

# AGENDA

---

**Meeting:** Southern Area Planning Committee

**Place:** The Pump Room - The Old Fire Station Enterprise Centre, 2 Salt Lane, Salisbury, SP1 1DU

**Date:** Thursday 1 June 2023

**Time:** 3.00 pm

---

Please direct any enquiries on this Agenda to Lisa Alexander of Democratic Services, County Hall, Bythesea Road, Trowbridge, direct line 01722 434560 or email [lisa.alexander@wiltshire.gov.uk](mailto:lisa.alexander@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 Andrew Oliver (Chairman)  
Cllr Sven Hocking (Vice-Chairman)  
Cllr Trevor Carbin  
Cllr Sam Charleston  
Cllr Brian Dalton  
Cllr George Jeans

Cllr Charles McGrath  
Cllr Ian McLennan  
Cllr Nabil Najjar  
Cllr Bridget Wayman  
Cllr Rich Rogers

---

## Substitutes:

Cllr Ernie Clark  
Cllr Kevin Daley  
Cllr Bob Jones MBE

Cllr Ricky Rogers  
Cllr Graham Wright  
Cllr Robert Yuill

---

## **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](#). The three Wiltshire Council Hubs where most meetings will be held are as follows:

## **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 5 - 22*)

To approve and sign as a correct record the minutes of the meeting held on 27 April 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 Tuesday 23 May, in order to be guaranteed of a written response. In order to receive a verbal response questions must be submitted no later than 5pm on Friday 26 May. Please contact the officer named on the front of this agenda for further advice. Questions may be asked without notice if the Chairman decides that the matter is urgent.

Details of any questions received will be circulated to Committee members prior to the meeting and made available at the meeting and on the Council's website.

6 **Planning Appeals and Updates** (*Pages 23 - 24*)

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

**Planning Applications**

To consider and determine the following planning applications.

7 **Application Number: PL/2023/00563 - Unit 4, 53 The Borough, Downton**  
(*Pages 25 - 38*)

Change of use of Unit 4. 53, The Borough from The Foot Unit D1 to a Takeaway food establishment

8 **Urgent Items**

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

**Part II**

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

## **Southern Area Planning Committee**

---

**MINUTES OF THE SOUTHERN AREA PLANNING COMMITTEE MEETING HELD ON 27 APRIL 2023 AT THE PUMP ROOM - THE OLD FIRE STATION ENTERPRISE CENTRE, 2 SALT LANE, SALISBURY, SP1 1DU.**

**Present:**

Cllr Andrew Oliver (Chairman), Cllr Sven Hocking (Vice-Chairman), Cllr Trevor Carbin, Cllr Brian Dalton, Cllr Charles McGrath, Cllr Ian McLennan, Cllr Nabil Najjar, Cllr Bridget Wayman, Cllr Sam Charleston (Substitute) and Cllr Robert Yuill (Substitute)

**Also Present:**

---

152 **Apologies**

Apologies were received from:

- Cllr Rich Rogers who was substituted by Cllr Rob Yuill
- Cllr Charles McGrath

153 **Minutes of the Previous Meeting**

The minutes of the meeting held on 30 March 2023 were presented.

**Resolved:**

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

154 **Declarations of Interest**

There were no declarations.

155 **Chairman's Announcements**

The Chairman explained the meeting procedure to the members of the public.

156 **Public Participation**

The committee noted the rules on public participation.

157 **Planning Appeals and Updates**

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

**Resolved**

**To note the Appeals Update.**

158 **Application No. PL.2021.09623 - Land at Chicklade Road, Hindon**

Public Participation

Andrew Bird spoke in objection to the application

Susan Jonas spoke in objection to the application

Ray Gentle spoke in objection to the application

Chris Beaver (Agent) spoke in support of the application

Dr Fiona Dawe spoke in support of the application

Cllr Charles Bowen – spoke on behalf of Hindon PC

The Planning Team Leader, Adam Madge, summarised late correspondence which had been circulated at the meeting. This included a revision to the Officer recommendation due to ecology and drainage responses, details of the requirement of a S106 agreement reference to a typo on page 23, para 5 which should read 31 two storey dwellings, not 36 and a further letter from a local resident.

He then presented the application which was for the erection of 31 dwellings and general practice surgery (Class E) and associated landscape and access works.

The presentation slides showed the site area which was indicated by a red line. There was also a section of land indicated in blue, where landscaping, a community orchard and an open space was planned.

The village of Hindon was in the AONB and the site was an allocated site for housing in the Hindon Neighbourhood Plan (NHP).

The proposal included a variety of detached and terraced housing in a traditional style, with an existing footpath to link the development to the village, as there was no footpath along the main road.

As set out in the report and noted during the presentation, the application had generated 62 letters of objection, and 25 letters containing other comments including one petition.

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

- **Principle (including compliance with policy and the neighbourhood plan)**
- **Other policy considerations**
- **Character & Design**
- **Neighbouring Amenities**

- **Highway Safety**
- **Ecology**
- **Other**

The application was recommended for Approval with conditions.

The Committee then had the opportunity to ask technical questions of the Officer, where it was confirmed that the site was significantly sloped as indicated on the street elevation plans.

The proposal included an upgrade to a footpath running back to the village, to include lighting compatible within the AONB and there would be some resurfacing at beginning of the path where it met the development.

The site was allocated for housing and a doctor's surgery within the NHP. In principle the proposed development was suitable as the site had been allocated for around 25 properties. The proposal was for 31, with 40% affordable housing.

A breakdown of the affordable housing in terms of percentage of rented to purchased had been negotiated with the Housing Officer who was satisfied with the proportions proposed.

All of the previous Highway's concerns had now been addressed. A Highways officer had assessed the proposal and accepted it, even with parking along East Street.

Members of the Public as detailed above then had the opportunity to speak on the application. Some of the main points included the historic flooding which had reportedly also affected paddocks and residents' garages. Photos of the flood in October and March had been provided by a resident and presented at the end of the Officer presentation.

There were concerns that if the application was approved, there was no guarantee that the doctor's surgery would be built. The main aim of the NHP including the site for development was to gain a new surgery, not specifically to achieve further housing. Concerns relating to a climate catastrophe were also raised.

Restrictions on development in an AONB were raised with an offer for further conditions to be added should the application be approved. When producing the NHP, the parish was advised that if housing was not allocated, then it would be imposed on them from outside.

A strong view among most of the speakers in objection was in relation to the request for a second exit from the development onto Chicklade Road. It was felt that as traffic would increase, a second exit was required to alleviate congestion on East Street and improve safety.

The Agent noted the NHP had been approved by a large majority and adopted in 2021 and as such the site was an allocated site for development and therefore overcame the AONB restriction.

A consultation drop-in event was held in September 2021 and Highways had been on site to make an assessment.

Houses would have air source heat pumps and the applicant had agreed to buy additional land from WC to improve access into the site if there were requirements for an optimised entrance.

All technical issues had been addressed in the final plans and the flooding issue was noted as an existing problem, which may be improved by the development.

A S106 agreed for affordable housing was agreed at 60/40 split shared ownership/affordable rent and there was CIL revenue from the scheme.

The current senior partner at Hindon surgery noted that support the development was paramount for the future provision of a new surgery in Hindon. If denied the only chance of trying to build a new surgery would be lost. The current surgery building was stated as not fit for purpose.

The Hindon Parish Council representative noted the issues as access by vehicles, drainage, and noncompliance with the NHP. It was stated that the parish urgently needed a new surgery, which was why they were willing to accept limited development. It was felt critical that should the development be approved, then it should at the very least include an inlet and outlet so people could go in one and out the other, to alleviate serious accident issues. In creating the second exit on Chicklade Road, it was felt that the removal of hedgerows to accommodate a second exit would not impact negatively on bats.

The Divisional Member, Cllr Bridget Wayman then spoke on the application, noting Hindon was designated as large village in NHP. The creation of Hindon's NHP had embarked in 2015, to meet needs for future residents and relocate the doctor's surgery.

The Chicklade Road site selected for future development was originally larger. The current surgery had parking spaces for 2/3 so parking on the high street was often congested.

The NHP was not indicative and did show the surgery positioned along the B3089. The parish was not supportive of the surgery being moved further into the site with houses now placed along the B3089 frontage.

Now that more accurate information was available, the parish had concerns about the increased traffic flow and would like to see an egress on to Chicklade Road to reduce increased traffic flow on East Street. To achieve that, the 30mph limit would need to be moved further up the road.



The hedge line along Chicklade Road was already broken up and non-existent so bats would naturally go further up where it was denser.

There was real concern about the impact of drainage on the site, with suggestions that the Environment Agency felt that flood events were increasing in frequency.

Cllr Wayman then moved the motion of Refusal, against Officer recommendation, for the reasons mentioned above and summarised as:

- Poor access/egress – additional exit on Chicklade Road
- Insufficient parking for surgery
- Flooding / Drainage
- Location of surgery – to move to frontage of site as per the NHP

This was seconded by Cllr Hocking.

The Planning Team Leader noted that it would be difficult to refuse the application on matters such as flooding or an additional exit as neither of the statutory consultees had objected on those grounds and had considered the scheme to be acceptable.

The Committee discussed the application, the main points included a feeling from the Committee that the parish council and the developer should have been able to come to a compromise between them. The suggestion for a deferral to allow time for the parties to meet and come to a compromise was discussed.

The proposal was for a total of 31 dwellings which was noted as 6 over what had been suggested in the NHP.

As with other previous application involving the development of a doctors surgery, there was no guarantee that it would come to fruition once planning was granted, however it was noted that if the application was not granted, the opportunity to have a surgery as part of the development may be lost completely and as stated by the public speakers, Hindon was very much in need of a new surgery as the existing one was no longer fit for purpose.

The length of time the development had been at the planning stage was noted, as was the high quality of the materials proposed and the 40% affordable housing which would be available to local residents.

The Committee discussed the recommendation and the conditions as set out in the report.

At the conclusion of debate, the Committee voted on the recommendation of Refusal, for the reasons as stated above.

The motion failed.

Cllr Nabil Najjarr moved motion for deferral, to allow more time for discussion and compromise to be reached between the developer and the parish, on matters relating to the request for an additional entrance/egress and drainage mitigation.

This was seconded by Cllr Trevor Carbin.

The Committee discussed the motion of deferral, the main points were in relation to the second access/exit point on Chicklade Road and that Highways had not objected to the current proposal which included only one entrance/exit route. It was also noted that the non-determination date may have passed, which would allow the applicant to go to appeal.

The Committee voted on the motion of deferral for the reasons as stated above.

The motion failed.

Cllr Brian Dalton then moved the motion of approval, in line with Officer recommendation with additional conditions as set out in the late correspondence and further conditions as summarised below:

- The requirement for the amenity land/open space to be offered to the parish should they want it before going to a management company.
- The removal of Permitted Development (PD) rights in relation to rooflights on dwellings in the future in view of the dark skies' status of the AONB.
- To make the land available for the doctor's surgery up front and at the start of the development and for that land to remain clear of builder's debris etc during the course of the development.

A query relating to a condition to prevent the use of the properties as Holiday homes or Air B&Bs was put to the Planning and Legal Officer's. It was confirmed that they were not aware of any previous instances where a condition specifically preventing the use of properties as Air B&B's had been applied. It was suggested that at this time, such a condition may not be lawful.

In response to a question on street lighting the Officer advised that plans were available and that he would feed back a request to the relevant officer to inspect the lighting to check that there would be no glare caused for people coming from the B3089.

The Committee then voted on the motion of approval in line with Officer recommendation, with added conditions as set out in the late correspondence and further conditions by the Committee, summarised above.

It was;

**Resolved**

**That application PL/2021/09623 be Approved subject to the signing of a S106 agreement to cover the following:**

- 1. 40% affordable housing provision to include shared ownership and rented.**
- 2. £150,064 for primary school places subject to indexation**
- 3. £52,566 towards early years provision subject to indexation**
- 4. To offer the open space to the parish council and if the parish do not wish to take on the land an agreement to set up a management company to oversee the open space.**
- 5. A contribution to Play facilities off site of - 357 sq.m= £51,408.00**
- 6. A contribution to Sports facilities off site of - 2142 sq.m = £21,420.00**
- 7. A contribution of £6000 to upgrading Footpath HIND6 to the development**
- 8. A monetary provision for the provision of bins on the site in line with the Wiltshire council waste collection guidance for new developments.**
- 9. All off-site boundary habitats as shown in the (Landscape Masterplan with Headline BNG Elements. Rev. C. Drwg. No. 848-MP-04 (Indigo Landscape Architects Ltd, 09/12/0222) to be provided on a plan with exact buffer zones measurements and secured in perpetuity.**
- 10. The Doctors surgery land to be provided for the doctors surgery as soon as is practicable and no later than first occupation of the dwellings approved as part of this permission.**

**And 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 and reports listed in the drawing register issued by CG Fry dated 6th February 2023 and received by the local planning authority on the 6th March 2023**

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

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

**REASON: The application contained insufficient information to enable this matter to be considered prior to granting planning permission, in the interests of visual amenity and the character and appearance of the area.**

**4) No railings, fences, gates, walls, bollards and other means of enclosure shall be erected in connection with the development hereby permitted until details of their design, external appearance and decorative finish have been submitted to and approved in writing by the Local Planning Authority. Development shall be carried out in accordance with the approved details prior to the development being occupied.**

**REASON: In the interests of visual amenity and the character and appearance of the area.**

**5) No development shall commence above slab level until a scheme of hard and soft**

**landscaping has been submitted to and approved in writing by the Local Planning**

**Authority, the details of which shall include :-**

- location and current canopy spread of all existing trees and hedgerows on the land;**
- full details of any to be retained, together with measures for their protection in the course of development;**
- a detailed planting specification showing all plant species, supply and planting sizes and planting densities**
- finished levels and contours;**
- means of enclosure;**
- car park layouts;**
- other vehicle and pedestrian access and circulation areas;**
- all hard and soft surfacing materials;**
- minor artefacts and structures (e.g. furniture, play equipment, refuse and other storage units, signs, lighting etc);**

- proposed and existing functional services above and below ground

(e.g. drainage, power, communications, cables, pipelines etc

indicating lines, manholes, supports etc);

**REASON:** The matter is required to be agreed with the Local Planning Authority before commencement above slab level in order that the development is undertaken in an acceptable manner, to ensure a satisfactory landscaped setting for the development and the protection of existing important landscape features.

**6) All soft landscaping comprised in the approved details of landscaping shall be carried out in the first planting and seeding season following the first occupation of the building(s) or the**

**completion of the development whichever is the sooner; All shrubs, trees and hedge planting shall be maintained free from weeds and shall be protected from damage by vermin and stock. Any trees or plants which, within a period of five years, die, are removed, or become seriously damaged or diseased shall be replaced in the next planting season with others of a similar size and species, unless otherwise agreed in writing by the local planning authority. All hard landscaping shall also be carried out in accordance with the approved details prior to the occupation of any part of the development or in accordance with a programme to be agreed in writing with the Local Planning Authority.**

**REASON:** To ensure a satisfactory landscaped setting for the development and the protection of existing important landscape features.

**7) NO development above slab level shall commence until, at the detailed design stage maintenance tasks, responsibilities and frequencies for the entire drainage network, including private, adopted and SuDS drainage has been prepared and circulated to all purchasers, occupants and management companies**

**REASON:** The application contained insufficient information to enable determination of this issue prior to approval.

**8)No external light fixture or fitting will be installed within the application site until a Lighting Strategy has been submitted to and approved by the Local Planning Authority in writing.**

**REASON:** In order to ensure compliance with the dark skies status of the AONB

**9)No construction work (excluding the internal fitting out of dwellings) nor the movement of spoil from the site shall take place outside the hours of 0700 – 2000 Monday to Thursday, 0700 – 1800 on**

**Friday, 0800 – 1300 on Saturday and at no time on Sundays and Bank holidays.**

**REASON: In order to protect the residential amenity of future and adjoining residents.**

**10) The doctor's surgery hereby permitted shall not be first brought into use until the 25 dedicated parking spaces have been completed in accordance with the details shown on the approved plans. The areas shall always be maintained for those purposes thereafter and maintained free from the storage of materials.**

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

**11) No part of the development shall be first occupied, until the visibility splays shown on the plan (Ref: Adoptable Highway Layout 01-PHL-1001 Rev B) have been provided with no obstruction to visibility at or above a height of 600mm above the nearside carriageway level. The visibility splays shall always be maintained free of obstruction thereafter.**

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

**12) No development shall commence on site until construction details of the improvements to East Street to include localised footway widening, carriageway widening, tactile crossings and resurfacing as outlined on drawing ref: Preliminary Access Arrangement PHL-101 Rev E, have been submitted to and approved by the LPA; the improvements to East Street to include footway widening, carriageway widening, tactile crossings and resurfacing shall be constructed in accordance with the approved details prior to first occupation.**

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

**13) Prior to first occupation, footpath HIND30 shall be resurfaced along its entire route and street lighting installed in accordance with details which shall first be submitted to and approved by the LPA.**

**REASON: to provide an improved a pedestrian link from the site, in the interests of sustainable travel**

**14) A pedestrian link shall be provided from the gate on the northwest boundary adjacent to plot S05 and passing plots S04 & S03 to connect with the turning head to provide a continuous pedestrian link from footpath HIND6. The link shall be open for public use in perpetuity.**

**REASON: to provide and maintain a pedestrian link through the site, in the interests of sustainable travel.**

**15) No development (including demolition, ground works) shall take place outside daylight hours.**

**REASON:** The introduction of artificial light/noise disturbance is likely to mean such species are disturbed and/or discouraged from using established flyways or foraging areas. Such disturbance will constitute an offence under relevant wildlife legislation.

Prior to construction, architects' drawings showing details on the positioning and installation of integral nest boxes for bats and swifts in line with the locations shown on the Landscape Masterplan with Headline BNG Elements. Rev. C. Drwg. No. 848-MP-04 (Indigo Landscape Architects Ltd, 09/12/0222) and design specified in Appendix 6 of the Ecological Impact Assessment (Andrew McCarthy Ecology, 28th September 2021) must be submitted to, and approved in writing by, the LPA.

All integral nest boxes must be implemented in accordance with the approved details and all boxes retained in that manner thereafter. This condition will be fully discharged once photographic evidence has been provided to the LPA that all integral nest boxes have been implemented in accordance with the approved plans.

**REASON:** To ensure adequate protection for bats and swifts through the implementation of detailed mitigation measures.

**16) The development hereby permitted shall be carried in strict accordance with the following plans/reports:**

- **Landscape Masterplan with Headline BNG Elements. Rev. C. Drwg. No. 848-MP-04 (Indigo Landscape Architects Ltd, 09/12/0222).**
- **Site Layout – Ecology. Rev D. Drwg. No. SP-003. (CG Fry & Son Builders, 01.12. 2022).**
- **Ecological Impact Assessment (Andrew McCarthy Ecology, 28th September 2021).**

**REASON:** To ensure compliance with the terms of the habitats regs assessment.

**17) All lighting shall be installed and maintained in accordance with the approved Street Lighting Strategy (Illume Design Ltd, Drawing No. 4261-ID-DR-1001, Rev P01 15/09/2021) and the External Lighting Strategy Levels of Horizontal Illuminance at Ground Level Full Output Shown (MF-1), Drwg. No. 4261-LB-EX-XX-DR-E-7080-41, Preliminary Issue 02. The Lighting Bee, 18/07/2022) and no additional external lighting shall be installed.**

This condition will be discharged when evidence of a post-development lighting survey has been provided to the LPA to demonstrate compliance with the approved lighting plans.

**REASON:** To ensure continued functionality for SAC bats across the site.

18) 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 all areas of mitigation planting, biodiversity net gain and enhancements for hedgehog, birds and bats within the development and the off-site area as detailed within the Ecological Impact Assessment and as shown on the Landscape Masterplan with Headline BNG Elements, together with a mechanism for monitoring success of the management prescriptions, incorporating review and necessary adaptive management in order to attain targets.

The LEMP shall also include details of the legal and funding mechanism(s) for (i) the on-site area and (ii) the offsite area, 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.

All planting will be completed in accordance with the approved landscape details and maintained and replaced as necessary for the first five years and thereafter retained for the life-time of the development.

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

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

- a) Identification of ecological protection areas/buffer zones and tree root protection areas and details of physical means of protection (e.g. exclusion fencing) provided on a standalone marked-up plan.
- b) Working method statements for protected/priority species, such as nesting birds, badger and reptiles.
- c) Mitigation strategies already agreed with the local planning authority prior to determination to include for example, bats and breeding birds; this should comprise the pre-construction/construction related elements of strategies only.



- d) 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.
- e) Key personnel, responsibilities and contact details (including Site Manager and ecologist/ECoW).
- f) Timeframe for provision of compliance report to the local planning authority; to be completed by the ecologist/ECoW and to include photographic evidence.

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

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

20) The residential development hereby approved shall be designed to ensure it does not exceed 110 litres per person per day water consumption levels (which includes external water usage). Within 3 months of each phase being completed and the housing being brought into use, a post construction stage certificate certifying that this standard has been achieved shall be submitted to the local planning authority for its written approval.

**REASON:** To ensure compliance with the prevailing mitigation strategy for nutrient neutrality in the water catchment within which this development is located.

21) Notwithstanding the provisions of the Town and Country Planning (General Permitted Development) (England) Order 2015 (or any Order revoking or reenacting or amending that Order with or without modification), no window or rooflight, other than those shown on the approved plans, shall be inserted in the roofslopes of the development hereby permitted.

**REASON:** In the interests of protecting the AONB's dark sky status.

**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 and reports listed in the drawing register issued by CG Fry dated 6th February 2023 and received by the local planning authority on the 6th March 2023**

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

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

**REASON: The application contained insufficient information to enable this matter to be considered prior to granting planning permission, in the interests of visual amenity and the character and appearance of the area.**

**4) No railings, fences, gates, walls, bollards and other means of enclosure shall be erected in connection with the development hereby permitted until details of their design, external appearance and decorative finish have been submitted to and approved in writing by the Local Planning Authority. Development shall be carried out in accordance with the approved details prior to the development being occupied.**

**REASON: In the interests of visual amenity and the character and appearance of the area.**

**5) No development shall commence above slab level until a scheme of hard and soft**

**landscaping has been submitted to and approved in writing by the Local Planning**

**Authority, the details of which shall include :-**

- location and current canopy spread of all existing trees and hedgerows on the land;**
- full details of any to be retained, together with measures for their protection in the course of development;**

- a detailed planting specification showing all plant species, supply and planting sizes and planting densities
- finished levels and contours;
- means of enclosure;
- car park layouts;
- other vehicle and pedestrian access and circulation areas;
- all hard and soft surfacing materials;
- minor artefacts and structures (e.g. furniture, play equipment, refuse and other storage units, signs, lighting etc);
- proposed and existing functional services above and below ground (e.g. drainage, power, communications, cables, pipelines etc indicating lines, manholes, supports etc);

**REASON:** The matter is required to be agreed with the Local Planning Authority before commencement above slab level in order that the development is undertaken in an acceptable manner, to ensure a satisfactory landscaped setting for the development and the protection of existing important landscape features.

**6) All soft landscaping comprised in the approved details of landscaping shall be carried out in the first planting and seeding season following the first occupation of the building(s) or the**

**completion of the development whichever is the sooner; All shrubs, trees and hedge planting shall be maintained free from weeds and shall be protected from damage by vermin and stock. Any trees or plants which, within a period of five years, die, are removed, or become seriously damaged or diseased shall be replaced in the next planting season with others of a similar size and species, unless otherwise agreed in writing by the local planning authority. All hard landscaping shall also be carried out in accordance with the approved details prior to the occupation of any part of the development or in accordance with a programme to be agreed in writing with the Local Planning Authority.**

**REASON:** To ensure a satisfactory landscaped setting for the development and the protection of existing important landscape features.

**7) NO development above slab level shall commence until, at the detailed design stage maintenance tasks, responsibilities and frequencies for the**

entire drainage network, including private, adopted and SuDS drainage has been prepared and circulated to all purchasers, occupants and management companies

**REASON:** The application contained insufficient information to enable determination of this issue prior to approval.

**8)No external light fixture or fitting will be installed within the application site until a Lighting Strategy has been submitted to and approved by the Local Planning Authority in writing.**

**REASON:** In order to ensure compliance with the dark skies status of the AONB

**9)No construction work (excluding the internal fitting out of dwellings) nor the movement of spoil from the site shall take place outside the hours of 0700 – 2000 Monday to Thursday, 0700 – 1800 on**

**Friday, 0800 – 1300 on Saturday and at no time on Sundays and Bank holidays.**

**REASON:** In order to protect the residential amenity of future and adjoining residents.

**10) The doctors surgery hereby permitted shall not be first brought into use until the 25 dedicated parking spaces have been completed in accordance with the details shown on the approved plans. The areas shall always be maintained for those purposes thereafter and maintained free from the storage of materials.**

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

**11) No part of the development shall be first occupied, until the visibility plays shown on the plan (Ref: Adoptable Highway Layout 01-PHL-1001 Rev B) have been provided with no obstruction to visibility at or above a height of 600mm above the nearside carriageway level. The visibility plays shall always be maintained free of obstruction thereafter.**

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

**12) No development shall commence on site until construction details of the improvements to East Street to include localised footway widening, carriageway widening, tactile crossings and resurfacing as outlined on drawing ref: Preliminary Access Arrangement PHL-101 Rev E, have been submitted to and approved by the LPA; the improvements to East Street to include footway widening, carriageway widening, tactile crossings and resurfacing shall be constructed in accordance with the approved details prior to first occupation.**

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

**13) Prior to first occupation, footpath HIND30 shall be resurfaced along its entire route and street lighting installed in accordance with details which shall first be submitted to and approved by the LPA.**

**REASON: to provide an improved a pedestrian link from the site, in the interests of sustainable travel**

**14) A pedestrian link shall be provided from the gate on the northwest boundary adjacent to plot S05 and passing plots S04 & S03 to connect with the turning head to provide a continuous pedestrian link from footpath HIND6. The link shall be open for public use in perpetuity.**

**REASON: to provide and maintain a pedestrian link through the site, in the interests of sustainable travel.**

159 **Urgent Items**

There were no urgent items

(Duration of meeting: 3.00 - 4.45 pm)

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

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

This page is intentionally left blank

**Wiltshire Council**  
**Southern Area Planning Committee**  
**1<sup>st</sup> June 2023**

Planning Appeals Received between 14/04/2023 and 19/05/2023

Application No	Site Location	Parish	Proposal	DEL or COMM	Appeal Type	Officer Recommend	Appeal Start Date	Overturn at Cttee
PL/2022/03875	Land adj to The Stables, Sutton Hill, Sutton Mandeville, Salisbury, SP3 5ND	Sutton Mandeville	Construction of four bedroom detached dwelling and car barn with associated vehicular access	DEL	Written Representations	Refuse	12/05/2023	No

Planning Appeals Decided between 14/04/2023 and 19/05/2023

Application No	Site Location	Parish	Proposal	DEL or COMM	Appeal Type	Officer Recommend	Appeal Decision	Decision Date	Costs Awarded?
PL/2021/08473	1 Bourne View, Allington, Salisbury, SP4 0AA	Allington	Erection of single 2 storey 3 bed dwelling	SAPC	Written Reps	Approve with Conditions	Allowed with Conditions	10/05/2023	None
PL/2022/00862	44 High Street, Downton, Salisbury, SP5 3PJ	Downton	Replacement Windows	DEL	Written Reps	Refuse	Dismissed	11/05/2023	None

This page is intentionally left blank



## REPORT OUTLINE FOR AREA PLANNING COMMITTEES

Report No.

<b>Date of Meeting</b>	1 <sup>st</sup> June 2023
<b>Application Number</b>	PL/2023/00563
<b>Site Address</b>	Unit 4, 53 The Borough, Downton, SP5 3LX
<b>Proposal</b>	Change of use of Unit 4. 53, The Borough from The Foot Unit D1 to a Takeaway food establishment
<b>Applicant</b>	Mr R Altinok
<b>Town/Parish Council</b>	Downton Parish Council
<b>Electoral Division</b>	Downton & Ebble Vale
<b>Grid Ref</b>	
<b>Type of application</b>	Householder Application
<b>Case Officer</b>	Amy Houldsworth

### Reason for the application being considered by Committee

The application has been called-in by Cllr Clewer due to the significant level of local interest both for and against this proposal, highway impacts, and the relationship and impact on adjacent dwellings.

#### 1. Purpose of Report

The purpose of the report is to assess the merits of the proposal against the policies of the development plan and other material considerations and to consider the recommendation that the application be approved for the reason(s) set out below.

#### 2. Report Summary

The issues in this case are:

- Principle of development
- Design, scale and impact on the amenity of the Conservation area/listed buildings
- Highway safety/parking provision
- Drainage
- Other matters

The application has received a total of 27 of objection from members of the public, and 288 responses of support/other comments. The Downton Civic Society also support the proposal but highlight that any alterations to signage should comply with Policy, high levels of traffic are a known issue in the area, and opening times should reflect other local establishments. Downton Parish Council also support the application subject to conditions. The of details of the objections received from the members of the public are set out in Section 7 (Summary of consultation responses).

#### 3. Site Description

The site forms part of a small row of commercial properties along the Borough, which include

a hair salon and florists. The application site is single storey Unit 4, 53 The Borough and is currently a foot clinic and flat 53a is above. There are also dwellings to the immediate east, and north of the site. There is an area of parking in front of the unit.

#### **4. Planning History**

16/08594/FUL - Change of use from A1 to D1 to facilitate a foot care/chiropractic practice - Approved, with conditions.

S/2006/0907 - CHANGE OF USE TO BEAUTY SALON (SUI GENERIS) – Approved, with conditions.

S/1991/0650 - CHANGE OF USE FROM A LAUNDERETTE TO A SHOP FOR THE SALE OF SECOND HAND ITEMS – Approved, with conditions.

#### **5. The Proposal**

The proposal seeks approval to change the current D1 foot clinic use to Sui Generis use as a food take away establishment including the erection of an extraction flue.

#### **6. Local Planning Policy**

##### National Planning Policy Framework

Section 2 Achieving Sustainable Development

Section 12 Achieving Well Designed Places

Section 15 Conserving and enhancing the natural environment

##### **Wiltshire Core Strategy**

Core Policy 1 Settlement Strategy

Core Policy 2 Delivery Strategy

Core Policy 23 Southern Wiltshire Community Area

Core Policy 35 Existing employment sites

Core Policy 36 Economic Regeneration

Core Policy 38 Retail policy

Core Policy 49 Rural communities and facilities

Core Policy 57 Ensuring high quality design and place shaping

Core Policy 58 Ensuring the conservation of the historic environment

Core Policy 61 Transport and New Development

##### Wiltshire Local Transport Plan 2015-2026:

Car Parking Strategy

#### **7. Summary of consultation responses**

Downton Parish Council – Support subject to:

1. Approval (and any conditions applied) by Public Protection Officers
2. Approval (and any conditions applied) by Highways
3. Addressing the following concerns by applying the requested restriction:-
  - a. Litter: 2xbins at the front of the property to be maintained by the Kebab Takeaway
  - b. No outside bright flood lights
  - c. Opening times restricted until 9pm (8pm Sundays)

- d. All deliveries and collections to take place outside school opening hours (due to manoeuvrability of such vehicles when there will be children entering/exiting the School from Gravel Close)
  - a. Planning Permission granted for the owner of the Kebab House only (no prospect of changing hands and/or alternative food-type takeaways such as a Chip Shop/Indian/fast food burger chains)
  - b. The extractor system is silent (per application) and maintained as per the manufacturer's recommendation
  - c. A smell extractor system is installed (per application) and maintained as per the manufacturers recommendation

WC Highways – No objection (see below)

WC Drainage – No objection - See below.

WC Conservation – No objection, subject to the external flue being Matt Grey/black in colour

WC Public Protection – No objection, subject to conditions limiting opening hours and the extract/flue being completed and maintained as per the submitted details.

## **8. Publicity**

Downton Civic Society – No objection, However, any signage should adhere to policy requirements and highlights increase in local traffic and opening hours should be respectable.

Third parties - 27 responses objecting, summarised as the following:

- Bad Odours
- Noise and anti-social behaviour
- Lack of parking
- Highways safety
- Litter
- Drainage
- Excessive opening hours
- Lead to believe no food establishments allowed within this location

288 responses supporting the proposal, summarised as:

- Takeaway would be asset to the village
- Welcomed community facility
- Unlikely to cause parking or highway issue
- Unlikely to cause nuisance
- Existing takeaway in Redlynch is well run

## **9. Planning Considerations**

### **9.1 Principle of development and policy**

The site known as Unit 4, 53 The Borough is a retail unit located in the centre of Downton. Core Policy 23 of the Wiltshire Core Strategy defines Downton as a local service centre. Local Service Centres are defined as smaller towns and larger villages which serve a surrounding

rural hinterland and possess a level of facilities and services that, together with improved local employment, provide the best opportunities outside the Market Towns for greater self containment. The unit is sited within the Downton Conservation Area and in close proximity to the River Avon.

The unit already exists and is surrounded by a mix of other commercial uses and residential uses, as is typical of such a location. WCS policy CP38 (Retail & Leisure) recognises the importance of local service centres for the local community, with the supporting text for the latter confirming that *'In addition to retail development, it is also important that other services and facilities are retained in the central areas of the Market Towns, in order to maintain the vitality and viability of the town centres'*. Other Council policies regards the economy are also relevant. It is considered that the continued business use of this site accords with the aims of the Council employment and economic policies.

Policy CP49 relates to the provision, retention and enhancement of local facilities and services and is relevant here. It is considered that the reuse of this retail unit meets the aims of CP49, and given the number of positive responses from third parties, there appears to be some local demand/community benefits from the proposal.

Core Policy 57 of the WCS requires that development should ensure the impact on the amenities of existing occupants is acceptable, and ensuring that appropriate levels of amenity are achievable within the development itself, and the NPPF (paragraph 130f) states that planning decisions should *'create places that are safe, inclusive and accessible and which promote health and well-being, with a high standard of amenity for existing and future users.'*

This principle acceptability is however subject to the detail and in this case the implications for the character of the area/conservation area; neighbouring amenities; and highway safety are all considered to be relevant.

## **9.2 Design, scale, and impact on the amenity of the Conservation Area/listed buildings**

The existing unit is situated in the centre of this local service centre, surrounded by other commercial uses (at least at ground floor); is within the conservation area; and in the vicinity of a number of listed buildings, including The Goat on the opposite side of The Borough. 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. While Section 72 of the Act states that in the exercise of any functions, with respect to any buildings or other land in a conservation area, under or by virtue of any of the provisions mentioned in this Section, special attention shall be paid to the desirability of preserving or enhancing the character or appearance of that area. In having 'special regard' and/or in paying 'special attention' the NPPF requires specific assessment to be undertaken as to whether the proposal causes 'substantial harm', 'less than substantial harm' or no harm to the asset. The applicants have submitted a heritage statement with the application.

Externally, minimal external alterations are proposed to the unit itself. However, as with most food units, an extract flue system is required. The plans illustrate the proposed external flue being positioned running along the flat roof of the existing unit and exiting vertically to the rear of the site. Whilst it is considered that the flue would be likely to be somewhat visible from the front and side of the site, and also from adjacent dwellings and gardens to the rear, the flue design has been welcomed by the Councils Conservation Officer as it would be less prominent than a flue simply exiting vertically from the main roof of the building. The Conservation officer also advised that the finished colour should be Matt Grey/black, which has been accepted by

the applicant and could be conditioned upon any approval. Therefore, the Conservation Officer is satisfied and is not of the opinion that the proposed flue would pose any visual harm upon the overall character and appearance of the Conservation Area or negatively affect the setting of any of the nearby Listed Buildings.

Whilst it is therefore likely that the flue would be visible from the Conservation Area and adjacent dwellings, the proposal is therefore considered to accord with the aims of CP58 of the WCS, and a refusal based on the impact of the works on the heritage assets would be difficult to justify at appeal.

### **9.3 Impact on amenity**

The applicants submitted supporting statement explains the proposal thus (extract):

*During our 19 years trading at Morgans Vale, we have never had a food hygiene or food quality complaint, or a noise complaint. Our filtered air extraction system removes the smell and odour of cooking and we have never had any complaints. We have a good working relationship with the Local Authority and have high hygiene standards.*

*I would like you to consider my Change of Use application for Unit 4, 53 The Borough, as the relocation of an established existing business 1.6 miles along the B3080 to a new location, as opposed to the creation and establishment of a 'new' takeaway business.*

*Two thirds of our customers pre-order, their food is freshly cooked and ready within 15 minutes. The customer then arrives to pick up and pay. Most customers are in and out of the shop in a few minutes.*

*Our other customers prefer to come to the shop, order and wait while we cook for them. For many customers this is a time they enjoy chatting and is an opportunity to get out and interact with a few other people.*

*During Covid lockdown we were able to remain open and provide an essential food service for many of our existing customers and some new ones. We followed Government guidelines, customers telephoned their orders through, we then took the cooked food orders outside when ready, with the customers waiting outside the shop. This worked very well for the customers and ourselves, keeping safe and enabling us to keep working through Covid without Furlough payments.*

*We generally don't have more than three customers at any one time, two of whom are likely to be pick up and pay customers. Unit 4 has two customer parking spaces, so the business is unlikely to cause an additional impact on local parking.*

*Deliveries to the shop will be made to the rear of Unit 4, where there is an existing delivery vehicle parking bay, off the highway. Our recycling bin and waste bin will be kept securely at the rear of the property on private land. I have waste and recycle contracts (licensed waste contractors).*

As stated a number of concerns and objections have been received. Officers have consulted with and discussed at length this proposal with the Council's Public Protection officer.

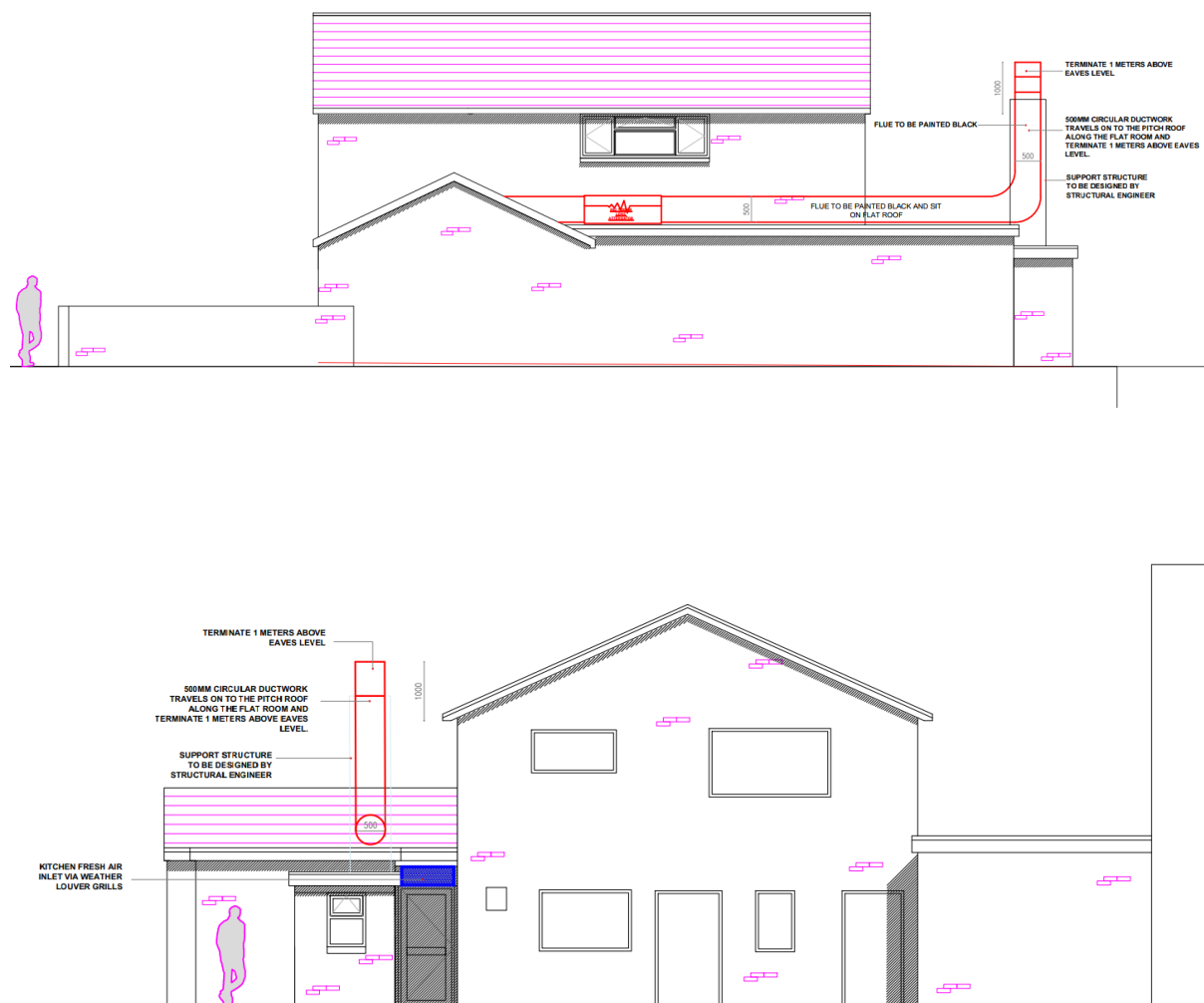
Following the concerns raised in regard to the proposed opening hours the applicant reduced the hours from 1300-2200 Monday to Saturday down to 1300-2130 Monday- Saturday and 1330-2000 Sundays & Bank Holidays.

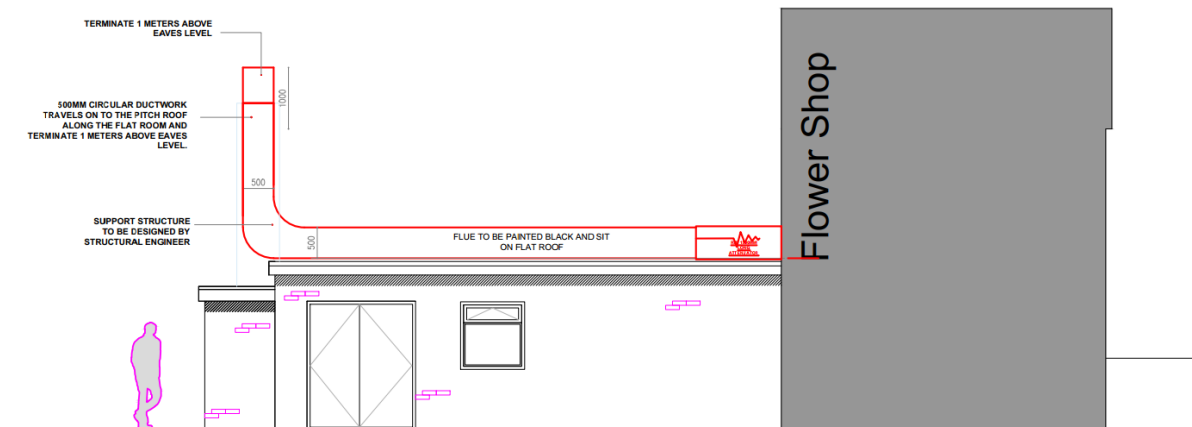
This reduction is welcomed, and the times proposed are not considered to be excessive. It is noted that the site is directly opposite the Co-op which remains open until 2200 and the Goat Pub next door to the Co-op closes at 2300. Therefore, the takeaway's proposed hours are not considered to be anti-social and there is no justification/evidence that such a use during these proposed hours, which are less than the nearby facilities which also serve alcohol, would result in any additional members of the public loitering or causing any nuisance to nearby residents.

The Public Protection Team have raised no objections to the hours of business in relation to the neighbouring residential properties.

The unit has several residential properties within close proximity. These include in particular number 53a (the flat above the unit) and number 55 which is the direct next-door property to the east. There is also the dwellings and gardens to the north, and those dwellings to the west of the site. Initially, Public Protection raised concerns regarding the flue/extract system and its potential impact upon these properties in terms of odour and noise output.

Revised plans were submitted to demonstrate the position and design of the proposed flue (as below) which would be positioned to the rear of the site and included detailed manufacturing specifications of the ventilation/extraction and filtration system.





The flue/extract has now been designed to ensure the output pipe is above the existing eaves height of the neighbouring properties and the system now incorporates advanced filtration systems within it to ensure the neighbouring residents and units are not detrimentally affected by any smells or noise. The applicants submitted noise assessment concludes that:

- 6.2 An environmental noise survey has been undertaken to determine the existing background noise levels representative of nearby residential properties.
- 6.3 Calculations have been undertaken, based on manufacturer's noise data, to determine the plant noise levels at the nearest noise sensitive windows.
- 6.4 The assessment demonstrates that noise from proposed new plant at the most affected noise sensitive windows will be comfortably below the existing background noise levels and hence acceptable under BS 4142: 2014.

Due to the nature of the proposal and local concern the Council's Public Protection officer was re-consulted on the revised Flue/extract details and Noise Assessment and provided the following comments:

*I write regarding the above application for change of use to a take away food establishment. The site is located in very close proximity to residential properties and without robust control of odours and noise from the proposed business use, it could result in complaint.*

*I have therefore carefully considered the content of the following updated documents submitted in support of this application, and I am now satisfied that it demonstrates both odour and noise will be adequately controlled so as not to impact on the amenity of nearby residents:*

*Odour Control Assessment Report (revised on 2<sup>nd</sup> May 2023)*

*Installation Report (revised on 2<sup>nd</sup> May 2023)*

*Noise Assessment report (revised on 2<sup>nd</sup> May 2023)*

*I also note that the applicant has agreed to close at a slightly earlier time in response to comments submitted to this application. I therefore, raise no objection to the proposal, subject to conditions.*

As a result of the above, a refusal of the scheme based on the likely impact of the works in terms of noise/fumes/nuisance would be difficult to defend at appeal.

Further to the comments received from the Parish Council and local residents in relation to potential increase in litter, the applicant has confirmed that the proposal would be served by two litter bins, (which would be maintained by Unit 4). This could be conditioned upon any approval.

Notwithstanding, it is appreciated that it would be clearly visible from windows serving the closest dwellings to the site. However, in officers opinion, the separation distance and narrow nature of the structure would not result in such significant harm to overall amenity as to warrant refusal. As a result, the proposal is considered to comply with the aims of policy CP57 of the WCS.

#### **9.4 Highways**

The Borough is a well used, busy highway system, and the area around the site is used for parking and turning associated with the various businesses in the area, including the existing shops on the application site, as well as the pub and retail store and café opposite.

Third party comments received in relation to lack of parking provision and highway safety have been considered

Due to the concerns raised in regard to the change of use upon the existing parking provision available and highway safety, the Councils Highways Officer was consulted and provided the following comments:

*The above-mentioned planning application is for a new takeaway food establishment to be located in an existing small commercial unit on The Borough, Downton. The forecourt to the front of the unit provides two parking spaces / delivery bay. Directly opposite the site is the Co-op food store, The Goat pub and The Borough café all served by a reasonable sized car park to the rear, there is also a row of parking spaces perpendicular to the carriageway for general use. Whilst parking on the public highway is not restricted in the vicinity of the site, in reality there are few places to park on-street close to the site due to the presence of the zebra crossing zig-zags and dropped kerb driveways and accesses. Given the number of parking spaces available there appears to be plenty of opportunity to park off the public highway.*

*The site is located in the central area of Downton and is well served by a network of footways. It is considered that the majority of customers will be local and will have the option to walk or cycle to collect from the takeaway.*

*On balance, I do not wish to raise a highway objection to the proposed takeaway food establishment in this location.*

In addition, the applicant has confirmed that all deliveries and collections will take place outside school opening hours (due to manoeuvrability of such vehicles when there will be children entering/exiting the School from Gravel Close) in response to the Parish Councils request. This can also be conditioned upon any approval.

Immediately to the front of the row of commercial units, including Unit 4, there are individual car parking spaces for the units.



Across the road, there are further parking spaces, which presumably are currently used by the customers of all the units along with the café and co-op opposite, as there does not appear to be any restrictions upon them.

As the proposal is for take away only it would be envisaged that anyone visiting the establishment would be there for only a short period of time collecting their food order to then travel home again, which can be considered to be comparable with customers to the adjacent retail store.

Consequently, given that WC Highways do not raise objection to this proposal, it is considered that a refusal on the grounds of highway safety and parking issues would be difficult to justify at appeal. As a result, it is considered that the proposal would accord with the aims of CP61 of the WCS.

### **9.5 Drainage**

Third party responses have referred to poor drainage and it have suggested that the current drainage system serving the units are struggling. The applicant has confirmed that due to the objections received regarding potential drainage issues, an inspection has been undertaken in April of 2023 and states that '*Unit 4 drain exit point is further downstream than the other Units and the drains were clear*'.

The Councils Drainage Officer was consulted on this point and stated the following:

*The Borough does have a history of flooding. As its already a commercial property the only additions that the applicant must install are grease traps, these are Wessex Water recommendations. The foul drainage is susceptible and ground water, therefore, the applicant should have consent from Wessex Water as supply and foul must be available 24/7.*

The units are already served by drainage. Whilst there may be issues, it is essential a private matter for the business occupying those units to resolve with the relevant utility provider, and is not a Planning matter. As a result, it is considered that the proposal accords with the general aims of CP57 in so far as they relate to other impacts resulting from the development.

### **9.6 Other matters**

The Parish Council requested that any permission granted be subject to a number of conditions. Many of these are possible as suggested below, but the PC also stipulated that the permission would be made personal to the applicant only. This is considered unreasonable in this instance given that permission would be given for a food takeaway use, not a personal business. The Council's public protection officer has not stipulated that a permission personal to the applicant is required, and has considered the proposal acceptable on the basis of a generic takeaway business with the associated flue system. Furthermore, the PC comment regards tying the use to only a single type of takeaway reflecting the applicants operation is noted. However, in Planning terms, there is no difference between one type of food takeaway operation and another, and in any event such a condition would be difficult to enforce, and thus it is not possible to impose such a condition that achieves such an outcome.

Officers are aware of comments being received regarding the application site potentially having a covenant or other restriction upon it relating to the acceptable uses of the building. Officers are not aware that there is any historic planning or other restriction on this unit

regards its use, but even if such a restriction existed, that would not prevent this planning application for a change of use being considered on its merits by the Council and would be considered a separate civil matter.

## **10. Conclusion and Planning Balance**

The proposal would retain a commercial and community use within the settlement, and accord with the aims of the CP49 of the WCS and other employment and economic policies, and there appears to be some level of support for this type of use in the settlement. The concerns of third parties close to the site are understood and have been fully considered. However, WC Public Protection now raise no objection to the proposal and are satisfied that the proposed filtration system and flue now alleviates concerns in relation to potential noise and odour outputs to ensure the residential amenities are upheld by the occupiers of the neighbouring residential properties. The proposal is therefore considered to comply with aims of Core Policy 57 of the WCS. Furthermore, WC Highways raise no objection to parking provision or highways safety, and consequently, the proposal accords with the aims of CP61 of the WCS. WC Conservation officer has confirmed they raise no objection in terms of visual impact upon the character and appearance of the Conservation Area or setting of any nearby Listed Buildings. Thus the proposal conforms with aims of CP58 of the WCS and the similar aims of the NPPF.

As a result of the above, the application is therefore considered to be acceptable, subject to restrictive conditions.

### **11 RECOMMENDATION: Approve, 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 and documents:

02 Unit 4, 53 The Borough Proposed Elevations Rev B submitted 22<sup>nd</sup> May 2023

01-Unit 4, 53 The Borough – Proposed HVAC Plan Rev B dated 2<sup>nd</sup> May 2023

405-02-002 Existing floor plan and roof plan dated 25<sup>th</sup> January 2023

405-02-005 B Proposed Roof plan submitted 22<sup>ND</sup> May 2023

405-02-001 Existing site plan dated 25<sup>th</sup> January 2023

405-02-003 Existing Elevations dated 25<sup>th</sup> January 2023

Odour Control Assessment Report (revised on 2<sup>nd</sup> May 2023)

Installation Report (revised on 2<sup>nd</sup> May 2023)

Noise Assessment report (revised on 2<sup>nd</sup> May 2023)

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

3. The use hereby permitted shall only take place between the hours of 1330-2130 from Mondays to Saturdays and 1330-2000 on Sundays and Bank or Public Holidays.

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

4. The site shall be used solely for purposes of a food takeaway use within the Sui Generis Class(es) of the Schedule to the Town and Country Planning (Use Classes) Order 1987, as amended by the Town and Country Planning (Use Classes) (Amendment)(England) Order 2020 (or in any provisions equivalent to that class in any statutory instrument revoking or re-enacting that Order with or without modification).

REASON: For the avoidance of doubt

5. Prior to the first use the Kitchen extract system, together with the specified noise attenuation to be fully installed in accordance with documentation submitted (Noise Impact Assessment, Odour Control Assessment, Installation Report all dated 2<sup>nd</sup> May 2023 and drawing: Fan Rescue 1) and maintained strictly in accordance with the cleaning and maintenance schedule at all times thereafter.

REASON: In the interest of residential amenity.

6. Plant associated with the kitchen extract system shall only operate during hours of opening: 1330hrs – 2130hrs Monday to Saturday and 1330hrs – 2000hrs Sundays and Bank/ Public Holidays.

REASON: In the interest of residential amenity

7. Notwithstanding the approved details no supply deliveries shall be made to, or supply collections made from the development hereby approved except between the hours of: 0930hrs – 1800hrs (excluding normal school drop off/ collection times).

REASON: In the interest of public and highways safety.

8. Before the takeaway use first opens for business, the external flue shall be finished in a dark Matt Grey/black colour, or other alternative colour agreed in writing by the Local Planning Authority.

REASON: In the interest of visual amenity.

9. Before the takeaway use hereby permitted first opens for business, at least two litter bin receptacles shall be provided on site for use by customers of the takeaway use. The bins shall be privately operated and maintained by the business occupying Unit 4 (the application site).

REASON: In the interests of amenity

INFORMATIVE:

1. The applicant is advised that separate approvals may need to be applied for and granted from Wessex Water. Please note that prior to the first use of the takeaway it appears that grease traps are required to be installed to comply with Wessex Water recommendations for food businesses. [Trade effluent | Wessex Water](#)

2. The applicant is advised that planning permission does not supersede any private covenants or legal bindings the premises may have.

3. The applicant is advised that any proposed alterations to any signage may need Advertisement Consent from the Local Planning Authority.

**Wiltshire Council**

PL/2023/00563

Unit 4, 53 The Borough, Downton, SP5  
3LX



Contains OS data © Crown copyright and database rights 2023

1:1,250



417517E 121538N m

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

This page is intentionally left blank