

Date of Meeting	14 th September 2022
Application Number	PL/2021/08196
Site Address	Land at Eastrip Lane, Colerne, SN14 8AX
Proposal	Erection of single dwelling to provide special care accommodation for disabled person, resident carers and family
Applicant	Mrs Sharon Williams
Town/Parish Council	Colerne
Electoral Division	Cllr Mathew
Type of application	Full Planning
Case Officer	Simon Smith

1. Purpose of Report

Councillor Mathew has requested that the application be considered by the Northern Area Planning Committee should the recommendation be to refuse planning permission. In other respects, in view of the locally contentious nature of the application, it is considered appropriate for the Northern Area Committee to consider the application should the recommendation be for approval.

2. Report Summary

The key issues in considering the application are as follows:

- Principle
- Personal circumstances
- Layout, design, scale and appearance
- Landscape
- Highways and access
- Amenity
- Heritage
- Ecology
- Other matters

Colerne Parish Council object to the proposed development.

3. Site Description

The application site is greenfield land and although immediately next to a line of existing residential properties fronting Eastrip Lane, is sited outside of the defined boundaries to Colerne village, itself

identified as a large village within the Wiltshire Core Strategy. For the purposes of the application planning policy, the application site is therefore sited in the open countryside.

The site can perhaps be described as sloping quite significantly away from the road frontage. Somewhat gently at first, but with a more significant drop in level further East – the plans suggesting a fall of over 7.0m. A grouping of mature trees can be found to the East, but otherwise the application site is bare of vegetation.

The application site is located within the Cotswold Area of Outstanding Natural Beauty but is located outside of the Green Belt. No consultation Area of Listed Buildings are located near to the site.

4. The Proposal

Planning permission is sought for the erection of a new, detached dwellinghouse.

The dwelling adopts a form of split-level design, with two distinct domed roof elements: the larger main living accommodation over two floors and a smaller garage/hydro-pool single storey building linked via a flat roofed element. The design adopts what could be described as a modern architectural style, using horizontal timber boarding and natural stone for key elevations and zinc roof. Access from the public highway is to be via the existing field gate, which will require improvement including the provision of visibility splays.

The submission plans claim that the dwellinghouse will deliver floor areas of some 250m² for the main accommodation block and a further 78m² for the garage/pool block. Taking account of the sloping land to the South of the plot, at its maximum the main living accommodation block will be some 6.0m tall once roof mounted sky-lights are accounted for. The flank elevation of the main living accommodation block will extend to some 25m in length. Taking advantage of the sloping site, a large first floor terrace area is shown to be created to the East facing elevation, looking out over the Bybrook Valley.

The plans appear to demonstrate a reasonable degree of earth movement/importation will be required in order to flatten the site, particularly to the rear/East where the topography is more radically sloping.

The application explains that the accommodation is to be occupied by a family within which a member requires intensive medical care, including a *live-in* carer. To that end, in addition to the usual accommodation expected within a dwelling, the submitted plans show the creation of 4no. bedrooms along with specialist facilities, hydrotherapy room and dedicated carer accommodation. The submission requests that the personal circumstances of the applicant be taken account as a material consideration when determining the application.

During the life of the application, revised plans were submitted which repositioned and reduced the extent of accommodation being provided.

5. Local Planning Policy

Wiltshire Core Strategy

Core Policies 1 (Settlement strategy), 2 (Delivery strategy), 50 (Biodiversity and geodiversity), 51 (Landscape), 57 (Ensuring high quality design and place shaping), 61 (Transport and new development), 64 (Demand management).

North Wiltshire Local Plan 2011

Saved policy H4 (Residential development in the open countryside)

Colerne Neighbourhood Plan

Policies BE1 (Character and design); BE3 (Housing policy); BE5 (Sustainable design and construction); NE1 (Landscape and natural environment); NE2 (Green infrastructure and biodiversity); SE3 (Lighting schemes); NE4 (Key views).

6. Summary of consultation responses

Colerne Parish Council – Objection:

In response to initial submission:

“At Parish Council meeting 5th October 2021 minute ref 77.2. Concern regarding bulk of frontage and impact on area. Consideration of Colerne Neighbourhood Plan to be taken into account. Not supported.”

In response to revised plans:

“Cllrs. discussed the application in depth and they are objecting, (not supporting) the application on the following grounds it does not comply with the Colerne Neighbourhood Plan Topic paper 1 page 22.”

Highway Engineer – No objection subject to conditions:

“I refer to the above planning application dated 20/08/2021 for the provision of a new dwelling on Eastrip Lane, Colerne. Amended plans have been submitted and I have the following observations to make:

Eastrip Lane is an unclassified section of public highway subject to a speed limit of 60mph. The application site sits at the edge of the village and is not within the settlement framework boundary identified by Wiltshire Council which would lead to separate dwellings outside of identified development boundaries, the proposal would usually attract an adverse highway recommendation on sustainability. However, I shall be guided by you on this sustainability issue and wish to advise with regard to highways in the instance that you would be minded to permit a single dwelling in this location.

The application seeks permission to place a new 5-bed dwelling including ancillary accommodation for live-in carers. There is an existing field gate access to the site which would

be proposed to be widened to accommodate vehicle movements. This would require a Licence or permit in order to provide the new access with the public highway.

The lane in which access is taken from is not a through road and therefore not heavily trafficked and unlikely to see excessive speeds, however there would be a requirement to ensure that a minimal visibility splay of 2.4m x 43m is achievable as a minimum at the access. A plan demonstrating that the visibility is achievable above standard has been submitted and is therefore deemed acceptable, this splay should be kept clear of obstructions over 900mm. The vehicle parking for 5 vehicles, with one space included within a garage, would be in accordance with the minimum standards set out by Wiltshire Council.

The applicant has indicated the likely trip generation over a day as 8 two way trips, I would not consider the anticipated traffic generated by the proposals to be significant in terms of impact on the surrounding highway network, but due to location the site would rely heavily on the private motor vehicle as the main mode of transport.

Other than the sustainability issue highlighted above, I would not wish to raise an objection to the proposals subject to the following condition and informative:

No part of the development shall be first brought into occupied, until the visibility splays shown on the approved plans have been provided with no obstruction to visibility at or above a height of 900mm above the nearside carriageway level. The visibility splays shall always be maintained free of obstruction thereafter. Reason: In the interests of highway safety

Informative: The proposal includes alteration to the public highway, consent hereby granted shall not be construed as authority to carry out works on the highway. The applicant is advised that a license will be required from Wiltshire's Highway Authority before any works are carried out on any footway, footpath, carriageway, verge or other land forming part of the highway. Please contact the vehicle access team on telephone 01225 713352 or email vehicleaccess@wiltshire.gov.uk for further details."

Council Ecologist – No objection subject to conditions:

"This site falls within the consultation zone of the Bath and BoA Bat SAC, however there appears to be no mechanism for effect on the bats associated with the SAC as a result of this proposal. Further, the introduction of additional tree lines and planting may enhance the site for bats. I have no objection to this proposal, subject to the following conditions.

The development will be carried out in strict accordance with the following documents: Preliminary Ecological Appraisal report (Smart Ecology, 29/07/21), Proposed Site Plan (2104 L2 A submitted 19/11/21) REASON: For the avoidance of doubt and for the protection, mitigation and enhancement of biodiversity.

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.”

Landscape Officer – Objection. Extract repeated below:

“Despite my great sympathy with the applicant’s situation and position, as a responsible landscape officer, I have no alternative but to raise a landscape objection for this development proposal as the principle of providing a new residential development at this particularly sensitive location within the Cotswold’s AONB (National Landscape Designation) will result in great landscape and visual harm. This is due to the site’s elevated position along a local ridge/upper valley slope and its exposed and prominent location within the landscape. The development, if consented, would be clearly and openly viewed from the opposite side of the valley and visible from a number of public rights of way and roads. The development would not conserve or enhance the Cotswolds AONB (National Landscape) and the new development would harm the character of the landscape. The elevated views across the By Brook Valley represent some of the finest panoramic views of the Cotswolds AONB within Wiltshire in my opinion.

The AONB’s Management Plan for this Landscape Character Area clearly highlights within its Landscape Strategy and Guidelines, that new development should not be located on the upper more visually sensitive hill slopes of this valley landform.

Even if the tilted planning balance were to be accepted to be engaged by the LPA i.e. NPPF, Para 11(d) significant and demonstrable harm would arise to the AONB’s existing character and views in my opinion. In landscape and visual terms this is a clear case of development being proposed in the wrong place.”

Cotswold Conservation Board – Observations only

“The above planning application, which is for a development that would be located within the Cotswolds National Landscape, has been brought to the attention of the Cotswolds Conservation Board.

In reaching its planning decision, the local planning authority (LPA) has a statutory duty to have regard to the purpose of conserving and enhancing the natural beauty of the National Landscape.² The Board recommends that, in fulfilling this ‘duty of regard’, the LPA should: (i) ensure that planning decisions are consistent with relevant national and local planning policy and guidance; and (ii) take into account the following Board publications:

- *Cotswolds Area of Outstanding Natural Beauty (AONB) Management Plan 2018-2023;*
- *Cotswolds AONB Landscape Character Assessment (link) particularly, in this instance, with regards to Landscape Character Type (LCT) 9 High Wold Dip-Slope which the site lies within and LCT 4 Enclosed Limestone Valley, from which the site could be seen;*
- *Cotswolds AONB Landscape Strategy and Guidelines (link) particularly, in this instance, with regards to LCT 9 (link) including Section 9.2, and LCT 4 (link), including Section 4.2;*
- *Cotswolds AONB Local Distinctiveness and Landscape Change;*
- *Cotswolds Conservation Board Position Statements.*

The Board will not be providing a more comprehensive response on this occasion.”

7. Representations

In addition to the publicity undertaken in accordance with the Council's adopted Scheme of Community Involvement, the application was advertised as a departure from the adopted development plan in accordance with article 15 to the Town and Country Planning (Development Management Procedure) Order 2015.

35 representation letters were received in response across the application process. Twenty-two (22) representations in support, and thirteen (13) representations in objection. The following main issues being raised:

Support:

- Need for family to continue to live in community, of which they are an integral part
- The requirement of the applicant is for a specifically designed property which cannot be found elsewhere
- Supporting the wellbeing of the family
- Limited accommodation of this type in village
- Is an exceptional application and needs to be determined with compassion and humanity

Objection:

- Proposal conflicts the development plan
- Site is located outside village and not sustainable
- Size of the proposed dwelling remains very large
- Application site is located on prominent position on hillside causing impact on the AONB
- The planting proposed would not mitigate landscape impacts until they reach over 11m in height and the planting of mature trees is not recommended due to onerous management to ensure survival
- The application makes no consideration of the Cotswolds AONB Management Plan and policies therein, which is a requirement of policy CP51 to the WCS
- Would set undesirable precedent for further development along Eastrip Lane
- Site has already been assessed for residential development as part of the Neighbourhood Plan process and found to be inappropriate
- Newly made Neighbourhood Plan policy NE4 seeks to preserve key views and application would be visible within and cause severe impact to “Key View 5”
- Proposal would impact views from numerous positions on roads and footpaths in Colerne, Eastrip, Rudloe and Euridge.
- Part B of Neighbourhood Plan states that development should be avoided where it would constitute extensions to the settlement on visible hillsides
- Overwhelming vote against the proposal at the Parish Council meeting where application was considered
- Submission of revised plans following the Neighbourhood Plan referendum is surprising
- The needs of the applicant should not be regarded as a material consideration since it does not constitute a public interest
- The personal circumstances of the applicant would in any event not outweigh the harm caused to the landscape or conflict with the development plan
- Eastrip Lane is narrow, well used by walkers and not suitable to accommodate additional traffic – the applicants stated figure of 8 vehicle movements p/day is disputed

- If development is accepted , a new road must be created by the applicant to link Eastrip Lane to main road between Colerne and Ford
- Will impact upon the privacy of adjoining neighbours

8. Planning Considerations

Principle of Development

Colerne village is identified within Policy CP11 to the Wiltshire Core Strategy as a large village, with a defined boundary, known as the limits of development. In such circumstances, Policies CP1 and CP2 confirm that, *inter alia*, other than where altered through Neighbourhood Plans, new development will not be permitted outside the limits of development.

Adopted in 2020, The Wiltshire Housing Site Allocations Plan sets the defined boundary for Colerne. The existing properties extending along Eastrip Lane are within the defined settlement boundary, but being further North-East from the last property along Eastrip Lane, the application site is excluded from the boundary and therefore in planning terms is located in the open countryside.

However, both the text to Policy CP2 and saved Policy H4 to the North Wiltshire Local Plan 2011 (NMLP) does specify particular development types which may be acceptable in the countryside. These are broadly described as being *exceptions* to the prevailing development plan policy where new development will not be permitted in the open countryside

The proposal therefore constitutes the erection of a new dwelling in the open countryside, outside of any settlement defined by policies CP1, CP2 and CP11 to the Wiltshire Core Strategy, where new development will not be permitted. Whilst the text to Policy CP2 and saved Policy H4 of the NWLP identify exceptions to this policy, but the proposal does not fall into any of the described circumstances.

Accordingly, the development would very clearly be contrary to the fundamental aims and objectives of the Wiltshire Core Strategy and contrary to the adopted development plan for the purposes of s38(6) to the Planning and Compensation Act 1990.

Layout, design, scale and appearance

The proposed development adopts what could perhaps be described as a modern architectural style with external materials specified as being horizontal timber boarding and natural stone for key elevations and zinc roof.

Accommodation is provided over two floors in a *split-level* manner, with two distinct domed roof elements: the larger main living accommodation over two floors and a smaller garage/hydro-pool single storey building linked via a flat roofed element. The building would be located in a central position within the plot, which might be said to approximate a similar relationship with Eastrip Lane to those existing properties to the South-West. The proposed design cannot be described as being typically found in and around Colerne or rural Wiltshire, but neither is it exceptional, with several similarly domed roof (or overtly modern) designs found in and around Colerne village, including those which site at the edge of the built up area and looking out over the AONB/Byebrook Valley. Indeed, there is no pervasive architectural style or design seen within existing properties at Eastrip Lane. In light of the above, and in view of the reasonably high-quality materials being specified, in and of itself, the design adopted by the development is considered to be appropriate, precisely as is allowed for by policy BE1 to the Colerne Neighbourhood Plan.

Notwithstanding the above, it is reasonable to state that the scale of the dwelling being created is substantial. The submission plans claim that the dwellinghouse will deliver floor areas of some 250m² for the main accommodation block and a further 78m² for the garage/pool block. Taking account of the sloping land to the South of the plot, at its maximum the main living accommodation block will be some 6.0m tall once roof mounted sky-lights are accounted for. The flank (or longest) elevation of the main living accommodation block will extend to some 25m in length running roughly North-South, somewhat approximating the highest part of the site, before it drops significantly away to the East. Taking advantage of that sloping nature of the site, a large first floor terrace area is also shown to be created to the East facing elevation, looking out over the Bybrook Valley.

Even taking account of the reasonably scaled existing properties already to be found along Eastrip Lane, the proposed dwelling would be objectionably substantial and, due to the sloping nature of the site and orientation chosen, would present its bulkiest elevation to the hinterland of the Bybrook Valley. Precisely because of the topography traversed by existing development at Eastrip Lane, such a split-level approach is already present in many of the properties (to one degree or another), but the length, scale and extent of massing displayed by the rear, Eastward facing, elevation of the proposed development can perhaps be regarded as being at the extreme end of the spectrum.

Accordingly, whilst the choice of an overtly modern design and appearance is considered to be appropriate, the chosen layout of the site and scale of the dwelling being proposed will result in a bulky form of development when perceived from the North and East (ie. the open Bybrook Valley and AONB). The result is a form of development which cannot be said to respect the very particular surroundings within which it sits and would, in this respect, conflict with the requirements of policy BE1 and NE4 to the Colerne Neighbourhood Plan as well as policy CP57 to the Wiltshire Core Strategy.

With regard to sustainable design and construction, the submission confirms that the development is designed with several sustainable features:

- Rainwater will be collected and harvested for use in the garden and as grey water internally
- Insulated to Passive Haus level with U values in excess of building regulations by more than 20% to reduce the energy demand on the heating
- Air tightness test below 3
- Natural ventilation in the summer and natural daylight are used to all main spaces thereby minimising the use of artificial light
- MVHR installed throughout the house for the rest of the year, to support solar gain in winter and summer cooling
- Natural materials with low embodied energy are to be used throughout with glulamined timber beams, wooden floors generally and lino in wet areas
- High levels of insulation, with a ground source heat pump

There is no reason to believe that the proposal would not comply with policy BE5 to the Colerne Neighbourhood Plan which requires new development to be designed with the highest level of energy efficiency practicable.

Landscape impact

The site is wholly located within the Cotswolds Area of Outstanding Natural Beauty (a Nationally Protected Landscape). As such Wiltshire Council and Colerne Parish Council, as 'Relevant Authorities', have a duty of regard under Section 85 of the Countryside and Rights of Way Act 2000 (CRoW Act 2000) when exercising or performing any function in relation to or so as to affect the statutory purpose of this National Landscape Designation, within any planning recommendations and decisions they make. In this regard new development proposals within the Cotswolds AONB will

need to demonstrate that the AONB's natural beauty, its special landscape, visual and biodiversity qualities (i.e. its essence of place/what makes it locally and nationally valued) are conserved and enhanced. In practical terms this means that for any necessary new development within the AONB, it is appropriate in terms of its location, nature, scale, character, and quality.

In such locations, policy CP51 to the Wiltshire Core Strategy confirms, *inter alia*, the need for all new development to protect, conserve and where possible enhance landscape character and a regard to be had to the special qualities of the AONB and the relevant AONB Management Plan.

Policy NE1 to the Colerne Neighbourhood Plan requires, *inter alia*, that future development should maintain adequate open landscape space, rural and agricultural in character so that the landscape continues to provide the overall character and context of the parish.

More specifically, policy NE4 to the Colerne Neighbourhood Plan identifies seven significant "key views" within the parish where the scale, layout and massing of new development should be designed so as to respect these important features of the natural landscape. In particular, the location of the application would appear to have a direct relationship with "Key Views" 5 and 6, being to and from the very end of existing development found at Eastrip Lane.

Overarching the above development plan context, paragraph 176 to the NPPF, it is stated that great weight should be given to conserving and enhancing landscape and scenic beauty in AONB, which have the highest status of protection in relation to these issues.

Notwithstanding the sensitive location of the application site, as has been identified within several of the representations received, no LVIA type assessment has been undertaken by the applicant nor any attempt within the application to assess compliance with or take account of the Cotswolds AONB Management Plan (2018-2023) as is required by policy CP51 to the Wiltshire Core Strategy or any other detailed explanation within the submission that seeks to explain how adverse effects arising from this development proposal could be successfully mitigated in order to conserve and enhance the special qualities of the AONB designation.

As is described in sections above, what is clear is that the proposed development would be orientated along what is effectively the high point of the application site and the greatest, most bulky flank/elevation of the new building being positioned so that it faces the open landscape of the Bybrook Valley and its hinterland spreading North, South and East. Presumably so as to perform as a form of screening or filtering, the submitted plan appears to show a row of trees along the North and Eastern boundary of the site, although no details of their precise specifications have been provided.

Also seen on the proposed plans is what would appear to be a significant degree of earth movement/importation will be required in order to flatten the site, particularly to the rear/East where the topography is more radically sloping.

Within their commentary, the Council's Landscape Officer identifies the landscape character areas within which the application site sits and concludes that the proposal would conflict with guidelines set out within the Cotswolds AONB 'Landscape Strategy and Guidelines'. Further, they identify that the application site is located within the upper visually sensitive parts of the By Brook valley. With the application site being [situated] on a prominent ridge, described by the Council's Landscape officer as offering some of the finest panoramic views of the Cotswolds AONB across the By Brook valley.

The proposal will result in a highly noticeable visual change which will be experienced from various distances by various visual receptors which would harm landscape character within the AONB. In the opinion of the Landscape Officer, even if extensive woodland type planting were to be proposed on additional land to the south and east of the site this would take many years (if ever) to provide visual screening of the development itself due to the level differences between lower-level planting areas on the steep slopes and the higher levels of development. The development proposal would result in

great landscape and visual harm. Whilst additional planting is proposed (as is noted above), it cannot in any event be reasonably described as extensive.

Ultimately, as recognised within the Landscape Officers comment, the application site is located in a this particularly sensitive location within the Cotswold's AONB in an elevated position along a local ridge/upper valley slope and its exposed and prominent location within the landscape. The development would be clearly and openly viewed from the opposite side of the valley and visible from a number of public rights of way and roads. The nature and specificity of adopted Local Plan policy (and particularly that within the Neighbourhood Plan) very much reflects the relationship of the site to the wider landscape.

It is therefore unsurprising that the Council's Landscape Officer unambiguously concludes that the development would not conserve or enhance the Cotswolds AONB (National Landscape) and would harm the character of the landscape. Indeed, the AONB's Management Plan for this Landscape Character Area clearly highlights within its Landscape Strategy and Guidelines, that new development should not be located on the upper more visually sensitive hill slopes of this valley landform.

The Landscape Officers commentary very echoes similar objections made within received representations, that the proposed development would be contrary to both Policy CP51 to the Wiltshire Core Strategy as well as policy NE4 to the Colerne Neighbourhood Plan. There is no reason to disagree with those conclusions and the degree of conflict is plainly apparent and the impacts caused to the special character of the landscape significant.

Highways and access

Access to the application site is to be taken from an existing field entrance to Eastrip Lane an unclassified rural road with a notional speed limit of 60mph and no footways. It is a no through road , eventually terminating some 500m North of the application site at a scattered grouping of residential properties and farm buildings. Eastrip Lane is unlit and can perhaps be described as narrow and typical of those found around the hinterland of Colerne Village.

Also within their commentary, the Council's Highway Engineer takes the view that whilst Eastrip Lane is not heavily trafficked and therefore unlikely to see excessive speeds, visibility splays of 2.4m x 43m will be required in addition to the planned widening of the field access. During the life of the application, revised plans were duly submitted by the applicant demonstrating those visibility splays. Due to the size of the plot, sufficient space would be available to park 5 vehicles (with one space included within a garage) and would meet with the minimum standards set out within the adopted Wiltshire Council Car Parking Strategy.

Within their comments, the Council's Highway Engineer accepts the applicant's submissions that the development would likely generate 8 two way trips pr day. Although doubt is expressed within representations as to the accuracy of that number, there is no reason or evidence to suggest that the conclusions of the Council's Highway Engineer are somehow erroneous.

Ultimately, whilst objections have been received in respect of the adequacy of Eastrip Lane to accommodate the additional traffic associated with a single new dwelling, there is no evidence available to show that the development would cause an unacceptable impact upon highway safety or a sever residual impact on the highway network, as is warned against within paragraph 111 to the NPPF. Indeed, the Council's own Highway Engineer raises no objection, subject to the imposition of planning conditions compelling the deliver of the visibility splay, and on that basis the development is considered to meet with the requirements of policies CP60 and CP61 to the Wiltshire Core Strategy.

Neighbour amenity

Although introducing a new residential curtilage (and therefore activity) in a position where one does not currently exist, the relationship with the only adjoining property (no.14 Eastrip Lane) is somewhat distant. Indeed, whilst acknowledging the sloping nature of the site, the central location of the building will mean that facing windows and the East facing first floor balcony would be unlikely to cause unacceptable impacts upon the amenity or living conditions of the nearest neighbour.

Accordingly, and whilst acknowledging the concerns raised within representations, the proposal is considered to comply with the requirements of policy CP57 in this regard.

Heritage

No listed buildings are in proximity of the application site. Further, whilst the Colerne Conservation Area is located to the South-West of the site and in relative proximity, the intervening Frank's Wood points towards the application site not being greatly effectual to its setting. Accordingly, there is considered to be no impact or harm caused to any heritage asset by the proposed development and the proposal would not conflict with the requirements of policy CP58 of the Wiltshire Core Strategy or section 16 to the NPPF.

Ecology

The application site falls within the consultation zone of the Bath and Bradford on Avon Bat SAC and the submission has been made complete with an ecological appraisal (prepared by Smart Ecology, 29/07/21). The Council's Ecologist has considered the report and the potential for impacts.

In their commentary, they observe that the proposal is unlikely to have an effect on the SAC and, in fact, the introduction of additional tree lines and planting may enhance the site for bats. Accordingly, the raise no objections to the proposal subject to the use of a condition which compels the development to be carried out with the recommendation contained within the submitted ecological appraisal and the restriction of external lighting which can adversely impact upon bat habitats and flight routes.

Although no specific examination has been made by the applicant with regard to biodiversity enhancement, the proposal will result in additional landscaping being planted, as is noted by the Ecologist.

There is no reason to disagree with the conclusions reached by the Council's Ecologist and subject to the imposition of appropriately worded planning conditions, the proposal is considered to comply with policy CP50 of the Wiltshire Core Strategy and policies NE1 (Landscape and natural environment); NE2 (Green infrastructure and biodiversity); SE3 (Lighting schemes).

Personal circumstances and planning balance

S38(6) to the Planning and Compulsory Purchase Act 2004 (which amends the earlier Town and Country Planning Act 1990) confirms that applications for planning permission must be determined in accordance with the development plan, unless material considerations indicate otherwise.

Within the applicant's submission it is accepted that the proposed development would conflict with the adopted development plan policy, but that the personal circumstances of the applicant should be weighed against that conflict. To that end, the application claims that the accommodation is to be occupied by a family within which a member requires intensive medical care, including a live-in

carer. Evidence in the form of several letters from health care professionals has been submitted explaining the medical condition and care needs of the family member. There is no evidence to suggest that the evidence supplied is not an accurate setting out of the family member's (hereafter referred to as Mr Williams) condition and needs.

Although representations have been received which claim that the personal circumstances cannot be regarded as being a material consideration, it remains the case that neither statute or the courts define what might, or might not, constitute a "material consideration". The Planning Practice Guidance published by the Government does note that, in general, the UK planning system is concerned with and use in the public interest and that purely "private interests" could not be material considerations. Such private interests are commonly referenced as being matters such as lowering property values, loss of a view across land or rights to light. In this particular case, the medical condition and care needs of the applicant does not easily translate into what might be discerned as a "purely private interest" (as is worded in the PPG) and therefore in principle there is considered to be no reason why the applicant's needs cannot be regarded as a material consideration. The weight to be given to this as a material consideration is a matter for the decision maker and is explored below, with reference to the development plan conflict identified.

The invitation of a consideration of the personal circumstances of the applicant's family does require a consideration of the level of accommodation being provided and, in effect, how the applicant's family wishes to live their life at the property. Revised plans have reduced the amount of accommodation being provided (in particular, that nominally allocated in the plans to children who are reasonably likely to leave home and lead independent lives in the near future). Nevertheless, the quantitative and qualitative level of accommodation remains significant and arguably beyond the average family home:

- There is no reason to dispute the need for the specialist accommodation which is clearly specifically designed to support and be used by Mr Williams, other than to perhaps observe that the carers accommodation constitutes self-contained accommodation, complete with kitchenette, bathroom and w/c. The application confirms that the carer would be "live in" and it is not unusual to see families who are so inclined to employ, and afford, "staff" to help run their household to provide such self-contained accommodation. Indeed, such a relationship is not entirely dissimilar to "granny-annexe" type accommodation.
- The floorspace labelled on the plans as an "out building" is in reality linked and of substantial size in its own right, amounting to some 30%+ of the floor floorspace of the entire property. Whilst it is evident that can see that some of the floorspace in out building is connected with Mr Williams therapy, but the need for the other elements (which appear to be a straightforward garage/storage area) is less clear. The floorplans suggest that garage space is needed to accommodate the manoeuvring of a wheelchair when getting into and out of a car, there is no real explanation why the same cannot be achieved on a driveway or under some form of canopy if weather protection is needed.
- Although reduced from the originally submitted plans, the conventional, non-specialist accommodation shown continues to be reasonably scaled. Three bedrooms are shown, complete with two bathrooms, livingroom, dining area, kitchen as well as dedicated rooms labelled as being "larder", "study", "linen cupboard" and "laundry". Although substantial and arguably beyond the average property in and around Colerne, the extent and scale of this element of the property is no more than would be associated with (an albeit large, well appointed) detached house.
- A large first floor external balcony is proposed for the East elevation, presumably to take advantage of the exceptional views out across the Bybrook Valley. There is no suggestion that this element is connected to the needs of Mr Williams and does add considerably to the

amount of floorspace of the property and the buildings overall bulk, particularly along the key views to and from the AONB. Nevertheless, due to the sloping nature of the land across which existing properties at Eastrip Lane traverse, it is not an exceptional feature, with several of those properties having similar balconies (indeed, planning permission being recently given under PL/2022/02629 for a remodelling of No.7 Eastrip Lane, where a balcony was to be a prominent feature).

From the submissions and representations received (both in support and objection), there is no reason to dispute that the applicant and their family are valued members of the community and that the medical condition and care needs of Mr Williams are significant. It is within that context that the application site has presumably been offered to the applicant. The instincts of those that support the application are clearly laudable and to that extent, substantial weight must be given to the personal circumstances of the applicant's family, not least because in part it is the role of the Council to support the community it serves.

On the other hand, whilst also sympathetic to the applicant's situation, well-articulated objections have been raised from within the community (including the Parish Council) which are both relevant to planning and highly contemporary with the adoption of the very recently made Colerne Neighbourhood Plan (made March 2022), as part of the statutory development plan.

Those objections note that proposal is contrary the settlement strategy set out in the Core Strategy, but also unambiguously contrary to the very specific requirements of the very recently made Colerne Neighbourhood Plan. Indeed, not only does policy NE1 to the Neighbourhood Plan specifically seek to protect the very views which development on the application site would impact upon, but also policy BE4 also allocates land for up to 5no. houses within the community, meaning that the plan is making land available for new housing development (ie. the application site cannot be said to be the only land available on which to build new housing in the community).

The degree of conflict caused to the settlement strategy is clearly significant, but it is perhaps the significance of the impacts and harm that is caused to the character and appearance of the Cotswold AONB, and in particular, the key views identified within the Colerne Neighbourhood Plan the conflict with which perhaps being even more elevated (policies CP51 to the WCS and policy NE4 to the Colerne NP). Those landscape impacts are undeniable and, given the lifespan of build form (there being no reason to believe the property would not be well built and would not stand for decades) will be present long after the property and the specialist accommodation therein is no longer needed, must be a magnitude that can only translate into a matter of great weight. That weight is enhanced in light of the statutory duty of regard to AONB as set out within s85 to the Countryside and Rights of Way Act 2000.

However, weighing in favour of the proposal is the ability of the Council to impose a condition on any planning permission which will restrict future occupancy to those who are in need of such specialist accommodation. Such a condition would amount to a matter which is relevant to land use planning, since it would, in perpetuity, introduce a resource in the community analogous to such restricted housing for agricultural workers, over 55 retirement accommodation or even affordable housing (all of which are commonly the subject of planning conditions and are treated as a material planning consideration weighing in favour of the proposed development, especially where made specific to those living in the local area). Although perhaps in some ways imperfect because of the wide range of individual medical/care needs in any single person compared to the scope and specialism of accommodation being proposed, it is nonetheless considered reasonable to make use of the terminology used within the Homes4Wiltshire scheme operated by the Council. Such wording would restrict occupation to those persons (or their widows, widowers or dependents) from the community in need of adapted and accessible homes designed for persons with physical disabilities who need a home with adaptations to assist them live as independently as possible within the local community they live.

It is perhaps uncontested ground that an aging population and advances in medical science has resulted in an increase in need for homes that accommodate disabilities and care needs. In that context, the addition of such specialist accommodation to the local housing stock and availability to the wider community, once it is no longer needed by the applicant, is considered to be a significant material consideration weighing in favour of the proposal.

Clearly, the planning balance in this particular case is so very finely balanced and it is accepted that the weight to be given to material considerations is a judgement for the decision maker. Nevertheless, a decision must be made one way or another and, in this particular case, the weight given to the ability to render this rather specialist type of accommodation available to the community is such that it is considered to (albeit marginally) outweigh the also significant harm identified and conflict with adopted development plan policy.

In light of the above, the application has been advertised as departure from the development plan.

Other matters

It's accepted that the Council cannot currently demonstrate a NPPF compliant supply of housing land, but in recent appeal decisions it has nonetheless been concluded that the shortfall is relatively minor. Regardless of the above situation, the application site is located within the Cotswold AONB and footnote 7 to paragraph 11(d)(i) to the NPPF confirms that in such locations, relevant development plan policies are not regarded as being out of date. In this case, therefore, the so-called *tilted balance* is not engaged.

9. Conclusion

The proposed development is contrary to the statutory development plan, particularly policies CP1, CP2, CP11, CP51 and CP57 to the Wiltshire Core Strategy, saved policy H4 to the North Wiltshire Local Plan 2011 as well as Policies BE1, BE4, NE1 and NE4 to the Colerne Neighbourhood Plan.

However, subject to the imposition of planning condition which, when no longer needed by the applicant, will render the property available for occupation by residents in the community in need of adapted and accessible homes designed for persons with physical disabilities, the personal circumstances of the applicant and their family is a material consideration which would outweigh the identified adverse impacts from development taking place and the conflict with the development plan.

RECOMMENDATION: Subject to no new and substantive issues being raised as a result of the advertisement of the application as a departure from development plan policies, delegate to the Chief Planning Officer to GRANT planning permission, 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 occupation of the dwelling hereby permitted shall be limited to those persons (or their widows, widowers or resident dependents) from the community in need of adapted and accessible homes designed for persons with physical disabilities who need a home with adaptations to assist them live as independently as possible within the local community they live.

REASON: The site is in an area where residential development is not normally permitted and this permission is only granted on the basis of the exceptional circumstances of the applicant. Such a restriction upon the occupation of the dwelling will add specialist housing stock to the village of Colerne and the locality to the benefit of the community.

3. No development shall commence above ground floor 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 specification of all new planting, including all plant species, supply and planting sizes and planting densities at the site including that to be planting at the site frontage as well as the North and East site boundaries;
 - finished levels and contours;
 - means of enclosure;
 - car park layouts;
 - other vehicle and pedestrian access and circulation areas;
 - all hard and soft surfacing materials;

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

4. 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.

5. No development shall take place until full and complete details of finished ground floor slab and finished floor levels in relation to both the existing and proposed land level at the site have been submitted to and approved in writing by the Local Planning Authority. The development shall be carried out in accordance with the approved details.

REASON: In light of the sloping nature of the application site and apparent need for substantial amounts of earth movement as part of the development, full details of the finish ground and floor levels should be agreed so as to avoid greater prominence and impact on the landscape and AONB.

6. No development shall commence above ground floor slab level until details of the materials to be used for the external walls, roofs, doors, windows and all vents shall 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.

7. Notwithstanding the provisions of the Town and Country Planning (General Permitted Development) Order 2015 (or any Order revoking or re-enacting or amending this Orders with or without modification), no development within Part 1, Classes A-H shall take place on the dwellinghouse hereby permitted or within their curtilage.

REASON: In the interests of the highly sensitive location of the application site where any additions or alteration may cause additional impact to the landscape and AONB, it is necessary to allow for the consideration as to whether planning permission should be granted for such.

8. Notwithstanding the provisions of the Town and Country Planning (General Permitted Development) (England) Order 2015 (or any Order revoking or re-enacting or amending that Order with or without modification), the garage space hereby permitted shall not be converted to habitable accommodation.

REASON: In light of the personal circumstances of the applicant and the exceptional circumstances justifying the grant of planning permission, so as to ensure a commensurate level of accommodation on this sensitive site.

9. No part of the development shall be first brought into occupied, until the visibility splays shown on the approved plans have been provided with no obstruction to visibility at or above a height of 900mm above the nearside carriageway level. The visibility splays shall always be maintained free of obstruction thereafter.

REASON: In the interests of highway safety.

10. The development shall be carried out in strict accordance with the following documents: Preliminary Ecological Appraisal report (Smart Ecology, 29/07/21), Proposed Site Plan (2104 L2 A submitted 19/11/21).

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

11. No external lighting shall be installed at the site whatsoever unless first agreed in the form of a separate planning permission in that regard.

REASON: In light of the sensitive location, so as to avoid illumination of habitat used by bats and to allow the consideration of how new lighting at the site will impact upon bat habitat compared to the existing situation.

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

Location plan – 2104 L8 rev.B (21/02/22)

Proposed site plan – 2104/L2 rev.B (21/02/22)

Proposed block plan – 2104/L1 rev.B (21/02/22)

Proposed floorplans and elevations – 2104/L3, 4, 5, 6, 7 L3-7 B (21/02/22)

Proposed visibility splay 1:1250 – drawing no. 01 (March 2022)

Proposed visibility splay 1:500 – drawing no. 02 (March 2022)

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

INFORMATIVES:

There is a low risk that bats may occur at the development site. Many species of bat depend on buildings for roosting, with each having its own preferred type of roost. Most species roost in crevices such as under ridge tiles, behind roofing felt or in cavity walls and are therefore not often seen in the roof space. Bat roosts are protected all times by the Conservation of Habitats and Species Regulations 2017 (as amended) even when bats are temporarily absent because, being creatures of habit, they usually return to the same roost site every year. Planning permission for development does not provide a defence against prosecution under this legislation or substitute for the need to obtain a bat licence if an offence is likely. If bats or evidence of bats is found during the works, the applicant is advised to stop work and follow advice from an independent ecologist or to contact the Bat Advice Service on **0845 1300 228**, email enquiries@bats.org.uk or visit the Bat Conservation website.

Any alterations to the approved plans, brought about by compliance with Building Regulations or any other reason must first be agreed in writing with the Local Planning Authority before commencement of work.

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.

The applicant should note that the grant of planning permission does not include any separate permission which may be needed to erect a structure in the vicinity of a public sewer. Such permission should be sought direct from Thames Water Utilities Ltd / Wessex Water Services Ltd. Buildings are not normally allowed within 3.0 metres of a Public Sewer although this may vary depending on the size, depth, strategic importance, available access and the ground conditions appertaining to the sewer in question.

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

The proposal includes alteration to the public highway, consent hereby granted shall not be construed as authority to carry out works on the highway. The applicant is advised that a license will be required from Wiltshire's Highway Authority before any works are carried out on any footway, footpath, carriageway, verge or other land forming part of the highway. Please contact the vehicle access team on telephone 01225 713352 or email vehicleaccess@wiltshire.gov.uk for further details.