

Eastern Area Planning Committee

MINUTES OF THE EASTERN AREA PLANNING COMMITTEE MEETING HELD ON 25 JANUARY 2024 AT WESSEX ROOM - THE CORN EXCHANGE, MARKET PLACE, DEVIZES, SN10 1HS.

Present:

Cllr Philip Whitehead (Chairman), Cllr Paul Oatway QPM (Vice-Chairman), Cllr Adrian Foster, Cllr Dr Brian Mathew, Cllr Kelvin Nash, Cllr Iain Wallis, Cllr Stuart Wheeler and Cllr Jerry Kunkler (Substitute)

Also Present:

Cllr Tamara Reay and Cllr Jane Davies

1. **Apologies**

Apologies for absence were received from:

- Cllr Tony Pickernell (Substituted by Cllr Jerry Kunkler)

2. **Minutes of the Previous Meeting**

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

Resolved

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

3. **Declarations of Interest**

Cllr Wallis made an additional declaration in relation to Item 7, that he worked for the Department for the Environment, Food and Rural Affairs, but would be speaking in a personal capacity. He did not work in the department dealing with Rights of Way applications.

In order to speak freely as the Unitary Division Member for Item 8, Cllr Wallis declared that he would leave the room in his capacity as a Committee member, so would not vote on, or participate in the formal debate about the application. Cllr Wallis sat with the public attendees for the duration of the item and only spoke in his capacity as local member.

4. **Chairman's Announcements**

The Chairman reminded the Committee about the changes to the National Planning Policy Framework introduced in December 2023 and referred them to

the briefing note contained in Agenda Supplement 1. He highlighted that, as Wiltshire had an emerging Local Plan that had reached an advanced stage, it was now only required to identify a supply of specific deliverable sites sufficient to provide a minimum of four years' worth of housing supply.

5. **Public Participation**

The Committee noted the rules on public participation.

6. **Planning Appeals and Updates**

On the proposal of the Chairman, seconded by Cllr Iain Wallis, it was:

Resolved

To note the appeals report for the period between 17 November 2023 and 12 January 2024.

7. **North Tidworth Path No.11**

The Definitive Map Officer Craig Harlow introduced a report about Wiltshire Council North Tidworth Path No 11 Definitive Map and Statement Modification Order 2023.

The Committee considered three objections to the to the Modification Order made under Section 3 of the Wildlife and Countryside Act 1981, as detailed in the report and were invited to forward the Order to the Secretary of State for Environment, Food and Rural Affairs (SoSEFRA) with a recommendation that the Order was confirmed as made.

The Definitive Map Officer gave a comprehensive presentation which outlined the routes and widths of the application, as well as Wiltshire Council's statutory obligations and the Order plans. He explained that the Applicant had submitted historical evidence to try to demonstrate that part of the route (NTID11) should be upgraded to a restricted byway. However, it was concluded by officers that the documentary evidence was insufficient to demonstrate on the balance of probability that a restricted byway existed.

It was noted that the application had previously been considered by the Committee in December 2022 when it was resolved to forward the Order to the SoSEFRA for confirmation (with modification). However, the Planning Inspectorate on behalf of the SoSEFRA informed Wiltshire Council that the Order was considered to be invalid due to an error within Part 1 of the schedule.

Following the decision to declare the 2022 Order invalid, Wiltshire Council had made a new Order to the same effect. It was reported that no new evidence had been presented to affect the Definitive Map Officer's original recommendation.

Members of the Committee then had the opportunity to ask technical questions of the Officer. Details were sought on what would constitute a 'legal event' which could extinguish a right of way. It was confirmed that a change in ownership would not necessarily extinguish a right of way.

When asked about the vehicles that would be entitled to use a restricted byway, the Definitive Map Officer explained that it would not be possible to drive along using a motorised vehicle, but it would be open to a horse drawn carriage.

There was no public participation, or statement by the Unitary Division Member.

So that the Committee had something to debate, the Chairman, seconded by Cllr Dr Brian Mathew, proposed that the Definitive Map and Statement Modification Order be sent to the SoSEFRA with the recommendation that it was approved as made.

At the conclusion of the debate, it was:

Resolved

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

8. **PL/2022/08744: Devizes Community Hospital, New Park Road, Devizes, SN10 1EF**

Public Participation

- Mr Richard Jackson spoke in opposition to the application.
- Miss Rowan Gilbert (NHS Property Services Ltd) spoke in support of the application.
- Cllr Richard Ormerod (Devizes Town Council) spoke in opposition to the application.

The Senior Planning Officer, Ruaridh O'Donoghue, introduced a report which recommended that the outline application for the part conversion and part development of the Devizes Community Hospital site, to provide up to 58 residential units and a circa 67.7 metre squared commercial space, be approved subject to a Section 106 agreement and the conditions outlined in the report. It was noted that the application would include associated landscaping and parking, as well as the conversion of two historically significant buildings (non-designated heritage assets) to the east of the site. All other matters, excluding the access arrangements, would be considered under a reserved matters application. Key details were stated to include the principle of development, highway safety, drainage, parking, heritage and landscape impacts.

Members of the Committee then had the opportunity to ask technical questions of the Senior Planning Officer. Details were sought about whether there was a

requirement to provide electric vehicle charging and heat pumps. It was confirmed that Condition 12 of the attached report, if approved, would ensure that a strategy for electric vehicle charging must be in place prior to the commencement of development. However, it was noted that there was not currently a policy in the Local Plan dictating that renewable energy had to be used in new dwellings.

In response to a query about why no affordable housing was included in the development, the Senior Planning Officer explained that it would be commercially unviable if affordable units were included. A commercial viability report had been commissioned by the Developer and reviewed by Wiltshire Council.

When asked about the requirement under the Environment Act 2021 for developments to deliver a 10 percent biodiversity net gain, the Senior Planning Officer explained that it had yet to come into effect. The current requirement, in line with paragraph 180 of the National Planning Policy Framework (NPPF) was to provide a one percent increase in biodiversity. He noted that the plans submitted included tree planting, the creation of a bat house and the retention, or replacement, of hedgerows around the site.

It was clarified that the development would have to comply with building regulations set out at the time of approval, even if there was a lengthy delay before the construction work was complete.

Further information was sought about the indicative parking arrangements as it was noted that there were only 71 parking spaces proposed, which was below the minimum requirement of 112. The Senior Planning Officer noted that the Local Highway Authority had accepted that the reduced parking provision was permissible due to the location of the site close to local amenities, which would promote active travel. In addition, there was a need to protect the non-designated heritage assets and provide sufficient room for landscaping. There would be little green space on site if the number of spaces to meet the minimum requirements were to be delivered.

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

The representative of Devizes Town Council then spoke in opposition to the application.

The Unitary Division Member, Cllr Iain Wallis, stated that he was supportive of developing the site, but opposed the application before the Committee, on the grounds that there was no provision of affordable housing. Cllr Wallis did not otherwise participate in the debate or vote on the application.

In response to the points raised by the public and Unitary Division Member, the Senior Planning Officer highlighted that the Highways Officer had compared the the likely number of vehicle movements to when the site was in operation as a hospital and had not objected to the development as proposed.

He noted that there had been some differences between the assessments made in the financial viability report produced on behalf of the Applicant and Wiltshire Council's independent assessment, but both had concluded that the provision of affordable housing would mean that the scheme was not commercially viable. If built with affordable units provided, the scheme would not be able to achieve a 10 to 15 percent profit. It was noted that the NHS would not be developing the site itself but would be selling it on to a developer. The Senior Planning Officer also observed that it was possible for developers to apply to Homes England for grant funding for the provision of affordable units through the Affordable Homes Programme.

The Development Management Team Leader, Karen Guest, highlighted that it was standard practice for commercial viability assessments to be redacted in the first instance before discussions with the Applicant, when unredacted versions were sometimes made available.

It was confirmed that as only outline permission was being sought at this stage the layout of the site plan provided was indicative and could be subject to change within the parameters of the outline permission. If outline permission was approved a further reserved matters application would come forward with proposals for the final layout and building design.

So that the Committee had something to debate, Cllr Dr Brian Mathew, seconded by Cllr Adrian Foster, proposed that the application be deferred pending the release of documents assessing the commercial viability of delivering affordable housing as part of the project.

A debate followed where issues such as the provision of affordable housing and the significance of the site were discussed. In response to queries, the Senior Planning Officer confirmed that it would be possible to release the commercial viability assessment conducted by the Applicant as well as the independent assessment made by Wiltshire Council.

At the conclusion of the debate, it was:

Resolved

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

Reason

To allow the Committee to consider the commercial viability report, about the provision of affordable housing, prepared on behalf of the Applicant, as well as the independent assessment made by Wiltshire Council.

9. **PL/2023/07628: Park House, Clench Common, Marlborough, SN8 4DU**

Public Participation

- Mr Nick Herridge spoke in support of the application.
- Cllr Jayne Drew (Kennet Valley Parish Council) spoke in support of the application.

The Senior Planning Officer, Meredith Baker, introduced a report which recommended that the application for a single new sustainable development dwelling at the land behind Park House be refused for the reasons outlined in the report. It was noted that the proposed access was via approved planning application (PL/2022/08144) for proposed stables and access. The proposed dwelling would have three bedrooms and two designated parking bays. Key details were stated to include the principle of development, as well as sustainability, design, residential amenity and highway impacts.

Attention was drawn to the recent change to the National Planning Policy Framework, which now only required Wiltshire Council to demonstrate a four year housing land supply, as it had an emerging Local Plan. The Senior Planning Officer highlighted that the reference to the five year housing land supply, in the second paragraph on page 84 of the agenda pack, should therefore be disregarded.

The Senior Planning Officer noted that the proposed development was located in open countryside within the North Wessex Downs National Landscape, so was therefore in conflict with Core Policy 1 (Settlement Strategy) and Core Policy 2 (Delivery Strategy) of the Wiltshire Core Strategy. The isolated position of the proposed dwelling was expected to be harmful to landscape character and visual amenity. The isolated position of the property would lead to a dependence on private motor transport in conflict with the principles of sustainable development. Furthermore, the access to the property was close to a bend in the road, so would create unacceptable highway safety concerns contrary to Core Policies 57 (High Quality Design and Place Shaping) and 61 (Transport and Development) of the Wiltshire Core Strategy.

Members of the Committee then had the opportunity to ask technical questions of the Senior Planning Officer. Details were sought on whether the application would be viewed differently if a separate title were to be created and it was confirmed that it would be in terms of Core Policies 1 and 2 of the Wiltshire Core Strategy.

The member of the public then had the opportunity to present his views to the Committee as detailed above.

The Parish Council representative then spoke in support of the application.

The Unitary Division Member, Cllr Jane Davies, also spoke in support of the application.

In response to the points raised by the public, Parish Council and Unitary Division Member, the Senior Planning Officer noted that full weight was being given to the settlement strategy now that Wiltshire Council was no longer required to demonstrate a five year housing land supply. She emphasised that the proposed development was not within a settlement boundary, so was not deemed to be a sustainable location for development. In response to concerns that the Wiltshire Core Strategy did not support the provision of housing in the countryside she highlighted that there were provisions under Core Policies 1, 2 and 48 (Supporting Rural Life) for the provision of rural housing. She also confirmed that the Agent had been contacted regarding highway safety issues during the application.

The Development Management Team Leader emphasised that the Core Policies in the Wiltshire Core Strategy had been applied and that the Committee would have to find material considerations that outweigh the reasons for refusal listed in the report if they wanted to grant permission for the application.

So that the Committee had something to debate, Cllr Dr Brian Mathew, seconded by Cllr Stuart Wheeler, proposed that the application be granted contrary to recommendation.

A debate followed where issues such as local support, the ecofriendly design, the sporadic location of the housing in Clench Common and transport options were discussed.

It was noted that Paragraph 84 of the National Planning Policy Framework could, in exceptional circumstances, permit development in isolated locations if the design was outstanding and reflected the highest standards in architecture, significantly enhancing its immediate setting. However, there was a very high bar for creating an exception to build in an isolated location on this basis.

In response to queries it was stated that provisions under Core Policy 48 would not provide material considerations to overturn the recommendation, but Core Policies 1 and 2 could provide material considerations to do so.

The Development Management Team Leader cautioned the Committee about the dangers of setting a precedent of approving an application outside of a defined settlement boundary contrary to Core Policy.

During the debate an amendment was proposed by Cllr Adrian Foster that the access arrangements be made subject to a reserved matters application, in order to address highway concerns. This amendment was accepted by the assent of the Committee and added to the substantive motion.

The Development Management Team Leader advised that the access arrangements could be subject to a pre-commencement condition. She also

observed that they would only be able to condition the land within the proposed development site, so would not be able to stipulate changes to the nearby road.

Following this advice, the amendment that the access arrangements be made subject to a reserved matters application was withdrawn from the substantive motion. The proposed conditions to be placed on the application were read out by the Senior Planning Officer and agreed to be added to the substantive motion by the assent of the Committee.

Following the conclusion of the debate, it was then:

Resolved

To GRANT permission for the creation of a new sustainable development dwelling, with three bedrooms and two parking bays, at the land behind Park House, with proposed access via (PL/2022/08144).

REASON: The benefits of the proposal, including: no harm to visual amenity; not a remote location, providing a much needed family home which would be of benefit to the settlement in terms of its survival; and local support outweighed the conflict with Core Policies 1 and 2 of the Wiltshire Core Strategy.

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:**

Application Form

**Planning, Design and Access Statement
Sustainable Development Supporting Planning Statement
Location Plan Existing – Drawing No.2528.HER-01 Rev C
Location Plan Proposed – Drawing No.2528.HER-02 Rev C
Proposed Site Plan – Drawing No.2528.HER-03 Rev C
Proposed Site Plan – Drawing No.2528.HER-04 Rev C
Proposed Floor Plan – Drawing No.2528.HER-06 Rev C
Proposed Floor Plan – Drawing No.2528.HER-05 Rev C
Proposed Roof Plan – Drawing No.2528.HER-09 Rev C
Proposed Elevations – Drawing No.2528.HER-08 Rev C
Proposed Elevations – Drawing No.2528.HER-07 Rev C**

**Proposed Perspective – Drawing No.2528.HER-11 Rev C
Arboricultural Survey & Report by ESLtd dated March 2023
Preliminary Ecological Appraisal by ESLtd dated March 2023**

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

- 3. No development above slab level shall commence on site until details of the external materials to be used on the development 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.

- 4. No development above slab level shall commence on site until details of boundary treatments (including gates) have been submitted to and approved in writing by the Local Planning Authority, the details of which shall include location, height, design and materials. Development shall be carried out in accordance with the approved details.**

REASON: Further details are required because insufficient information has been submitted with the application in this regard, to ensure a satisfactory landscaped setting for the development and in the interest of visual amenity.

- 5. No development above slab level shall commence on site 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:-**

- a detailed planting specification showing all plant species, supply and planting sizes and planting densities;**
- details of replacement tree and vegetation planting on site;**
- all hard and soft surfacing materials**

REASON: 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 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.

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

7. Prior to the commencement of works, including demolition, groundworks/excavation, site clearance, vegetation clearance and boundary treatment works, a 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.

- b) Working method statements for protected/priority species, such as nesting birds and reptiles.

- c) Mitigation strategies already agreed with the local planning authority prior to determination, such as for great crested newts, dormice or bats; 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).

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.

8. No works above slab level shall commence until details of the design and locations of bat roosts, nesting opportunities for birds, and bee bricks have been submitted to and approved in writing by the local planning authority. The locations of these biodiversity enhancements shall be included on updated elevation plan documents. The approved details shall be implemented prior to the occupation of the approved dwelling.

REASON: To provide mitigation/enhancement for biodiversity.

9. No external lighting shall be installed on site until plans showing the type of light appliance, the height and position of fitting, illumination levels and light spillage in accordance with the appropriate Environmental Zone standards set out by the Institution of Lighting Professionals in their publication “The Reduction of Obtrusive Light” Guidance Note 01/21 (referenceGN01/21), have been submitted to and approved in writing by the Local Planning Authority. The approved lighting shall be installed and shall be maintained in accordance with the approved details and no additional external lighting shall be installed.

REASON: In the interests of the amenities of the area and to minimise unnecessary light spillage above and outside the development site.

10. The development shall be carried out in strict accordance with the following document:

- **Arboricultural Survey & Report-by ESLtd dated March 2023**
- **Proposed Site Plan Drawing Number: 2528.HER.04 Rev C**

The approved tree protection shall be erected prior to any site activity commencing and maintained until completion of the development.

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

11. No part of the development hereby permitted shall be first occupied until the access and parking spaces have been completed in accordance with the details shown on the approved plans. The areas shall be maintained for those purposes at all times thereafter.

REASON: In the interests of highway safety.

Informatives:

- 1. The applicant should note that under the terms of the Wildlife and Countryside Act 1981 (as amended) and the Habitats Regulations 2017 (as amended), it is an offence to disturb or harm any protected species including for example, breeding birds and reptiles. The protection offered to some species such as bats, extends beyond the individual animals to the places they use for shelter or resting. Additionally, under the Protection of Badgers Act 1992 it is an offence to harm badgers or damage or destroy their setts or disturb badgers within their setts. 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.

- 2. All British birds, their nests and eggs are protected under Section 1 of the Wildlife and Countryside Act 1981 (as amended) and the Countryside and Rights of Way Act 2000 while birds are nesting, building nests and sitting on eggs. The applicant is advised to check any structure or vegetation capable of supporting breeding birds and delay removing or altering such features until after young birds have fledged. Damage to extensive areas that could contain nests/breeding birds should be undertaken outside the breeding season. This season is usually taken to be the period between 1 March and 31 August but some species are known to breed outside these limits.**

10. **PL/2023/05917: 19 Manton Hollow, Marlborough, SN8 1RR**

Public Participation

- Mr Adrian Eales, spoke opposition to the application.

The Senior Planning Officer, Meredith Baker, introduced a report which recommended that the application for a first floor rear extension be approved, subject to the conditions outlined in the report. Key details were stated to include the principle of development, design, visual and highway impacts as well as the impact on residential amenity.

Attention was drawn that the application number on page 91 of the agenda pack should have been listed as PL/2023/05917. It was reported that the subject property was a single storey bungalow located at the end of a residential road on a street comprised of a mixture of single and double storey dwellings. It was considered that there would be no negative impact to neighbour or visual amenity as a result of the proposed development.

Members of the Committee then had the opportunity to ask technical questions of the Senior Planning Officer. Details were sought on the orientation of the building. It was confirmed that the proposed extension would face towards the A4, Bath Road.

The members of the public then had the opportunity to present his views to the Committee as detailed above.

The Unitary Division Member, Cllr Jane Davies then spoke in opposition to the application.

In response to the points raised by the public and Unitary Division Member, the Senior Planning Officer clarified that there was a requirement to provide three parking spaces for dwellings with four or more bedrooms. Given that the proposed development was a single household extension, it was not felt that it would be proportionate to set a condition that a construction statement was produced.

In response to concerns that the height of the roof of the proposed extension was too high, the Senior Planning Officer explained that the design had been modified following consultation with Officers. There was sufficient distance between the subject dwelling and neighbouring properties so that it would not cause unacceptable blocking of light and the proposed development's height was not out of keeping with the street scene.

So that the Committee had something to debate, the Chairman, seconded by Cllr Stuart Wheeler, proposed that the application be granted for the reasons outlined in the report.

A debate followed where issues such as the building design and possible disruption during the construction process were discussed.

In response to queries it was stated that Core Policy 57 (High Quality Design and Place Shaping) of the Wiltshire Core Strategy did not set a limit on the number of extensions that a property could have. It was confirmed that no renewable energy sources were being proposed as part of the development, but it was not currently a stipulation of the Wiltshire Core Strategy.

During the debate, the Chairman proposed an amendment to his original motion to add an informative that the Applicant be advised to provide contact details to neighbouring properties prior to the commencement of construction works, so they could discuss concerns about the project. The Chairman's amendment was accepted as a friendly amendment by the seconder of the original motion, Cllr Wheeler, and added to the substantive motion.

At the conclusion of the debate, it was:

Resolved

That planning permission be GRANTED subject to the following conditions:

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

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

- 2. The development hereby permitted shall be carried out in accordance with the following approved plans:**

- Site Location & Block Plans - Drawing No. 22122 01 dated July 2023 and received 17/07/2023
- Proposed Plans and Elevations - Drawing No. 22122 108 dated June 2023 and received 05/10/2023
- Application Form - received 17/07/2023

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

Informative

The Applicant is advised to provide a point of contact (including name, e-mail address and telephone number(s)), and distribute this to the occupiers of neighbouring properties prior to the commencement of construction works. This contact should be available to respond to/discuss any concerns regarding the build and its impact on neighbouring occupants, if the need arises.

11. **Urgent items**

There were no urgent items.

(Duration of meeting: 3.00 - 5.42 pm)

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

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