

REPORT FOR WESTERN AREA PLANNING COMMITTEE

Date of Meeting	7 August 2024
Application Number	PL/2021/09909
Site Address	Ashton Street Centre, Ashton Street, Trowbridge, BA14 7ET
Proposal	Redevelopment of former day care centre (Class F.1) comprising: the erection of 48 No. dwellings and associated access and landscaping works)
Applicant	Stone Circle Development Company Limited
Town/Parish Council	TROWBRIDGE TOWN COUNCIL
Electoral Division	Trowbridge Central – Cllr Stewart Palmen
Grid Ref	321032 197206
Type of application	Full Planning
Case Officer	Gen Collins



1. Purpose of Report

The purpose of the report is to update the Committee on changes that have occurred following publication of the revised NPPF in December 2023 (and related revised Planning Practice Guidance published in February 2024) that have a material impact on this planning application, and to consider the recommendation that the previous Committee endorsement to grant planning permission remains appropriate.

This is largely a procedural matter considering the changes to the NPPF and housing supply position. There have been no changes whatsoever to the plans and substance of the application compared to that previously presented and recommended for approval and which was endorsed for approval by the Committee in September 2022. The reason the application is still pending resolution is because the s.106 was not signed before the changes being made to the NPPF and PPG.

2. Background

On 28 September 2022, the Strategic Planning Committee resolved to grant planning permission for this application subject to the applicant first entering into a S106 legal agreement (and the committee report is attached in Annex 1); and since that committee meeting, the drafting of the legal agreement has advanced, although it has not been completed and so the planning permission has not been issued.

In resolving to approve the application subject to the legal agreement, the Committee took account of all matters relevant at the time. These included the development plan policies and national legislation/guidance.

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

In December 2023 the government issued its revised National Planning Policy Framework (NPPF). This is a material consideration that must now be taken into account. The effects of the changes in relation to this planning application are set out below.

- The principle of development (and the weight to be afforded to Core Policies 1 and 2 of the Wiltshire Core Strategy);
- Related to the above, does the revised NPPF change the planning balance?
- Are there now any restrictive Wiltshire Core Strategy policies that have become more relevant?

3. Housing supply and delivery

The December 2023 NPPF contains two important amended/new paragraphs concerning housing supply and delivery, as follows –

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

their adopted plan is less than five years old; and

that adopted plan identified at least a five-year supply of specific, deliverable sites at the time that its examination concluded.

77. *In all other circumstances, local planning authorities should identify and update annually a supply of specific deliverable sites sufficient to provide either a minimum of five years' worth of housing, or a minimum of four years' worth of housing if the provisions in paragraph 226 apply.*

The supply should be demonstrated against either the housing requirement set out in adopted strategic policies, or against the local housing need where the strategic policies are more than five years old. Where there has been significant under delivery of housing over the previous three years, the supply of specific deliverable sites should in addition include a buffer of 20% (moved forward from later in the plan period). National planning guidance provides further information on calculating the housing land supply, including the circumstances in which past shortfalls or over-supply can be addressed.

Paragraph 226 referred to in paragraph 77 states the following –

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

For the purposes of the revised NPPF, Wiltshire Council is a 'paragraph 77 authority'; 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.

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

The Council's most recent Housing Land Supply Statement (published June 2024; base date April 2023) sets out the number of years supply against local housing need as 4.2 years. These figures exceed the 4-year threshold now relevant to Wiltshire, and for the planning balance this means that it is now starting from a 'level' position rather than 'tilted'. In terms of paragraph 11 of the NPPF, for decision making part 11(c) is now relevant.

Paragraph 11(c) requires "*approving development proposals that accord with an up-to-date development plan without delay*".

With a level balance, and with full/substantial weight now being given to the strategic housing delivery policies of the Wiltshire Core Strategy (WCS) (particularly Core Policies 1 and 2), it follows that planning applications which do not conflict with the policies should normally be granted.

In this case, the proposed development proposes the reuse of brownfield land for housing within a principal settlement and as such the principle of development is acceptable. The provision of 48 dwellings carries weight even in the context where the Council can demonstrate sufficient housing land supply when tested against the NPPF.

Of the 48 units, 14 would be affordable housing and this carries significant weight given that there remains a demonstrable need for more affordable housing locally.



Previously endorsed scheme at Ashton Street, Trowbridge

The proposed development would deliver an improvement visually in terms of improved landscaping and as argued previously, the proposal would make efficient and effective use of this brownfield site.

The end developer would be required to provide contributions to enhance education facilities and provide construction jobs which represents further positive outcomes.

The introduction of a swale and provision of a landscape and ecological management plan would improve drainage at the site and ensure the longevity of the biodiversity and enhance biodiversity.

The scheme would result in more private vehicles; however, the scheme includes appropriate on-site parking, and the proposal has attracted no highway objection or concerns in terms of highway safety. Developer contributions in the form of a Green Travel Plan, works to improve the existing bus stops, the provision of a new footpath and contributions to Traffic Regulation Orders would provide necessary mitigation.

The proposed development remains in accordance with the adopted WCS and NPPF and there are no policy conflicts. The scheme would deliver tangible benefits and officers continue to recommend the application for approval and the sealing of a s106 legal agreement and the previously committee endorsed planning conditions.

RECOMMENDATION:

That the Committee delegates authority to the Head of Development Management to grant planning permission subject to the conditions and informatives listed below following the completion of a s106 agreement to secure the matters also set out below –

S106 Heads of Terms

Affordable Housing: Core Policy 43 'Providing Affordable Housing' of the WCS requires 30% affordable housing in this location (i.e. 14 affordable homes). The Council's Housing Enabling team indicated that a tenure split of 60% affordable rented homes (8 homes) and 40% shared ownership homes (6 homes) will be required.

Public Open Space: Policy CP3 of the WCS and Saved policy LP4 'Providing Recreation facilities in New Developments' of the former West Wiltshire Local Plan requires developments to provide recreational open space. The POS team indicated that a development of 48 dwellings generates a requirement for 1359m² of casual open space, 56.64m² of play space and 1132m² for sports.

Open Space Management: The required on-site POS provisions, along with the future management and maintenance of the Public Open Space, Surface Water Drainage scheme infrastructure, and structural landscaping and ecology buffer zones, as shown on LEMP.

Highways: Policy CP3 Green Travel Plan including £300 of travel vouchers) bus stop improvements (£12,000), the provision of a new footpath and TRO's (£6,000)

Recycling and Waste Facilities: The Council's Waste & Environment Service team indicated that the on-site infrastructure required by the proposal is the provision of waste and recycling containers for each residential unit. This contribution is directly related to the development as the cost is £91 per dwelling. The contribution based on the provision of 48 dwellings would be £4,368.

Education Infrastructure: Policy CP3 and Saved policy S1 'Education' of the former West Wiltshire Local Plan outlines that where a proposal for residential development gives rise to the need for additional education provision, a planning obligation will be sought to meet that need. The scale of the obligation to be sought will relate to the scale of need arising from the proposed development. In this case the education requirements are:

- Early years places = £105,132
- Primary school places = £225,096
- Secondary school places = £206,460

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 Plans list ref 21054 received on 12.09.22 as well as the following documents:

- FRA and Drainage Strategy: received 28 June 2022
- Arboricultural Method Statement
- Waste Minimisation Statement
- Proposed Access Arrangement Plan: Drg. SK01_RevA
- Swept Path Analysis large 4 Axle Refuse Plan 1of2 Drg.SK03_RevA
- Swept Path Analysis large 4 Axle Refuse Plan 2of2 Drg.SK03_RevA
- Travel Plan Report RevA
- Ecological Assessment
- Construction Environmental Management Plan
- Landscape and Ecological Management Plan
- Ground Investigation Report
- Biodiversity Net-Gain Assessment

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

3. The development will be carried out in strict accordance with the following:
 - Ecological Assessment (Ethos Environmental Planning, September 2021)
 - Landscape and Ecology Management Plan (Ethos Environmental Planning, October 2021)
 - Biodiversity Net Gain Assessment (Ethos Environmental Planning, September 2021)
 - Construction Environmental Management Plan (Ethos Environmental Planning, September 2021)

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

4. No external light fixture or fitting will be installed within the application site unless details of existing and proposed new lighting have been submitted to and approved by the Local Planning Authority in writing. The submitted details will demonstrate how the proposed lighting will impact on bat habitat compared to the existing situation.

REASON: To avoid illumination of habitat used by bats.

5. No development shall commence on site (other than that required to be carried out as part of a scheme of remediation approved by the Local Planning Authority under this condition), until steps (ii) to (iii) below have been fully complied with, (step (i) having already been carried out.) If unexpected contamination is found after development has begun, development must be halted on that part of the site affected by the unexpected contamination to the extent specified by the Local Planning Authority in writing until step (iv) has been complied with in full in relation to that contamination.

Step (i) Site Characterisation:

An investigation and risk assessment must be completed to assess the nature and extent of any contamination (including asbestos) on the site, whether or not it originates on the site. The investigation and risk assessment must be undertaken by competent persons and a written report of the findings submitted to and approved in writing by the Local Planning Authority. The report of the findings must include:

A survey of the extent, nature and scale of contamination on site;

The collection and interpretation of relevant information to form a conceptual model of the site, and a preliminary risk assessment of all the likely pollutant linkages;

If the preliminary risk assessment identifies any potentially significant pollutant linkages a ground investigation shall be carried out, to provide further information on the location, type and concentration of contaminants in the soil and groundwater and other characteristics that can influence the behaviour of the contaminants;

An assessment of the potential risks to human health, property (existing or proposed) including buildings, crops, livestock, pets, woodland and service lines and pipes, adjoining land, groundwater and surface waters, ecological systems, archaeological sites and ancient monuments;

This must be conducted in accordance with DEFRA and the Environment Agency's "Model Procedures for the Management of Land Contamination, CLR 11" and other authoritative guidance.

Step (ii) Submission of Remediation Scheme:

If any unacceptable risks are identified as a result of the investigation and assessment referred to in step (i) above, a detailed remediation scheme to bring the site to a condition suitable for the intended use must be prepared. This should detail the works required to remove any unacceptable risks to human health, buildings and other property and the natural and historical environment, should be submitted to and approved in writing by the Local Planning Authority.

The scheme must include all works to be undertaken, proposed remediation objectives and remediation criteria, a timetable of works and site management procedures.

Step (iii) Implementation of Approved Remediation Scheme:

The approved remediation scheme under step (ii) must be carried out in accordance with its requirements. The Local Planning Authority must be given at least two weeks written notification of commencement of the remediation scheme works.

Step (iv) Reporting of Unexpected Contamination:

In the event that contamination is found at any time when carrying out the approved development that was not previously identified it should be reported in writing immediately to the Local Planning Authority. An investigation and risk assessment should be undertaken in accordance with the requirements of step (i) above and where remediation is necessary, a remediation scheme should be prepared in accordance with the requirements of step (ii) and submitted to and approved in writing by the Local Planning Authority.

Step (v) Verification of remedial works:

Following completion of measures identified in the approved remediation scheme a verification report must be produced. The report should demonstrate the effectiveness of the remedial works.

The verification report should be submitted to and approved in writing of the Local Planning Authority.

Step (vi) Long Term Monitoring and Maintenance:

If a monitoring and maintenance scheme is required as part of the approved remediation scheme, reports must be prepared and submitted to the Local Planning Authority for approval at the relevant stages in the development process as approved by the Local Planning Authority in the scheme approved pursuant to step (ii) above, until all the remediation objectives in that scheme have been achieved.

All works must be conducted in accordance with DEFRA and the Environment Agency's "Model Procedures for the Management of Land Contamination, CLR 11" and other authoritative guidance

REASON: To ensure the amenities and safety of future occupants of the development.

6. No development shall commence on site until a scheme of Ultra Low Energy Vehicle infrastructure has been submitted to the LPA. The scheme must be approved by the LPA prior to implementation and thereafter be permanently retained.

REASON: To ensure the amenities and safety of future occupants of the development.

7. No construction work shall take place on Sundays or Public Holidays or outside the hours of 0800 to 18:00 Monday to Friday and 08:00 to 13:00 on Saturday

8. No development works shall commence until a Construction Method Statement has been submitted to and approved in writing by the LPA. The CMS shall include the following:

- The plan shall include details of the measures that will be taken to reduce and manage the emission of noise, vibration and dust during the demolition and/or construction

phase of the development. It shall include details of the following:

- The movement of construction vehicles;
- The cutting or other processing of building materials on site;
- Wheel washing and vehicle wash down facilities;
- The transportation and storage of waste and building materials;
- The recycling of waste materials (if any);
- The loading and unloading of equipment and materials;
- The location and use of generators and temporary site accommodation;
- Where piling is required this must be Continuous flight auger piling wherever practicable to minimise impacts.

- There shall be no burning undertaken on site at any time. The demolition and construction phases of the development will be carried out fully in accordance with the construction management plan at all times.

REASON: To safeguard the amenities of the area.

9. The development shall be undertaken in accordance with the details set out in the approved submitted drainage strategy prepared by Adama Consulting dated November 2021.

REASON: To ensure the approved development is adequately drained and to avoid flood risk.

10. The development shall be undertaken in accordance with the details set out in the approved drainage strategy prepared by Adama Consulting dated November 2021.

REASON: To ensure the approved development is adequately drained and to avoid flood risk.

11. The development shall be undertaken in accordance with the details set out in the approved Construction Environment Management Plan.

REASON: To ensure the amenities and safety of future occupants of the development.

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

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

13. No part of the development shall be first brought occupied, until the visibility splays shown on the approved plans 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

14. No dwelling on the development hereby approved shall be occupied until enough space for the parking vehicles, together with a vehicular access thereto, has been provided in accordance with the approved plans. The said spaces shall not be used other than for the parking of vehicles or for the purpose of access.

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

16. No dwelling on the development hereby approved shall be occupied until the cycle parking facilities shown on the approved plans have been provided in full and made available for use. The cycle parking facilities shall be retained for use in accordance with the approved details at all times thereafter.

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

17. No unit shall be occupied until those parts of the Travel Plan capable of being implemented prior to occupation have been implemented. Those parts identified for implementation after occupation shall be implemented in accordance with the timetable contained therein and shall continue to be implemented if any part of the development is occupied.

REASON: In the interests of reducing the amount of private car movements to and from the development.

18. No unit shall be occupied until full details of the proposed new footpath and staggered barrier connecting to Lark Down as shown on approved site has been approved and implemented.

REASON: In the interests of pedestrian safety and reducing the amount of private car movements to and from the development.

19. The development will be carried out in strict accordance with the following: Ecological Assessment (Ethos Environmental Planning, September 2021) Landscape and Ecology Management Plan (Ethos Environmental Planning, October 2021) Biodiversity Net Gain Assessment (Ethos Environmental Planning, September 2021) Construction Environmental Management Plan (Ethos Environmental Planning, September 2021)

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

20. No external light fixture or fitting will be installed within the application site unless details of existing and proposed new lighting have been submitted to and approved by the Local Planning Authority in writing. The submitted details will demonstrate how the proposed lighting will impact on bat habitat compared to the existing situation.

REASON: To avoid illumination of habitat used by bats.

21. The development hereby approved shall not commence above ground slab level until a scheme of hard and soft landscaping has been submitted to and approved in writing by the LPA , the details of which shall include:

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

22. 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.

23. No development shall commence on site above slab level until details and samples of the materials to be used for the external walls and roofs, windows and doors 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 visual amenity and the character and appearance of the area.

24. No development shall commence within the area indicated by application PL/2021/09909 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.

The evaluation is to be carried out by qualified archaeologists following the standards and guidelines for such work as set out by the Chartered Institute for Archaeologists (CIfA). The

REASON: To enable the recording of any matters of archaeological interest.

Costs of this work are to be borne by the applicant.

25. The development hereby approved shall be undertaken in strict accordance with the details as submitted and approved within the tree survey prepared by Sharples Tree Services dated November 2021.

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

26. The development shall not be occupied until details of at least 24 swift/bird boxes/bricks have been submitted to and approved in writing by the LPA and installed to be retained for the lifetime of the development.

REASON: IN the interests of ensuring biodiversity at the site.

27. No development shall commence on site until details of the works for the disposal of sewerage including the point of connection to the existing public sewer have been submitted to and approved in writing by the Local Planning Authority. No dwelling shall be first occupied until the approved sewerage details have been fully implemented in accordance with the approved plans.

REASON: To ensure that the proposal is provided with a satisfactory means of drainage and does not increase the risk of flooding or pose a risk to public health or the environment.

Planning Informatives

1. The applicant is advised that the development hereby approved may represent chargeable development under the Community Infrastructure Levy Regulations 2010 (as amended) and Wiltshire Council's CIL Charging Schedule. If the development is determined to be liable for CIL, a Liability Notice will be issued notifying you of the amount of CIL payment due. If an Additional Information Form has not already been submitted, please submit it now so that we can determine the CIL liability. In addition, you may be able to claim exemption or relief, in which case, please submit the relevant form so that we can determine your eligibility. The CIL Commencement Notice and Assumption of Liability must be submitted to Wiltshire Council prior to commencement of development. Should development commence prior to the CIL Liability Notice being issued by the local planning authority, any CIL exemption or relief will not apply and full payment will be required in full and with immediate effect. Should you require further information or to download the CIL forms please refer to the Council's Website: www.wiltshire.gov.uk/planninganddevelopment/planningpolicy/communityinfrastructurelevy
2. INFORMATIVE: The developer/applicant will be expected to enter into a S278/S38 Agreement with the Highway Authority before commencement of works hereby approved.
3. INFORMATIVE: The applicant should note that under the terms of the Wildlife and Countryside Act (1981) and the Habitats Regulations (2010) it is an offence to disturb or harm any protected species, or to damage or disturb their habitat or resting place. Please note that this consent does not override the statutory protection afforded to any such species. In the event that your proposals could potentially affect a protected species you should seek the advice of a suitably qualified and experienced ecologist and consider the need for a licence from Natural England prior to commencing works. Please see Natural England's website for further information on protected species.
4. Please be advised that nothing in this permission shall authorise the diversion, obstruction, or stopping up of any right of way that crosses the site.
5. The applicant is requested to note that this permission does not affect any private property rights and therefore does not authorise the carrying out of any work on land outside their control. If such works are required it will be necessary for the applicant to obtain the landowners consent before such works commence.

If you intend carrying out works in the vicinity of the site boundary, you are also advised that it may be expedient to seek your own advice with regard to the requirements of the Party Wall Act 1996

