows. It is recognised that the roof pitch would be higher than the majority of the houses in the street but given the multitude of different roof forms found in the area, this change would not break up any existing uniformity so the change is not deemed negatively impactful upon visual amenity. The only other change to the front elevation of the property will be the addition of a front porch; this would have a pitched roof and is traditional in appearance, thus having a neutral impact upon visual amenity.

The biggest change in visual appearance will be to the rear of the property, which is not readily visible from any public vantage points. The first-floor rear extension will comprise a relatively large barn-hipped gable end which is of the same pitch as two existing gable ends on the same elevation, but at a larger scale. It is acknowledged that there is a significant amount of built form being added to the rear of the property as a result of this addition, but this will be minimally, if at all visible, from the street due to the host dwelling being set back from 18 Manton Hollow which will disguise the view to the extension. While the rear of the property adjoins with Bath Road and Downs Lane, the mature foliage on the boundary treatments disguises the view of the property from these roads completely. The rear garden is relatively large and will not be negatively affected by the addition of the first-floor extension, so the site is considered adequate to accommodate the proposed extension comfortably. There will also be the inclusion of three rooflights in the west elevation of the rear extension; this will not be visible within the street scene and will have a negligible impact upon visual amenity. A small section of roof will also be added to adjoin the garage roof with the existing property and extension; this will be in line with the ridgeline of the existing garage roof and will have a negligible impact upon visual amenity also.

The exterior walling will consist of timber cladding, the roofing will consist of concrete tiles to match existing, and the windows will be grey UPVC/aluminium to match existing also. The proposed materials are in keeping with the existing property and are therefore considered acceptable.

## Residential Amenity

A set of floor-to-ceiling glazed doors are proposed on the first floor of the rear (south) elevation of the property, which would open onto a balcony which faces towards the garden. There are



no neighbouring residents located to the south, so the only overlooking this would cause would be towards the garden of 18 Manton Hollow. The balcony would be enclosed on all sides by the roof so the view towards 18 Manton Hollow would be oblique and only towards the bottom of the garden; this would also restrict any overlooking if anyone were to site for a prolonged period on the balcony. Any overlooking that may remain from the balcony will be further obstructed by mature foliage on the boundary which has foliage year round due to the mixture of different plants making up the boundary treatment. Therefore, the balcony is not considered to impose any unacceptable levels of overlooking. There are also three proposed rooflights on the west elevation of the rear extension. Again, there are no neighbouring residents within close proximity of this elevation, so they also pose no concerns for residential amenity. Objections were raised against a rooflight situated on the north elevation, this has been removed in the revised plans and is no longer cause for concern. In regard to the above, the proposed plans are not considered to impose any unacceptable levels of overlooking.

A considerable amount of built form will be added to the first floor of the dwellinghouse comprising the raising of the ridgeline of the existing main body of roofing, and the addition of the first-floor extension to the rear. The existing bungalow is detached and the only neighbouring property within close proximity is 18 Manton Hollow which is located to the side (east) of the property. There is also number 20 and 21 on the opposite side of the road to the front of the property (to the North) but due to both these properties and the host dwelling being set back relatively far from the road, these have a separation distance of at least 25 metres from the host dwelling. Therefore, given the separation distance and their location to the north of the site, concerns raised regarding blocking of light would not be grounds for refusal. The section of roof proposed to be raised is separated from 18 Manton Hollow by the gap between the houses and an attached garage (part of the host dwelling) which will not have a raise in ridgeline. So, there will be a separation distance of 7.3 metres between 10 Manton Hollow and the closest section of roofing proposed to be raised in height. While the amount of built form which will be added to the property as a result of the raised pitch is substantial in total, the impact that will be imposed upon 18 Manton Hollow would not be particularly significant given the separation distance between the section of roof being raised and the neighbouring property, and the fact that the side elevation facing number 18 will not be significantly bigger than what currently exists. For this reason, the raising of the pitch is not considered to impose any unacceptable levels of light blocking or create an oppressive environment for the occupiers of number 18.

The first-floor rear extension is similarly separated from number 18 by the gap between the properties and the attached garage and it will be pitched for the entire first floor ex, sloping away from number 18. The gable end will also be barn-hipped, minimising the amount of built form at the highest level. Therefore, given the separation distance and minimal amount of built form at a high level, this is not considered to introduce any unacceptable levels of light blocking or create an oppressive environment for 18 Manton Hollow.

### Highways

The proposed plans involve no changes to the site access or parking arrangements, but the proposed works would result in an additional fifth bedroom. This would necessitate the provision of three off-street car parking spaces. Originally, there was no parking plan submitted as part of the application, so this was requested in the initial consultation response from the highways department. The proposed plans have been revised to include a parking plan showing space for three cars; this has been subsequently reviewed by the highways department who have confirmed the proposed parking arrangements are acceptable. Concerns regarding the number of parking spaces have been raised by local residents. While it is recognised that the parking arrangements are not ideal, with one of the parking spaces requiring access through another so it may appear to be only two parking spaces from the

street, the proposed provision does meet parking standards so this would not be a justifiable reason for refusal.

Concerns have been raised by local residents regarding the impact construction may have upon the local highways. The works involved are not considered to be excessive or long-lasting due to the fairly modest nature of the proposed development therefore a condition requiring the submission and approval of a construction method statement is not considered to be justified.

Concerns have been raised regarding the erection of a front porch and the potential implications this could have for the addition of further parking spaces. However, there is no requirement for further parking spaces so this is not a valid material planning consideration.

### Conclusion

It is considered that there will be no negative impact to neighbour or visual amenity as a result of the proposed development. The proposal is therefore considered acceptable in the context of its surroundings and is in accordance with the general criteria set out in the aforementioned policies of the local development plan and that of the NPPF (2023).

### **RECOMMENDATION:**

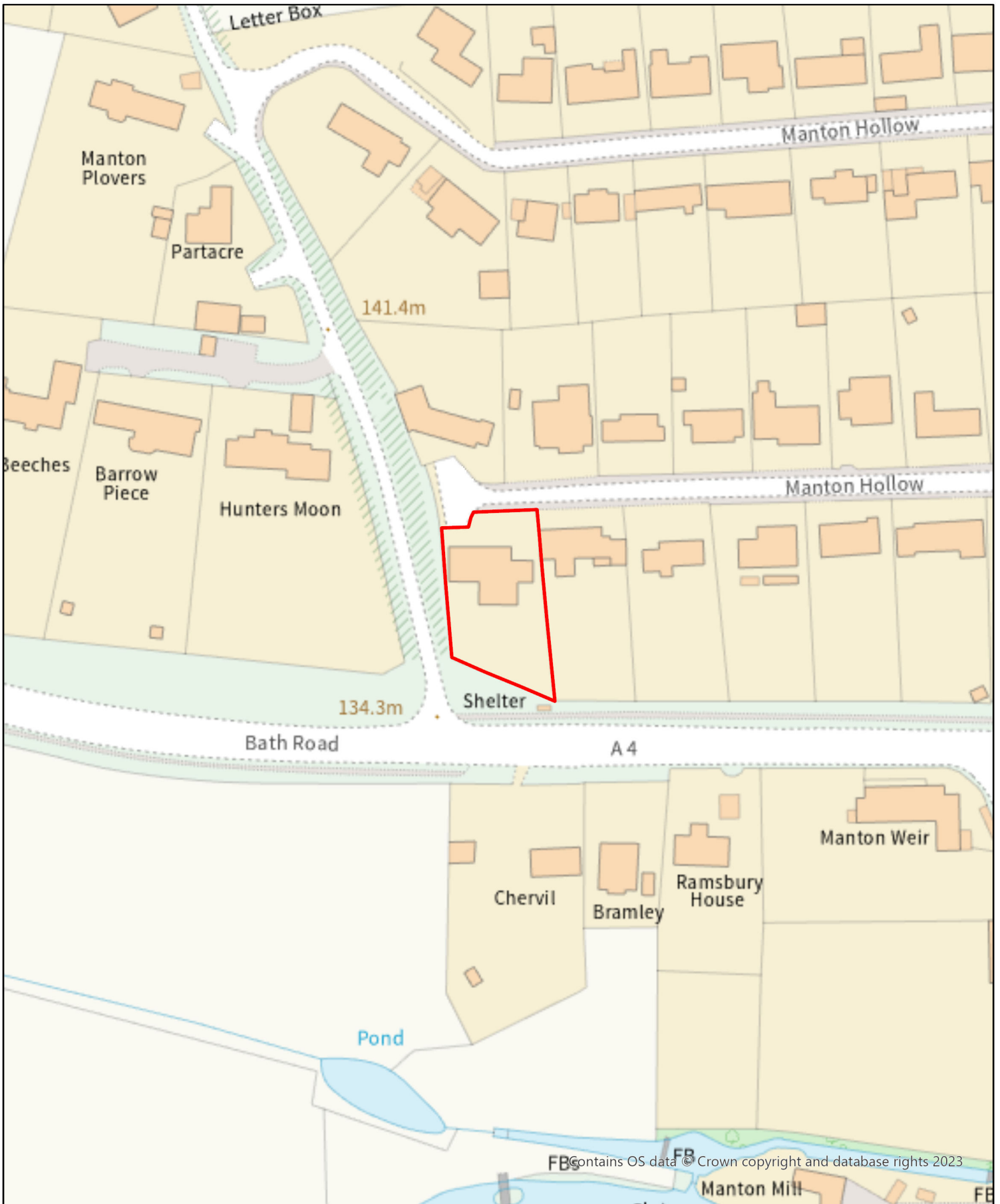
That planning permission be **GRANTED** subject to the following conditions:

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

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

2. The development hereby permitted shall be carried out in accordance with the following approved plans:
  - Site Location & Block Plans - Drawing No. 22122 01 dated July 2023 and received 17/07/2023
  - Proposed Plans and Elevations - Drawing No. 22122 108 dated June 2023 and received 05/10/2023
  - Application Form - received 17/07/2023

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



This page is intentionally left blank