

# AGENDA

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**Meeting:** Northern Area Planning Committee  
**Place:** Council Chamber - Council Offices, Monkton Park, Chippenham  
**Date:** Wednesday 30 March 2016  
**Time:** 3.00 pm

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Please direct any enquiries on this Agenda to Natalie Heritage, of Democratic Services, County Hall, Bythesea Road, Trowbridge, direct line 01225 718062 or email [natalie.heritage@wiltshire.gov.uk](mailto:natalie.heritage@wiltshire.gov.uk)

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## Membership:

Cllr Tony Trotman (Chairman)	Cllr Toby Sturgis
Cllr Peter Hutton (Vice Chairman)	Cllr Chuck Berry
Cllr Christine Crisp	Cllr Terry Chivers
Cllr Mollie Groom	Cllr Ernie Clark
Cllr Mark Packard	Cllr Howard Greenman
Cllr Sheila Parker	Cllr Howard Marshall

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## Substitutes:

Cllr Philip Whalley	Cllr Linda Packard
Cllr Desna Allen	Cllr Graham Wright
Cllr Glenis Ansell	Cllr George Jeans
Cllr Mary Champion	Cllr Melody Thompson
Cllr Dennis Drewett	Cllr Chris Hurst
Cllr Jacqui Lay	

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If you have any queries please contact Democratic Services using the contact details above.

# AGENDA

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

1 **Apologies**

To receive any apologies or substitutions for the meeting.

2 **Minutes of the Previous Meeting** (*Pages 5 - 14*)

To approve and sign as a correct record the minutes of the meeting held on 9 March 2016 .

3 **Declarations of Interest**

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

4 **Chairman's Announcements**

To receive any announcements through the Chairman.

5 **Public Participation and Councillors' Questions**

The Council welcomes contributions from members of the public.

### Statements

Members of the public who wish to speak either in favour or against an application or any other item on this agenda are asked to register in person **no later than 2:50pm on the day of the meeting.**

The Chairman will allow up to 3 speakers in favour and up to 3 speakers against an application and up to 3 speakers on any other item on this agenda. Each speaker will be given up to 3 minutes and invited to speak immediately prior to the item being considered. The rules on public participation in respect of planning applications are detailed in the Council's Planning Code of Good Practice.

### Questions

To receive any questions from members of the public or members of the Council received in accordance with the constitution which excludes, in particular, questions on non-determined planning applications. Those wishing to ask questions are required to give notice of any such questions in writing to the officer named on the front of this **agenda no later than 5pm on Monday 21 March 2016.** Please contact the officer named on the front of this agenda for further advice. Questions may be asked without notice if the Chairman decides that the matter is urgent.

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

6 **Planning Appeals** (*Pages 15 - 16*)

An appeals update report is attached for information.

**7 Planning Applications**

To consider and determine planning applications as detailed below.

7a **15/11618/FUL Cowage Farm Foxley** (*Pages 17 - 34*)

7b **15/10486/FUL Lower Woodshaw Brynards Hill Royal Wootton Bassett** (*Pages 35 - 60*)

7c **16/01121/FUL Chuffs Lower Kingsdown Road Kingsdown** (*Pages 61 - 68*)

**8 Public Right of Way- Langley Burrell 22 (PART) Stopping Up Order and Definitive Map Modification Order 2015** (*Pages 69 - 106*)

**9 Urgent Items**

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

## **NORTHERN AREA PLANNING COMMITTEE**

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### **DRAFT MINUTES OF THE NORTHERN AREA PLANNING COMMITTEE MEETING HELD ON 9 MARCH 2016 AT COUNCIL CHAMBER - COUNCIL OFFICES, MONKTON PARK, CHIPPENHAM.**

#### **Present:**

Cllr Tony Trotman (Chairman), Cllr Peter Hutton (Vice Chairman), Cllr Mollie Groom, Cllr Mark Packard, Cllr Sheila Parker, Cllr Toby Sturgis, Cllr Chuck Berry, Cllr Terry Chivers, Cllr Howard Greenman and Cllr Jacqui Lay (Substitute)

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#### **20 Apologies**

Apologies were received from Cllr Crisp.

Cllr Crisp was substituted by Cllr Lay.

#### **21 Minutes of the Previous Meeting**

The minutes of the meeting held on 17 February 2016 were presented.

#### **Resolved:**

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

#### **22 Declarations of Interest**

There were no declarations of interest.

#### **23 Chairman's Announcements**

The Chairman drew the meeting's attention to the following matters: The evacuation procedures; the procedure for public participation; and the policy on recording and broadcasting of meetings.

#### **24 Public Participation and Councillors' Questions**

The Committee noted the rules on public participation and that there were no questions submitted.

25 **Planning Appeals**

The Committee noted the contents of the returned planning appeals update report.

26 **Planning Applications**

27 **15/12096/FUL - 3 Witts Lane, Purton, Wiltshire, SN5 4ER**

Owen Telling spoke against the application.

Mark Camble spoke in support of the application.

Cllr Jeff Greenaway (Purton Parish Council) spoke against the application.

The planning officer, Lee Burman, introduced the report which recommended that the application should be granted permission subject to the conditions outlined in the report. The application was for the demolition of an existing derelict cottage and the erection of 4 residential dwellings; photographs of the area, a map, a block plan and blueprints were shown. Planning permission for the demolition of the existing dwelling and the erection of four dwellings had previously been permitted, this application was a revision of the previous permission in respect of a 1.3m increase in the overall roof height of the new dwellings, inclusion of dormer windows to the rear elevations; erection of car ports instead of the previously approved attached garages and slightly varied mix of materials.

The officer explained that a new topographical survey had been conducted for the site; a slight reduction in surface level on parts of the site from the previous survey had been identified, however there was a variation in height across the site. It was outlined that there was no set vernacular or design character for the area and thus, the different design of the proposed buildings was not considered by officers to be out of character to the area. The officer informed those present that highways officers were satisfied that there would be sufficient off-street parking for the proposed dwellings, and no objections had been raised by design officers. The increase of 1.3 metres in roof height was not deemed significant enough to warrant refusal of the application, neither did officers consider the fence height to be overbearing. It was confirmed that ground floor slab levels would be a conditional requirement for permission.

Neither drainage engineers nor Thames Water had raised any concerns with the proposal. Members of the public had questioned the longer term maintenance of the proposed underground storage tank for water; the officer informed that the maintenance of the tank could either be through offer of adoption to the statutory undertaker (Thames Water) or to a management

company for the joint responsibility of future occupants of the proposed 4 dwellings.

The Committee was then invited to ask technical questions. The officer confirmed that site levels were indicated on the layout plan and were the same levels as the approved site layout plan and the topographical survey showed that there was a variation in height across the site. The officer explained that this site, as a corner plot, had been designed according to its prominent location. It was confirmed that the proposed 1.8 metre high fence had not been deemed high enough by the planning officers to warrant the application's refusal, nor had the proposed dwellings' height increase of 1.3 metres.

In response to concerns of traffic movement through Witts Lane, the officer confirmed that a Construction Method Statement could be conditioned. A condition on landscaping could also be added, if considered necessary by the Committee. The officer outlined the main advantages of car ports, as opposed to garages and explained that should an individual wish to convert their car port to habitable accommodation involving external alterations, they would need to seek planning permission but without any external alterations consent was not required unless conditions restricted such alterations.

Members of the public were then invited to speak, as detailed above.

The division member, Cllr Lay, supported the principle of development on the site; however, she raised concerns in respect of drainage, parking and roof height. The councillor considered the design was not in keeping with the local, rural area and the increased roof height would dominate neighbouring properties. The councillor also considered the need for conditions on a retaining wall and double yellow lines and hoped the application would be deferred to permit exploration of these issues. The planning officer advised that there were no planning reasons for deferral or refusal of the application.

In the debate that followed, members discussed that the management of the attenuation tank could be agreed following planning permission. Some members of the Committee considered the proposed parking to be insufficient in proportion to the bedroom numbers in the dwellings and felt the development to be too dense and overbearing in this locality. The Committee agreed that, should permission be granted it was important that the ground floor level of the development be established at the lowest height possible. It was acknowledged that ground levels, and therefore ridge height levels, varied in the locality. It was agreed that informatives could be added in respect of floor height, and to refer the consideration of double yellow lines to the Community Area Transport Group (CATG). The Committee considered that an informative to the applicant in respect of construction traffic on Witts Lane could address some concerns of the local member instead of a condition requiring approval of a construction method statement and agreed necessary conditions on landscaping.

Cllr Sturgis, seconded by Cllr Hutton, moved the officer's recommendation with the addition of standard conditions on landscaping and informatives that the lowest height of roof pitch be sought via use of floor slab levels, that Witts Lane is unsuitable as a through route for construction traffic and that need for waiting restrictions may be referred to the Community Area Transport Group as appropriate. The motion was put to the vote and passed.

**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:**

**Revised Site Plan 15/39:01 Rev B received 18.02.16**

**Plot 1 Floor Plans 15/39:02 and Elevations 15/39:03 received 04.12.15**

**Plot 2 Floor Plans 15/39:04 and Elevations 15/39:05 received 04.12.15**

**Plot 3 Floor Plans 15/39:06 and Elevations 15/39:07 received 04.12.15**

**Plot 4 Floor Plans 15/39:08 and Elevations 15/39:09 received 04.12.15**

**Location & Site Plan 15/39:00 received 04.12.15**

**Drainage Foul 15/39:14 received 04.12.15**

**Drainage Storm 15/39:15 received 04.12.15**

**Landscaping Plan 15/39:20 received 04.12.15**

**Bin Store 15/39:21 received 04.12.15**

**Finishes Schedule 15/39:10 received 04.12.15**

**Fences 15/39:22 received 04.12.15**

**Topographical Survey 16625-200-01T received 15.02.16**

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

**3 No part of the development hereby permitted shall be first occupied until the access, turning area and parking spaces have been completed in accordance with the details shown on the approved plans and has been consolidated and surfaced (not loose stone or gravel). The areas shall be maintained for those purposes at all times thereafter.**

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

**4 With regard to Plot 4, No development shall commence on site until visibility splays have been provided between the edge of the carriageway**



and a line extending from a point 2m metres back from the edge of the carriageway, measured along the centre line of the access, to the points on the edge of the carriageway 33metres to the east and 20metres to the west from the centre of the access in accordance with the approved plans. Such splays shall thereafter be permanently maintained free from obstruction to vision above a height of 0.6m above the level of the adjacent carriageway.

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

**5** No part of the development hereby permitted shall be first brought into use until the 2m wide footway across the frontage of Plots 1, 2, and 3 has been provided and resurfaced in accordance with the details shown on the approved plans and a lowered kerb provided adjacent to Plot 3 (to cross Witts Lane). Full details shall have been submitted to and approved in writing by the Local Planning Authority prior to the works taking place.

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

**6** With regard to Plots 1 and 2 no external alterations (including doors) shall be made to the car ports approved here in without formal approval of the Local Planning Authority via a planning application.

**REASON:** To ensure car ports remain open and available for car parking

**7** No construction activities shall be carried out within the curtilage of the site before 0730hrs in the morning on Mondays to Saturdays, nor after 1800hrs in the evening on Mondays to Fridays and 1400hrs in the afternoon on Saturdays, nor at any time on Sundays and Bank or Public Holidays. In addition there shall be no burning of waste on site at any time

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

**8** No development shall commence on site until the proposed ground floor slab levels of the development hereby permitted have been submitted to and agreed in writing by the Local Planning Authority prior to the works taking place.

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

**9 The dwellings hereby approved shall achieve Level 4 of the Code for Sustainable Homes. No dwelling shall be occupied until a final Code Certificate for it has been issued and submitted to, and approved in writing by, the local planning authority certifying that Code Level 4 has been achieved.**

**REASON: To ensure that the objectives of sustainable development set out Policy CP41 of the Wiltshire Core Strategy are achieved.**

**10 No development 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:-**

- location and current canopy spread of all existing trees and hedgerows on the land;
- full details of any to be retained, together with measures for their protection in the course of development;
- a detailed planting specification showing all plant species, supply and planting sizes and planting densities;
- finished levels and contours;
- means of enclosure;
- all hard and soft surfacing materials;
- tree(s), of a size and species and in a location to be agreed in writing with the Local Planning Authority, shall be planted in accordance with BS3936 (Parts 1 and 4), BS4043 and BS4428

**REASON: The application contained insufficient information to enable this matter to be considered prior to granting planning permission and 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 a satisfactory landscaped setting for the development and the protection of existing important landscape features.**

**11 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.

**12 INFORMATIVE TO APPLICANT:**

The applicant is advised that the development hereby approved represents chargeable development under the Community Infrastructure Levy Regulations 2010 (as amended) and Wiltshire Council's CIL Charging Schedule. A separate Community Infrastructure Levy Liability Notice will be issued by the Local Planning Authority. Should you require further information with regards to CIL please refer to the Council's Website [www.wiltshire.gov.uk/planninganddevelopment/planningpolicy/communityinfrastructurelevy](http://www.wiltshire.gov.uk/planninganddevelopment/planningpolicy/communityinfrastructurelevy)

**13 INFORMATIVE TO APPLICANT:**

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.

**14 INFORMATIVE TO APPLICANT:**

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.

**15 INFORMATIVE TO APPLICANT:**

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.

**16 INFORMATIVE TO APPLICANT:**

Please note that Council offices do not have the facility to receive material samples. Please deliver material samples to site and inform the Planning Officer where they are to be found.

**17 INFORMATIVE TO APPLICANT:**

Thames Water will aim to provide customers with a minimum pressure of 10m head (approx 1 bar) and a flow rate of 9 litres/minute at the point where it leaves Thames Waters pipes. The developer should take account of this minimum pressure in the design of the proposed development.

**18 INFORMATIVE TO APPLICANT:**

The applicant is advised that in seeking to discharge conditions in respect of ground floor slab levels to seek to achieve the lowest height at roof pitch level that is possible and as closely reflective of neighbouring properties as possible.

**19 INFORMATIVE TO APPLICANT:**

The applicant is advised that Witts Lane is unsuitable as a through route for construction traffic and it is recommended that contractors are advised of this and encouraged to use alternate routes.

**20 INFORMATIVE FOR APPLICANT:**

The applicant and future occupants of the dwellings hereby approved are advised that local road conditions are constrained and consideration as to any potential need for waiting restrictions (yellow lines) may be considered and addressed at the local Community Area Transport Group in due course.

28 **Malmesbury St Paul Without 13, 16, 17 and Lea Cleverton 1A Diversion Order and Malmesbury St Paul Without 15 Extinguishment Order**

Alistair Millington spoke in support of the application on behalf of Malmesbury St Paul Without Parish Council and on behalf of Sustrans.

The case officer, Michael Crook, introduced the report which recommended that “The Wiltshire Council Malmesbury St Paul Without 13 (part), 16 (part), 17 (part) and Lea and Cleverton 1A (part) diversion order and definitive map and statement modification order 2015” and “The Wiltshire Council Malmesbury Without 15 Extinguishment and Definitive Map and Statement Modification Order 2015” be forwarded to the Secretary of State for Environment, Food and Rural Affairs with a recommendation from Wiltshire Council that the Orders be confirmed without modification.

A map of the current Rights of Way and proposed routes were shown. The officer explained that the current landowner wanted to change the RoW on his land; in exchange he would provide a license for the public to use a route along the disused railway track. Wiltshire Council wanted the disused railway line to be used as a pedestrian-cycle route and it was noted that the Council had taken a contribution from the nearby housing development at Cowbridge to achieve this. Sustrans was also supportive of this proposal. The officer informed those present that the diversion of the public right of way would remove access right next to the landowner’s farm and would divert 2 rights of way to the edge of one field. The proposed diversion would also correct an anomaly where the line of the right of way across the river was following the line of the old bridge rather than the new bridge, which is in a different location. It was stated that although some objections had been raised by the public, no issues had been identified that would challenge the legal tests of the proposed diversion order.

The committee were then invited to ask technical questions. The officer confirmed that the PROW would be diverted, but that the diversions were relatively small.

Members of the public were invited to speak, as detailed above.

Cllr Sturgis spoke on behalf of the local member, Cllr John Thomson, and commented that the proposed route was generally supported by the local community.

In the debate that followed members supported the proposals, however, they encouraged the landowner to seek guidance from officers to try to avoid additional rights of way being claimed at some point in the future.

Cllr Sturgis, seconded by Cllr Chivers, moved the officer's proposal. The motion was put to the vote and passed.

**Resolved:**

**That "The Wiltshire Council Malmesbury St Paul Without 13 (part), 16 (part), 17 (part) and Lea and Cleverton 1A (part) diversion order and definitive map and statement modification order 2015" and "The Wiltshire Council Malmesbury Without 15 Extinguishment and Definitive Map and Statement Modification Order 2015" be forwarded to the Secretary of State for Environment, Food and Rural Affairs with a recommendation from Wiltshire Council that the Orders be confirmed without modification.**

29 **Urgent Items**

There were no urgent items.

(Duration of meeting: 15:00-16:23)

The Officer who has produced these minutes is Natalie Heritage, of Democratic Services, direct line 01225 718062, e-mail [natalie.heritage@wiltshire.gov.uk](mailto:natalie.heritage@wiltshire.gov.uk)

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**Wiltshire Council  
Northern Area Planning Committee  
30<sup>th</sup> March 2016**

Forthcoming Hearings and Public Inquiries between 17/03/2016 and 30/09/2016

Application No	Site Location	Parish	Proposal	DEL or COMM	Appeal Type	Officer Recommend	Date	Overturn at Cttee
14/07602/OUT	Land at Oxford Road Calne Wiltshire	CALNE	Erection Of Up To 41 Dwellings (Outline)	DEL	Inquiry	Refuse	17/05/2016	No
14/11179/OUT	Land at Prince Charles Drive Calne Wiltshire SN11 8NX	CALNE WITHOUT	Residential Development of up to 130 Dwellings, Infrastructure, Ancillary Facilities, Open Space, Landscaping & Construction of New Vehicular Access Off Prince Charles Drive	DEL	Inquiry	Refuse	10/05/2016	No
14/11978/OUT	Wheatleys Farm High Road Ashton Keynes Swindon SN6 6NX	ASHTON KEYNES	Demolition Of Existing Farm Buildings & Erection Of 18 Dwellings (Outline, All Matters Reserved Except Access)	DEL	Hearing	Refuse	18/03/2016	No

Planning Appeals Received between 26/02/2016 and 17/03/2016

Application No	Site Location	Parish	Proposal	DEL or COMM	Appeal Type	Officer Recommend	Appeal Start Date	Overturn at Cttee
15/09370/FUL	David Horton Demolition School Hill East C109 Then South under M4 to Sodom Lane, Grittenham Wiltshire, SN15 4JN	BRINKWORTH	Proposed Extension to Existing Contractors Yard	DEL	Written Representations	Refuse	01/03/2016	No
15/09088/PNCOU	Manor Farm, Hilmarton Calne, Wiltshire SN11 8SB	HILMARTON	Prior Notification Under Class Q - Conversion of Agricultural Building to Dwelling	DEL	Written Representations	Refuse	02/03/2016	No
15/09386/PNCOU	Building at Pooks Corner Farm Heddington, Wiltshire SN11 0PF	HEDDINGTON	Notification For Prior Approval for a Proposed Change of Use of a building from Office Use (Class B1(a)) to a Dwellinghouse (Class C3)	DEL	Written Representations	Refuse	29/02/2016	No

Planning Appeals Decided between 26/02/2016 and 17/03/2016

Application No	Site Location	Parish	Proposal	DEL or COMM	Appeal Type	Officer Recommend	Appeal Decision	Decision Date	Costs Awarded ?
15/09984/FUL	Yew Tree Cottage Burton Hill Malmesbury Wiltshire, SN16 0EL	ST PAUL MALMESBURY WITHOUT	Single Storey Rear Extension	DEL	House Holder Appeal	Refuse	Allowed	14/03/2016	No

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## REPORT TO THE AREA PLANNING COMMITTEE

<b>Date of Meeting</b>	<b>30<sup>th</sup> March 2016</b>
<b>Application Number</b>	<b>15/11618/FUL</b>
<b>Site Address</b>	<b>Cowage Farm Foxley Malmesbury Wiltshire SN16 0JH</b>
<b>Proposal</b>	<b>Construction of Two Livestock Buildings</b>
<b>Applicant</b>	<b>WL Collins &amp; Son</b>
<b>Town/Parish Council</b>	<b>ST PAUL MALMESBURY WITHOUT</b>
<b>Division</b>	<b>SHERSTON – Cllr John Thomson</b>
<b>Grid Ref</b>	<b>390373 186056</b>
<b>Type of application</b>	<b>Full Planning</b>
<b>Case Officer</b>	<b>Kate Backhouse</b>

### **Reason for the application being considered by Committee**

The Application was called in for Committee determination by Councillor Thomson to assess the impact of the proposed development having regard to the potential for visual intrusion, lighting, noise, effluent, odour and vermin, heavy traffic and archaeology.

### **1. Purpose of Report**

To consider the above application and recommend that planning permission be GRANTED subject to conditions listed below.

### **2. Report Summary**

The application was advertised by site notice. This resulted in 131 letters of objection, 17 comments and 2 letters of support. Malmesbury and St Pauls Without Parish Council support the application. Norton and Foxley Parish Council object to the application.

The main issues in the consideration of this application are as follows;

- Impact on Scheduled Monument
- Impact on AONB and landscape character
- Traffic and highways
- Principle of development
- Need for screening opinion or Environmental Impact Assessment

- Odour
- Drainage and risk of pollution

### **3. Site Description**

Cowage Farm is located outside of the village of Foxley approximately a mile south west of Malmesbury in open countryside. The application site lies approximately 600m from the main farm buildings and to the north of Foxley road at the eastern most point of the applicants' holdings. The site lies within the Cotswold Area of Outstanding Natural Beauty and to the immediate west lies a scheduled ancient monument.

The existing buildings at Cowage Farm are used for cattle housing and grain storage with approximately 600 acres of land for arable cropping and 250 cattle accommodated across the holdings. There is no space on the main farmstead itself for further development and due to site constraints including the flood plain and scheduled ancient monument, the proposed units have been positioned in the only feasible location.

### **4. Planning History**

None relevant

### **5. The Proposal**

The submitted plans show the construction of 2 No livestock buildings each 61m long by 15m wide with a maximum ridge height of 6m . The buildings will accommodate up to 1900 pigs at a time split between the 2 No buildings. The buildings are of steel frame construction with profile sheeting to the roof, spaced timber boarding along the upper dimensions with preformed concrete panels to the lower elevations. To the northern end of the building is a relatively small muck pad which will contain the manure before it is distributed on the applicants' land. The buildings will be positioned against a hedgerow to the east and plans show a new hedgerow planted to the west. The existing access is to be relocated away from the bend to improve visibility splays.

### **6. Planning Policy**

#### **Wiltshire Core Strategy**

CP34 Additional employment land

CP58 Ensuring the Conservation of the historic environment

CP50 Biodiversity and Geodiversity

CP51 Landscape

CP57 Ensuring high quality design and place shaping

CP62 Development Impacts on the Traffic Network

CP67 Drainage

## **National Planning Policy Framework**

Paragraphs 14 & 17

Section 3 – Supporting a prosperous rural economy

Section 5 Promoting sustainable transport

Section 7 Requiring good design

Section 11 Conserving and enhancing the natural environment

Section 12 Conserving and enhancing the historic environment

## **7. Consultations**

Environment Agency – No objection subject to informatives

Public Protection – No objection

Highways – No objection subject to conditions

Drainage – no objection subject to conditions

Historic England – No objection

County Archaeologist – No objection subject to conditions

County Ecologist – No objection

Landscape Officer – No objection subject to condition

Cotswold AONB Board – No objection

Agricultural Consultant – Support

Malmesbury & St Paul Without Parish Council – No objection

Norton and Foxley Parish Council – Object

## **8. Publicity**

Notification was undertaken in accordance with the Councils' adopted procedures. A site notice was posted on December the 2<sup>nd</sup> to the front of the site. No neighbour letters were sent out due to the distance to the nearest residential property of over 300m. Concerns have been raised that the site notice was not in situ over the following weeks however the Council cannot repeatedly visit sites to check that notices remain in place once erected.

The site lies within Malmesbury and St Paul without Parish who were consulted. Foxley and Norton Parish lies adjacent to the site and whilst not consulted initially were afforded the opportunity to comment when this was raised. Information on the application was also forwarded on by Norton and Foxley Parish Council to parishioners as it is not feasible to send out neighbour notification letters to everyone within a Parish as was requested by some parties. The LPA is therefore satisfied that the notification procedure was undertaken correctly and that all interested parties have had adequate time to comment on the merits of the application.

Malmesbury & St Paul Without Parish Council – No objection

Norton and Foxley Parish Council - Object

131 letters of objection

2 letters of support

17 Comments

Issues raised are summarised below;

- Lack of public notification
- Impact on traffic network and cycle route
- Odour
- Pollution
- Impact on AONB and landscape character
- Lighting
- Rodents and Vermin
- Flooding and drainage
- Acceptability of intensive farming and animal welfare
- Future intentions of applicant
- Decrease In house values
- Condition of roads
- No benefit to town centre

## **9. Planning Considerations**

### **Screening Opinion for Environmental Impact Assessment**

The proposed development falls within Schedule 2 of the **Town and Country Planning (Environmental Impact Assessment) (Amendment) Regulations 2015**, specifically subparagraph Table 1 (c) titled as 'Agriculture and Aquaculture' as it exceeds the 500 square metre threshold. The indicative criteria and threshold however of 2000 fattening pigs, is not exceeded.

Notwithstanding the above, under Schedule 3 of the above regulations, the more environmentally sensitive a site is, the more likely it is that the effects will be significant and require an assessment. In this instance the site is located within an Area of Outstanding Natural Beauty and adjacent to an Archaeological Site.

When a local planning authority receives an application for Schedule 2 development and the application has not been the subject of a screening opinion or direction and there is no accompanying Environmental Statement, the local planning authority must provide an opinion on the need for Environmental Impact Assessment as if the applicant had requested

it under regulation 5. If the local planning authority's opinion is that Environmental Impact Assessment is not required, the application should then be determined in the normal way

The screening opinion therefore forms part of the consideration of this application which will be assessed against the criteria in Schedule 3.

An Environmental Impact Assessment (EIA) is more likely to be required if the project affects the features for which the sensitive area was designated. However, it does not follow that every Schedule 2 development in (or affecting) these areas will automatically require an assessment. It is necessary to judge whether the likely effects on the environment of that particular development will be significant in that particular location. Local planning authorities are advised to consult the consultation bodies in cases where there is a doubt about the significance of a development's likely effects on a sensitive area.

As noted above the site is located within sensitive area and as advised, the LPA consulted the relevant statutory consultees. The proposal has been considered by the Environment Agency, the Cotswolds AONB Board, Public Protection, Highways, County Archaeologist, Landscape Officer and Historic England and no objections have been raised to the proposal. Given this position, that the threshold criteria is not met (i.e less than 2000 pigs) and that the site is affected by limited constraints the Council considers that Environmental Impact Assessment is not required for the proposal.

### **Principle of development**

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

Wiltshire is a largely rural area and the National Planning Policy Framework highlights the importance placed on supporting a prosperous rural economy through local and neighbourhood plans which promote the development and diversification of agricultural and other land-based rural businesses. Section 3, paragraph 28 (NPPF)

It is considered that in principle the development is supported by planning policy as a diversification of the existing arable and livestock farming enterprise to bolster the longer term viability of the landholding. The use is appropriate to the open countryside and rural environment in which it is situated. The supporting text to Core Policy 34 (Additional employment land) makes explicit reference to "*support(ing) the rural way of life through the promotion of modern agricultural practices,*" encouraging this type of new enterprise outside of the identified settlements as compliant with CP34(ii). The farming practice proposed is undoubtedly modern, being based on the regular and systematic turnover of livestock for a major supermarket chain and being undertaken on a considerable scale.

### **Rural Landscape and Area of Outstanding Natural Beauty**

The site lies within the Cotswolds Area of Outstanding Natural Beauty. Paragraph 115 of the National Planning Policy Framework 2012 states that "great weight" should be given to conserving landscape and scenic beauty in Areas of Outstanding Natural Beauty, which have the highest level of protection. The Wiltshire Core Strategy, Core Policy 51 indicates

that proposals should protect, conserve and where possible enhance landscape character and must not have an unacceptable impact upon landscape character within the immediate area and over long distance views. Additionally, Core Policy 57 indicates that proposals should relate positively to its landscape setting by ensuring that important views into, within and out of the site are retained and enhanced.

The site has been assessed by the Councils Landscape Officer, The Cotswolds Conservation Board and Historic England and they have concluded that there are limited public viewpoints towards the application site including the public rights of way network with the exception of from the adjacent road frontage to the site. Given this limited views of the site a photo montage as requested by members of the public is not considered necessary. The buildings are to be sited adjacent to a field boundary to the west with a hedgerow reintroduced on the eastern boundary along the former historic Parish boundary. The Cotswold Board has suggested conditions relating to lighting, landscape management plans and limitations to open storage with further conditions suggested by the Council's Landscape Officer. As discussed previously, the buildings would ideally be located within or adjacent to the existing farm complex however there are site specific circumstances including the scheduled ancient monument which have informed the location of the buildings, a greenfield site away from the existing farm buildings. It should also be noted that agricultural buildings and uses are entirely appropriate and normal features of the Wiltshire landscape.

The access to the site is to be relocated to provide adequate visibility and whilst there will be some loss of the hedgerow this has been kept as minimal as possible having due regard to the need for adequate visibility. Further to this a new native hedgerow is to be planted along the new western boundary which reinstates the historic parish boundary whilst also providing ecological mitigation. Consequently Landscape Officers and consultees raise no objection to the scheme proposed on the grounds of visual impact or harm to the character and appearance of the locality

### **Transport and traffic movements**

The proposed units will create approximately 46 lorry movements consisting of 4 deliveries of piglets, 1 to each building, 2 x per year and 16 collections of the fattened pigs, 16 times a year. Each batch of pigs takes approximately 22 – 23 weeks to finish . In addition to the delivery and collection of pigs there will be 26 feed deliveries per year.

In addition to lorry movements there will be daily welfare visits to the site and weekly tractor movements associated with the removal of manure from site and its distribution on suitable muck heaps across the farm.

Concerns have been raised over the impact the development will have on the highway network. Notwithstanding the matter that tractor and 4 x 4 vehicular movements associated with farming practices are expected, daily welfare visits from the applicant or his staff the short distance from the farmstead and weekly tractor collections are not considered significant.

The Councils' Highway officer has fully reviewed the proposal and is satisfied that the 46 lorry movements per year, less than 1 per week is not excessive and as such offers no highway objection subject to conditions. In order to achieve suitable visibility the access has been relocated away from the bend in the road and the existing access is to be stopped up.

Conditions are recommended in respect of achieving the required visibility splay, the consolidation of the first 5 metres of access and the stopping up of the existing access.

### **Archaeology and the Scheduled Ancient Monument.**

The proposed livestock buildings are to be located adjacent to the Scheduled Monument known as 'Early medieval settlement, palace, church, and Bronze Age ring ditches 340m east of Cowage Farm'.

An archaeological desk assessment and geophysical survey were undertaken which has indicated that it is unlikely that there are remains of great significance in the proposed location of the livestock buildings. The County Archaeologist has reviewed the information and offers no objection subject to conditions that include a written programme of archaeological investigation is submitted to and approved in writing by the LPA.

Historic England has confirmed that in addition to evidential and archaeological value, the significance of the Scheduled Monument is also supported by its setting and in particular, the historic landscape in and around the current settlement at Foxley. They go on to note that the surviving pattern of field boundaries were likely influenced by the presence of the anglo-saxon settlement. Historic England conclude that whilst the proposed buildings are undoubtedly visible from within the Scheduled Monument and from the lane, they are of the view that the proposals will not result in a loss of significance via an adverse change in setting due to two reasons. Firstly that the form and finish of the new buildings accords with the current landscape pattern of agricultural buildings and dispersed farms and secondly that the proposed reinstatement of the former historic parish boundary would enhance the setting of the scheduled monument, supporting its significance and improving understanding of the 'sense of place' of the Scheduled Monument in the landscape.

### **Odour & pollution**

Numerous concerns have been raised regarding the likelihood of odour from the site and from the spreading of manure. In respect of the site itself the practice consists of 2No deep litter, straw based sheds with a small muck pad / scrape area. The proposed buildings are relatively substantial in order to allow for proper ventilation and internal air circulation for the proposed number of pigs. As the existing farming practice is to continue in much the same way, the waste produced onsite is to be re-spread as natural fertiliser on a periodic basis in the owner's landholding reducing the need for artificial fertiliser being introduced to the site.

It has been expressed that the quantities of animals as well as the intensive methods of rearing will give rise to exceptional odour pollution. The closest residential property lies approximately 350m to the east. The applicant has provided an odour management plan that details proactive and reactive measures to be employed in order to guard against adverse impacts on residential amenity as a result of odour emissions. The Councils Environmental Health Officer has visited the site and reviewed the proposal and proposed management plan and is satisfied that subject to a suitably worded condition to ensure compliance with the management plan, the development should not give rise to any significant impact in terms of odour emissions.

Clean water run-off will be directed to existing watercourses and ditches within the site. Dirty water produced will be collected in a dirty water store and injected into the soil and sealed to

prevent odour. The farming practice will create straw based manure due to the method of rearing which is biodegradable and will be returned to the land periodically reducing the need for artificial fertiliser. The Council's Drainage Officer has been consulted and offers no objection subject to conditions.

Concerns have also been raised regarding the potential for vermin however as confirmed by the applicant, food will be stored securely to avoid this. Again, no objection is raised from the Council's public protection officer or the Environment Agency.

Lighting is to be kept minimal, only operational when the applicant / staff member is visiting to see to the welfare of the pigs. Lighting is to be to Environmental Zone E2 as defined by the Institute of Lighting Professionals 'Guidance Notes for the Reduction of Obtrusive Light' 2012. As recommended by the Council's public protection officers and conditions are recommended in respect of this.

As the statutory body responsible for water quality and resources, the Environment Agency has been consulted and offers no objections to the proposal. However, informatives relating to groundwater protection and the prevention of pollution during construction in accordance with their legislation namely the Environmental Permitting (England and Wales) Regulations 2010: regulations 38(1) and 12(1) are recommended. Comments have been made requesting additional preventative measures be placed on any permission due to concerns regarding pollution however given that the Environment Agency are satisfied with the proposal subject to informatives and that pollution is covered by separate legislation, the LPA cannot duplicate legislative requirements through the use of planning conditions.

### **Other matters**

#### **Viability of the proposal.**

Whilst there is no requirement for the applicant to provide evidence of financial profitability under adopted planning policies the applicant has provided a confidential business plan, which has been assessed by the Council's agricultural consultant who has concluded the proposal has been made on a sound financial basis.

#### **Animal Welfare**

Animal welfare is covered by its own legislation however it is noted that the proposed buildings are specialist pig rearing buildings (i.e. low height with good ventilation etc.) that incorporate the principles of best practice animal welfare and rearing efficiency, rather than taller large multi-purpose agricultural sheds. The straw based loose pen system is recommended by the RSPCA Standards and the provided space per pig is over that accepted by RSPCA standards.

#### **Future intentions / precedent for development**

Applications for planning permission are considered on the basis on which they are submitted and therefore speculation about future plans for the site and the owners long term intentions are not material considerations and do not provide a sound and defensible basis for determination.



## 10. Conclusion

It is considered on this occasion that no significant adverse impacts have been identified as demonstrated by the universal lack of objection from statutory consultees including the Environment Agency, Highways, Public protection, Drainage Officers, Historic England, Ecology, County Archaeology, and Cotswolds AONB Board who have all concurred the proposal is acceptable subject to conditions and informatives. Concerns identified by local residents in relation to odour and pollution are covered by separate legislation and the LPA cannot impose additional conditions or measures in that respect or over and above what is appropriate in a material planning sense.

As this report demonstrates, there are no outstanding site specific objections to the development of this site in terms of the size and scale of development (CP57) ecology (CP50), landscape (CP51), heritage assets (CP58), Public Protection (CP55 and CP57), Drainage (CP67) and Highways (CP62) which would render the application unsupportable. The proposals accord directly with CP34 and are acceptable in principle. It is therefore considered sustainable development in the context of the NPPF paragraphs 126 and 128 together with paragraph 28 and in accordance with the adopted development plan (Wiltshire Core Strategy) and should therefore be permitted without delay.

## RECOMMENDATION

Permission subject to conditions and informatives

- 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:

Proposed plans and elevations

Geophysics report

Design and access statement

Historic Environment Assessment

Received 24.11.15

Supporting statement dated 21.01.16

Revised sightlines plan received 25.01.16

Revised site plan received 12.02.16

Revised block plan received 14.03.16

Flood plain detail received 15.02.16

Visual Impact Assessment received 24.02.16

Further information email dated 23.02.16

Feed system and justification statement received 03.03.16

Odour Management Plan received 25.01.16

Construction Method Statement received 25.01.16

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

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

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

- 4 No external stonework shall be constructed on site, until a sample panel of stonework, not less than 1 metre square, has been constructed on site, inspected and approved in writing by the Local Planning Authority. The panel shall then be left in position for comparison whilst the development is carried out. Development shall be carried out in accordance with the approved sample.

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

- 5 No development 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 :-

- \* location and current canopy spread of all existing trees and hedgerows on the land;
- \* full details of any to be retained, together with measures for their protection in the course of development;
- \* a detailed planting specification for the hedgerow to the east showing all plant species, supply and planting sizes and planting densities;
- \* finished levels and contours including sections through the buildings;

- \* means of enclosure;
- \* car park layouts;
- \* all hard and soft surfacing materials;
- \* Full details of the hoppers including positioning, and finishes and any other ancillary structures
- \* retained historic landscape features

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 a satisfactory landscaped setting for the development and the protection of existing important historic and landscape features.

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

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

- 7 No part of the development shall be first brought into use, 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 be maintained free of obstruction at all times thereafter.

REASON: In the interests of highway safety

- 8 The development hereby permitted shall not be first brought into use until the first five metres of the access, measured from the edge of the carriageway, has been consolidated and surfaced (not loose stone or gravel). The access shall be maintained as such thereafter.

REASON: In the interests of highway safety.

- 9 Any gates shall be set back 5 metres from the edge of the carriageway, such gates to open inwards only.

REASON: In the interests of highway safety.

10 No development shall commence within the area outlined in red onsite until:

a) A written programme of archaeological investigation, which should include on-site work and off-site work such as to strip, map and record excavation of the footprint of the new buildings, and any area of landscaping and services, has been submitted to and approved by the Local Planning Authority; and

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

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

11 The approved Construction Method Statement shall be complied with in full throughout the construction period. The development shall not be carried out otherwise than in accordance with the approved construction method statement.

REASON: The development must be undertaken in an acceptable manner, to minimise detrimental effects to the neighbouring amenities, the amenities of the area in general, detriment to the natural environment through the risks of pollution and dangers to highway safety, during the construction phase.

12 The development and practice shall be conducted in full compliance with the approved Odour Management Statement and shall be complied with in full in perpetuity. The development shall not be carried out otherwise than in accordance with the approved odour management statement.

REASON: In order that the development is undertaken in an acceptable manner, to minimise detrimental effects to the neighbouring amenities and the amenities of the area in general.

13 No development shall commence on site until a scheme for the discharge of surface water from the site (including surface water from the access / driveway), incorporating sustainable drainage details together with permeability test results to BRE365, has been submitted to and approved in writing by the Local Planning Authority.

REASON: To ensure that the development can be adequately drained

14 The development shall not be first occupied until surface water drainage has been constructed in accordance with the approved scheme.

REASON: To ensure that the development can be adequately drained

15 INFORMATIVE

The site falls within a groundwater Source Protection Zone 3 (SPZ 3). This is a zone of protection surrounding a nearby drinking water borehole (Rodbourne Boreholes, Malmesbury), which is vulnerable to pollution. It therefore requires careful protection from contamination. Further information on SPZs can be found at <http://www.environment-agency.gov.uk/homeandleisure/37833.aspx>

The site must be drained on a separate system with all clean roof and surface water being kept separate from foul drainage. Manure/dung heaps must be sited in an area where it/they will not cause pollution of any watercourse or water source by the release of contaminated run-off.

The subsequent disposal of collected wastes must be undertaken in accordance with, 'Protecting our Water, Soil and Air, DEFRA 2009'.

There must be no discharge of foul or contaminated drainage from the site into either groundwater or any surface waters, whether direct to watercourses, ponds or lakes, or via soakaways/ditches.

16      INFORMATIVE

Safeguards should be implemented during the construction phase to minimise the risks of pollution from the development. Such safeguards should cover:

- the use of plant and machinery
- oils/chemicals and materials
- the use and routing of heavy plant and vehicles
- the location and form of work and storage areas and compounds
- the control and removal of spoil and wastes.

17      INFORMATIVE TO APPLICANT:

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.

18      INFORMATIVE TO APPLICANT:

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.

19      INFORMATIVE TO APPLICANT:

Please note that Council offices do not have the facility to receive material samples. Please deliver material samples to site and inform the Planning Officer where they are to be found.

20      INFORMATIVE TO APPLICANT:

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.

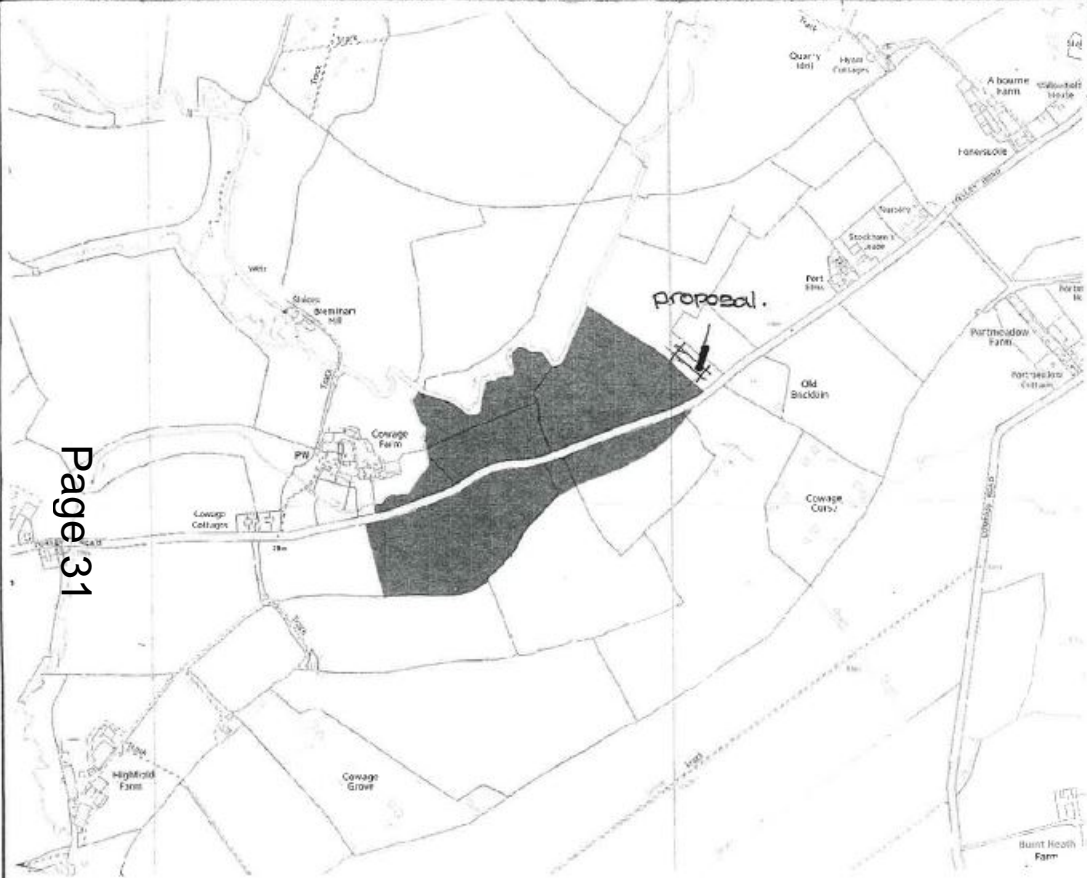
21      INFORMATIVE TO APPLICANT:

The applicant should note that there may be badger setts in the vicinity of the site, and as a consequence compliance with certain requirements and provisions of the Badgers Act 1991 may be necessary. If this is the case the applicant is advised to contact Natural England who are responsible for issuing licences relating to development on the site of badger setts.

22      INFORMATIVE TO APPLICANT:

This consent does not authorise any works which would disturb or in any way affect a Scheduled Monument. A separate consent for any such work should be sought from Historic England.

WLC/LB/10.15

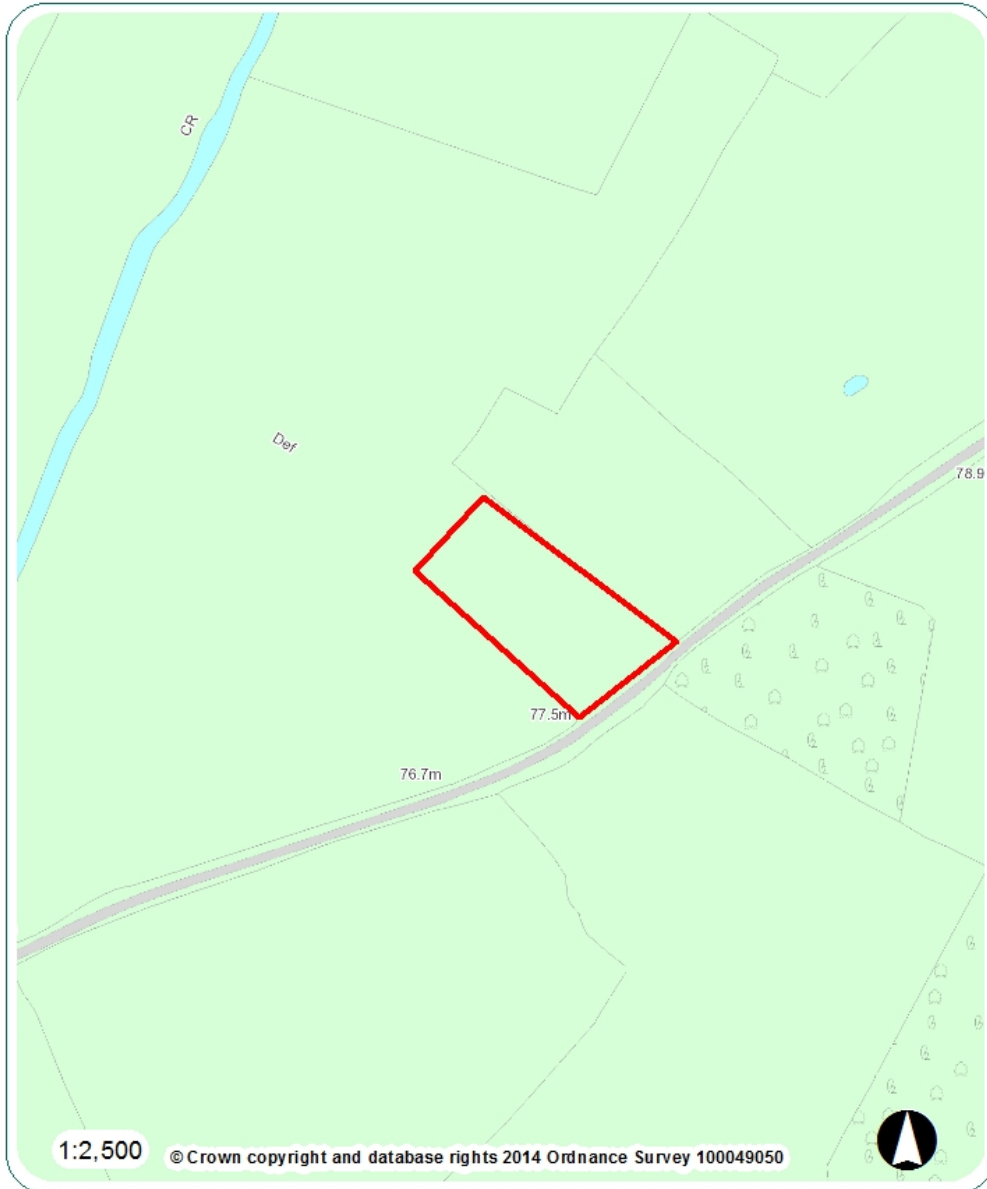


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Map showing farm boundaries & protected land. (1:10000)

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<b>Date of Meeting</b>	<b>30<sup>th</sup> March 2016</b>
<b>Application Number</b>	<b>15/10486/FUL</b>
<b>Site Address</b>	<b>Lower Woodshaw Brynards Hill Royal Wootton Bassett</b>
<b>Proposal</b>	<b>Construction of 92 Dwellings with Associated Roads, Footways, Parking, Landscaping and Drainage Works.</b>
<b>Applicant</b>	<b>Wainhomes (South West) Holdings Limited</b>
<b>Town/Parish Council</b>	<b>Royal Wootton Bassett Town Council</b>
<b>Division</b>	<b>Royal Wootton Bassett South – Cllr Chris Hurst</b>
<b>Grid Ref</b>	<b>408096 181869</b>
<b>Type of application</b>	<b>Full Planning</b>
<b>Case Officer</b>	<b>Lee Burman</b>

### **Reason for the application being considered by Committee**

Councillor Hurst called the application to Committee to consider the scale of development, visual impact on the surrounding area and the environmental and highway impact of the development.

#### **1. Purpose of Report**

To recommend that authority be delegated to the Area Development Manager to grant planning permission subject to the signing of a Section Agreement within six months of the date of the resolution and the conditions listed.

In the event that the Section 106 agreement is not completed and signed within six months to delegate authority to the Area Development Manager to refuse permission for the reason set out in the recommendation.

#### **2. Report Summary**

18 Representations of objection in total from Local Residents and neighbouring businesses including multiple submissions by several objectors partly in response to the second round of consultation on revised plans. Royal Wootton Bassett Town Council strongly objects to the proposals.

#### **3. Site Description**

The site is located immediately to the south of the Interface Business Park off Bicknoll Lane and to the south of Brynards Hill and the ongoing residential development at this location. The site is accessed from the extension to the ring road that leads into the Interface Business Park. Situated to the north of the railway. The site is open agricultural land of largely level ground with some changes in levels and higher ground to the north and sloping

in a south easterly direction. The site features some matures hedgerows including mature trees.

#### 4. Relevant Planning History

N/02/00084/OUT	Outline application for residential development (4.2 hectares) and industrial development (6.3 hectares) including details of means of access	Withdrawn
N/02/00083/OUT	Outline application for residential development (2.16 hectares) and industrial development (2.1hectares) including details of means of access	Withdrawn
N/02/00843/OUT	Outline application for office, industrial and warehousing development (B1, B2 & B8) with detailed means of access	Refused
N/04/01334/OUT	Extension of existing interface business park (use classes B1, B2 and B8)	Withdrawn
N/04/02772/OUT	Extension of existing interface business park (use classes B1, B2 & B8) (revised site area)	Refused
N/04/02916/COU	Change of use from B2 (general industrial) to b1(business), B2 (general industrial) and B8 (storage and distribution) use	Approved
N/04/03418/FUL	Erection of new perimeter security fence	Approved
N/06/00748/OUT	Mixed use development for up to 70 dwellings, 5.01 ha extension to interface business park, access, landscaping & associated works	Withdrawn
N/06/00747/COU	Change of use to country park	Withdrawn
N/09/00870/FUL	Change of use to a country park	Appeal Allowed
N/09/00871/OUT	Mixed use development for up to 100 dwellings and 4.9 hectare extension of interface business park, access, landscaping and associated works - outline	Appeal Allowed
N/10/02165/FUL	Extension to interface distributor road	Approved
N/10/02399/REM	Erection of 100 dwellings and associated works	Approved
N/10/03055/FUL	Residential development of 50 dwelling houses and associated works.	Appeal Allowed
N/10/04598/S73A	Removal of condition 5 of N/10/02165/FUL - submission of full operation & maintenance strategy	Withdrawn
N/12/01772/FUL	Proposed substitution of plots 54, 61, 65, 66, 69, 76, 77, 87, 88, 120 & 143 (variation of N/10/02399/REM and N/10/03055/FUL).	Approved
N/12/04026/FUL	Erection of 43 residential dwellings with associated roads, sewers, landscaping, parking, garages & associated works	Approved

	(resubmission of N/11/04162/FUL)	
N/14/03343/FUL	Hybrid Planning Application comprising: Full Planning Application for 68 no. Residential dwellings with associated roads, footways, parking, landscaping, landscaping, drainage and open space, along with Outline Planning Application (with all matters reserved) for 1 ha of land for a 39 bed care home (Use C2) and 22 no. Age restricted dwellings (use C3) and Country Park.	Approved

## 5. The Proposal

This is an application for full planning permission for the construction of 92 dwellings with associated roads, footways, parking, landscaping and drainage works. It is a revision to a previous application 14/03343/FUL which was a Hybrid Planning Application comprising:

*Full Planning Application for 68 no. Residential dwellings with associated roads, footways, parking, landscaping, landscaping, drainage and open space, along with Outline Planning Application (with all matters reserved) for 1 ha of land for a 39 bed care home (Use C2) and 22 no. Age restricted dwellings (use C3) and Country Park.*

That application was granted permission at North Area Planning Committee meeting 10/08/2014 with the approval issued under decision notice dated 10/03/2015 following completion of the related Section 106 agreement.

The key differences between the proposals are the removal of the care home and the age restricted dwellings from the scheme and their replacement with additional market residential properties (including affordable housing elements). The additional dwellings now proposed therefore equates to 24. Furthermore the red line application boundary for the site no longer includes the Country Park albeit this land remains in the ownership of the applicant. The revised layout for the residential scheme now proposed is not considered to further alter the total site area of the Country Park as previously permitted under 14/03343/FUL.

## 6. Planning Policy

### National Planning Policy Framework

Paragraphs 14, 17, 22, 32, 34, 47, 49, 50, 58, 60, 61, 70, 103, 109, 118, 123 and 124

### Planning Practice Guidance

#### North Wiltshire Local Plan 2011 Saved policies

NE18 Noise and Pollution

H4 Residential Development in the Open Countryside

Wiltshire Core Strategy Adopted Jan 2015

CP1 Settlement Strategy

CP2 Delivery Strategy

CP3 Infrastructure Requirements

CP19 Spatial Strategy: Royal Wootton Bassett and Cricklade Community Area

CP35 Existing Employment Sites

CP41 Sustainable Construction and Low Carbon Energy

CP43 Providing Affordable Homes

CP50 Biodiversity and Geodiversity

CP51 Landscape

CP52 Green Infrastructure

CP57 Ensuring High Quality Design and Place Shaping

CP60: Sustainable transport

CP61: Transport and development

CP62: Development impacts on the transport network

CP67: Flood risk

## **7. Consultations**

The following section summarises the position of consultees following the submission of revised plans and additional information received as a response to consultation on the original application submissions.

**Spatial Planning** No objection subject to the comments of other specialist officers and assessment of all relevant material considerations by the case officer. Planning policy considerations and comments of the Spatial Planning Team addressed further in the body of the report.

### **Landscape Officers**

Revised plans have addressed previous comments and concerns sufficiently. No objections.

### **Trees Officers**

Following submission of revised plans and additional information no objections.

### **New Housing Team**

No objections.

In relation to the amended plans now submitted comments and observations are as follows:

The applicant has now included a 40% affordable housing on site contribution as is the policy requirement to be sought for Royal Wootton Bassett Community Area.

The percentage mix re: bed size of units has been adjusted in the amended plans and is

more in line with demonstrable need and would be acceptable.

The tenure split indicated on the revised plan is 60% Affordable Rent and 40% Intermediate.

However, the sizes of the Intermediate Shared Ownership units within the affordable housing provision are extremely small and much less than the minimum sizes usually delivered within affordable housing contributions e.g: An Affordable Rented 2 bed house and a 2 bed Intermediate Shared Ownership house would normally be the same m2 size – whereas the units sizes indicated on the plan are very much smaller for the Intermediate Shared Ownership tenure houses.

The affordable homes have been integrated into the scheme in small clusters of no more than 15 units.

In our previous consultation response it was advised that a proportion of adapted homes would be sought based on demonstrable need and that a block of 6 x 1 bed flats should be provided for specialist use e.g. Mental Health or Learning Disability to the required standards at nil subsidy. This has not been shown - or any adapted units - on the latest plan.

Officer comment:

In respect of the sizes of AH units it was highlighted by the applicant that the previous permission as granted included the same form and scale of provision as is now proposed. The New Housing Team reviewed the previous scheme proposals and confirmed that given this previous extant permission no objection or further comment was now raised in this respect.

**Highways Officers** Initial objection raised due to inadequate parking provision, inadequate turning areas and inadequate verge areas in parts of the layout. Following receipt of revised plans no objections raised subject to the use of conditions and S106 requirements.

### **Highways England**

No objection.

### **Ecology**

No Comment.

### **Public Protection**

No objections subject to conditions in respect of noise impact assessment and hours of construction. Contributions sought with respect to Air Quality Management projects in accordance with WCS CP55.

### **Urban Design**

Following submission of revised plans and additional info no objections all concerns and comments have been addressed.

### **Waste & Recycling**

No objections following receipt of revised plans and additional info. Conditions and S106

contributions sought.

### **Drainage Engineers**

In initial representations Officers identified concerns in respect of the foul drainage system capacity and recommended consultation with Wessex Water. In addition Officers identified that the surface water drainage strategy and Flood Risk Assessment proposed drainage to the Woodshaw Flood Storage Area which is an Environment Agency Facility and recommended consultation with the Agency. Following receipt of representations from the Environment Agency raising concerns in respect of the implementation of previous commitments and works for surface water provision in relation to earlier phases of development a holding objection was issued.

Following the receipt of additional information and the further response officers raise no objection subject to appropriate conditions.

### **Wessex Water**

Identified previously that their apparatus in the form of pipelines exist on site albeit not definitively plotted on available plans. As such diversions or alterations to the layout may be required once detailed investigations and proposals for foul drainage are completed. Wessex Water also identified that in respect of the proposed foul discharge to the Wootton Bassett Sewage Treatment Works that further appraisal will be required to consider the impact of the proposed development. The developer will be expected to contribute towards the cost of study and any resulting capacity improvements.

The applicant has proposed the discharge of surface water to the Woodshaw Flood Storage Area which will require approval from the appropriate authorities including the LLFA.

Given this position Wessex Water raised no objection subject to Grampian conditions requiring the provision of details for foul water drainage in advance of development.

### **Environment Agency**

Holding objection and request for submission of confirmation details relating to the works required to enhance surface water drainage capacity at the Lower Woodshaw Flood Storage Area. Further detailed submissions received. At the time of writing no final response has been received and this matter will be reported as a late item.

### **Environmental Services**

No objections. With respect to the previous application 14/03343/FUL clarification as to the long term management and maintenance of the Country Park was sought. An estimate of the commuted sum likely to be required for the Country Park based on available information was also provided of £277,463 covering a 20 year period. This was addressed in the Section 106 agreement for that application and it is considered appropriate that this is carried forward into the new S106 agreement to be attached to any new consent.

### **Education**

Officers have identified a requirement for primary (infant and juniors) and secondary school place provision that cannot be met from existing facilities based on current and projected



school rolls. £169,790 (index linked), for infants provision; £237,706 (index linked) for juniors provision; £369,699 (index linked) Secondary provision.

Officers have also identified a requirement for financial contributions to early years provision of £82,080.00 to Early Years learning. The statutory requirement to make provision is conditional to where reasonably practicable. The Council itself does not provide facilities and seeks provision from the private sector. There is no proposal for on-site provision and no detail as to proposals to which contributions could be sought. As such it is considered that there is currently no sound and justifiable requirement for financial contributions that could be defended if challenged through an appeal. In addition is it possible that funding for such provision could be secured through the Community Infrastructure Levy. The case officer has not sought to secure these contributions with the applicant via a Section 106 agreement.

### **Public Art**

Officers queried whether or not consideration had been given to public art provision in consultation with the applicant. This matter has not been raised as a financial contribution requirement as it is considered that proposals for the provision of a Country Park offer ample opportunity for the development to incorporate features as part of those scheme proposals and enhancements to the public realm are matters addressed through the Community Infrastructure Levy.

### **Right of Way Team**

No objection. Recommend use of an informative:-

“A legal order to divert the rights of way will have to be undertaken to implement this development. If the development proceeds without this order and obstructs a right of way, legal action must be taken against the developer. It is recommended that the developer applies for this order at the earliest opportunity.”

### **Network Rail**

Acknowledged previous permissions at the site and raised concerns regarding lack of previous consultation in past on earlier phases and proposals for bunding. Concerns raised regarding future arrangements of for the bund and flood storage measures,

No formal objection.

### **Wiltshire Police Liaison Officer**

No Comment

### **Royal Wootton Bassett Town Council**

Strongly objects to the proposal on the following grounds:-

- The development will increase the risk of flooding in the locality including the adj rail line, conflict with WCs CP67;
- Conflict with WCS CP19 – the RWB & Cricklade community area has already fulfilled

its housing requirement for the period to 2026;

- CP19 seeks to protect the existing character & identity of settlements, this approach is strongly supported. The emerging Neighbourhood Plan seeks to resist further development in this locality in order to minimize the scope for coalescence of Swindon and RWB. Conflicts with CP19 and CP51
- The emerging Neighbourhood Plan notes that there is a strong public desire for a railway station within Royal Wootton Bassett. The area identified for development encroaches upon one of the sites identified as a possible location for the station. The development would also hinder the installation of any pedestrian/cycle routes which would lead to and from any of the possible locations for the station.
- Originally, planning consent was granted with employment opportunities as the developer had intentions to build a Care Home and 22 units for people of pensionable age. These elements of the plan have now been shelved, meaning there would be no employment possibilities anywhere on site.
- Concerns over access and egress to the properties as identified previously by Highways. The development is not in a sustainable location, as it is on the outskirts of the town. Any access to public amenities would prove difficult. The remote location could also lead to incidents of criminal activity.
- The loss of potential employment, together with the unsustainable location of the proposed development is in contravention to Core Policy 2 of the Core Strategy, Delivery Strategy.
- It was noted that Rights of Way had not been fully consulted in relation to any of the applications for this site, which has led to concerns over the nature of the consultation in general.
- Country Park – The Country Park as promised to the town should have been made available to residents by now – the Committee would like a full update on where this application fits in with the aspiration for a Country Park.

### **Ramblers Association Swindon and North East Wilts Group**

The proposed footpath diversions on revised plans appear reasonable – no objection and previous comments superceded.

### **Local Residents & neighbouring Business Operators**

18 letters of representation were received in total including multiple submissions by some objectors, partly in response to the two rounds of public consultation undertaken including original submissions and revised plans and additional information submissions. Objection received are summarised as follows:-

- Object to loss of housing for the elderly which is much needed in the locality;
- The site is within a flood risk zone and development will increase the risk of flooding;
- The site is damp and unsuitable for residential use;
- The development results in the loss of trees and hedgerows and landscape proposals are inadequate;

- Previous operations by the developer in terms of spoil disposal have resulted in the loss of hedgerows and other countryside features;
- The site is a principle employment area as defined by CP35 WCS;
- The site is wholly unsuitable for the proposed use by remote form services and facilities and not served by public transport;
- Proposals result in harm to the landscape and character and appearance of the locality;
- Great Crested Newts on site and the proposals will result in harm to ecological and nature conservation value of the site;
- Provision of employment on this site was part of the justification for earlier phases of residential development, the requirement for employment land remains;
- Noise and Traffic Disturbance and conflict with adj employment operators;
- Noise impact Assessment required;
- Neighbouring business uses require security and this would be undermined by the proposed residential development;
- Inadequate infrastructure in the town
- Traffic congestion at peak times on local roads leading to the M4 & A3102 – this will be worsened by the development;
- Inadequate medical services in the locality
- Loss of well use Right of way (footpath WBAS10 WBAS11) and inadequate detail re: connections for diverted route to the wider network;
- Temporary and Permanente negative impacts to rights of way users;
- The area for the country park is being gradually eroded for piecemeal residential development;
- Local schools and doctors surgeries are at capacity;
- Planning Application was inadequately advertised;
- The proposed country park area is of ecological value which would be lost;
- Reduced Country Park area inappropriate;
- Concerned that the Country Park will not be provided;
- Country Park Car Park in wrong location;
- Earlier phases of development by the applicant are poor quality and do not meet conditioned requirements e.g. Road construction;
- Further housing without employment provision promotes out commuting to Swindon;
- Noise pollution to future residents from the adjacent rail line;
- Inadequate shopping facilities and parking provision.

## **8. Publicity**

The application was advertised by press notice, site notice and neighbour consultation letters.

## **9. Planning Considerations**

### **Principle of Development**

Section 38(6) of the Planning and Compulsory Purchase Act 2004 and section 70(2) of the Town and Country Planning Act 1990 states that “*determination must be made in accordance with the plan unless material considerations indicate otherwise*”. Paras 2 & 11 of the NPPF reiterate and confirm this requirement. This is the starting point for determination from a policy point of view. The Wiltshire Core Strategy Adopted January 2015 forms the local component of the current development plan.

The proposed site for development is located outside of the existing defined settlement framework boundary for Royal Wootton Bassett and within the open countryside. The site is not one that is allocated within the Wiltshire Core Strategy (WCS) or other emerging development plan documents for the proposed development. The proposed development of residential dwellings and associated works is not development that would be supported under the saved NWLP policies or the Core Policies of the Wiltshire Core Strategy in that it is not for the purposes of agriculture or forestry. As such the initial starting point is that there is conflict with the development plan and it is therefore necessary under the requirements of the NPPF to consider whether or not there are material considerations and circumstances that would justify a decision contrary to the policies of the development plan. In this instance at the current moment in time it is assessed that there are material considerations that justify approval of the proposals contrary to the policies of the development plan.

The first of these material considerations is the existence of the extant permission for a very similar form of development proposal relating to this site under reference 14/03343/FUL. That permission provided consent for residential development in the C3 use class, albeit including an extra care home and some dwellings that would be conditioned as age restricted in terms of occupancy, on the broadly same site area/built footprint as is now proposed. This permission remains live and extant. This is a material consideration of very significant weight. It is not considered that the revised proposals are so significantly different in terms of character and impact in relation to interests of acknowledged importance, as is assessed and set out in relation to issue specific matters below, such that permission now ought to be refused. Certainly it is not considered that the proposals result in additional harmful impacts over and above the permitted scheme such that permission should be refused in relation to any of those issue specific matters.

It is acknowledged that the potential employment benefits arising from the care home use and the benefits of providing age appropriate accommodation to meet local needs were both matters previously weighed in the balance and found in favour of the approved scheme proposals. This is a benefit that would not arise from the current scheme proposals. However this matter was given relatively limited weight as a benefit with greater importance being attached to other material considerations including the demonstrable lack of demand for the permitted employment uses at the site and the proposed alteration of the settlement framework boundary in the emerging Wiltshire Site Allocations DPD to include the site within the defined built area of the town. These two matters remain relevant, the proposed alteration to the settlement framework boundary remains as a material consideration of very significant weight in terms of the principle of development as ultimately this will become a location where the development proposed would be considered acceptable in principle subject to site specific impacts. The issue re: loss of employment land is revisited below.

In addition it should be noted that following the appeal decision (APP/Y3940/W/15/3028953) in respect of an application for residential development at Arms Farm, Sutton Benger it has been accepted that the Council cannot at the current time demonstrate a 5 year supply of available and deliverable sites for housing plus a 5% contingency in accord with the requirements of the NPPF. As a consequence core policy CP2 of the WCS 2015 cannot be afforded full weight at the current time and therefore cannot be relied upon as a reason for refusal of . The Council has sought to respond proactively to this position by granting several permissions where possible i.e. there are no other harmful impacts that would outweigh the

benefits of development. As a consequence it is considered that in the near future the position will change. However applications must be determined on the basis of the relevant material considerations and circumstances pertinent at the time of the application and decision and at present it cannot be asserted that the Council can demonstrate a deliverable 5 year supply of land for housing. In these circumstances para 49 of the NPPF becomes relevant and identifies that applications should be determined in accordance with the presumption in favour of sustainable development.

In addition it is important to note recent Court of Appeal judgements of relevance to the consideration of housing proposals in the absence of an adopted up to date development plan and which advance interpretation of the NPPF. One decision of particular relevance (Dartford Borough Council V Secretary of State and Skillcrown Homes Limited) has identified that in the context of para 14 of the NPPF the assessment of housing proposals must be undertaken holistically and that the decision maker must undertake an assessment of whether or not the positive attributes of the development outweigh the negative. This is particularly the case if the development plan is out of date and regardless of the Local Planning Authority being able to demonstrate an available and deliverable 5 year supply of land for housing. As will be seen through the assessment set out under the headings below it is not considered that there are significant site specific objections to the proposed development that are incapable of effective mitigation.

As noted above the site is highly likely to be one which will be brought within the defined framework boundary of the town given the extant consents on site. As such it is not considered that this site can be identified as in fundamental conflict with the strategy for the Town as set in CP19 of the WCS. The Council's Spatial Planning Team has confirmed that there is no in principle objection given this situation. The harm that would arise relates to the loss of the employment land (addressed further below) including loss of the care home facility; the loss of potential provision of housing to meet the needs for elderly persons in the locality; the pollution and additional congestion from additional traffic movements; and the likely out commuting of a significant proportion of the future population for employment, shopping and leisure purposes. It must also be identified that there are benefits arising from the proposed development including the provision of housing to meet some local community needs, the economic benefits arising both from construction and the local expenditure of the additional population, and the provision of affordable housing. It is also important to note that the applicant has made reference to the difficulty in securing interest from care home operators in this site/potential facility. This reflects experience elsewhere in this housing market area where other permissions for care homes have similarly not been implemented due to lack of operator interest and have subsequently come forward for residential development e.g. sites at Marden Farm, Calne and Copenacre, Corsham. On balance given the extant permission for residential development at this site; some of the relevant policies of the adopted WCS being assessed at appeal as currently of limited weight; the lack of demand for care home facilities and employment land at this site; and the likely inclusion of the site within the defined framework boundary for Royal Wootton Bassett in the future it is not considered that the harm identified is so significant in this instance as to outweigh the benefits of development such that consent ought to be refused in principle.

This position is further reinforced by the likely timeframes for the preparation of relevant development plan documents including the Site Allocations Development Plan Document

and the Neighbourhood Plan for the Royal Wootton Bassett locality. These documents are at early stages of preparation and it could not be successfully argued that this development is of such a scale that it prejudices the local community's ability to determine of the scale and distribution of development through these DPDs and is therefore premature to preparation of these DPDs.

### **Loss of Employment Land**

The adopted WCS contains policies that seek to retain existing employment land subject to certain criteria. This includes existing commitments in the form of extant permissions. CP35 policy contains criteria which provide exemptions to this including where there is valid evidence that the site has no long term and strategic requirement to remain in employment use. The criteria goes on to state that it must be shown that the site is no longer viable for its present or any other employment use and that, in addition, it has remained unsold or un-let for a substantial period of time (at least 6 months), following genuine and sustained attempts to sell or let it on reasonable terms for employment use, taking into account prevailing market conditions.

The applicant previously submitted evidence that the property had been fully marketed in trade publications and using other industry approaches, at a reasonable valuation (£150,000 per acre), for a period in excess of 4 years. This exercise did not generate any significant and proceedable interest in development and use of the site for employment purposes. In addition the applicant's agents previously identified that there were existing sites within the Interface Business Park that had also remained un-let for substantive periods and this is considered to remain the case.

The Council's Economic Development Team and Estates Department assessed the submissions in relation to the previous application proposals. Additional information and evidence in support of the submitted statements was requested from and provided by the applicant. Following the additional submissions neither team raised objection to neither the proposed development nor the loss of this employment commitment considering that the evidence demonstrated that there was limited demand for employment land in this location. This is considered to remain the case. As noted above it is considered that there is a clear lack of interest from operators of elderly care homes in bringing forward new facilities in this locality. Liaison with the Council's new housing team has re-affirmed this position.

Taking into account the above it is considered that the proposed residential development is acceptable in principle in the context of previous employment related consent at the site.

### **Impact on Highways Network and Parking Provision**

The site is well served in road access terms by the extension to the distributor road serving the existing business park which can be accessed from the east without drawing traffic through the town itself. It should also be noted that the site has extant consents for employment and residential related uses which would generate a significant and broadly similar levels of transport movements in themselves. The proposals include pedestrian and cycle links through to the recent and ongoing residential development to the north west and the town beyond, these will pass through the country park and lead to the informal open space serving the new residential development to the NW. Whilst the site is located on the edge of the settlement and somewhat separated by the built form of the business park the

proposed and existing pedestrian links through to the town are considered to provide a reasonable level of accessibility. Certainly it is not considered that the site is so remote and wholly separate from the existing settlement and town centre that it would be wholly unsustainable such that consent ought to be refused on these grounds.

Highways Officers reviewed the initial submissions and identified a series of queries in respect of the level of parking provision to serve the new residential properties; and in terms of the road layout for the residential development in terms of the scale of junctions and provision of adequate visibility splays. Following the submission of revised plans and additional details officers have raised no objections subject to the use of conditions and the requirements for traffic orders on Bicknoll Lane alongside contributions to pedestrian links which can be addressed through a section 106 agreement as was the case with the previous permission. This is addressed further under the section dealing with S106 contributions below.

### **Design Character**

The Council's Urban Design Team has reviewed the application submissions and revised plans and provided detailed input on both iterations. The applicant has responded to these comments and additional details.

The Urban Design Officer initially identified concerns in respect of the character and continuity of characterisation of properties throughout the scheme particularly in terms of the use of materials, orientation of properties, arrangement of public and private spaces, related landscaping treatments; vehicular and pedestrian linkages through the site and connectivity through to the Country park and the services and facilities located within the town centre; the location of the Country Park Car Park; and provision for waste and recycling facilities. Following the submission of the revised plans and further details and clarifications the Urban Design Officer raises no objection to the scheme proposals.

### **Residential Amenity**

With respect to the layout arrangement of proposed dwellings in relation to one another it is considered that the residential amenities of future occupants will be acceptable and would not be in conflict with adopted and emerging policies such that planning permission ought to be refused. Given significant distance between the development site and the nearest existing properties it is not considered that the proposals would have any impact on existing residential amenities.

The Council's Public Protection team has raised no objections or concerns in respect of the relationship of the residential development to nearby employment activity at the Interface Business Park and vice versa subject to the use of conditions. In this context it is noted that neighbouring business operators have objected to the scheme proposals on the grounds of potential conflicts with the adjacent residential properties but without submission of supporting evidence. In this context it must be noted that mixed use development is supported in national guidance and the business park is already located in close proximity to neighbouring residential development to the west and east/north east. The previous application was supported by noise impact assessment work given the proposed care home and age restricted dwellings being located directly adjacent to the business park in that layout. The assessment identified no significant harm and consent was granted. It is

considered that the use of the proposed condition to address potential noise impact matters is acceptable and appropriate in this context. A requirement for contributions to address air quality management issues in accordance with Core Policy CP55 has been sought and this can be addressed through a S106 agreement. This matter is discussed further under the section entitled S106 contributions below.

### **Impact on the Character and Appearance of the Locality**

It must be recognized that the site benefits from an extant permission for significant, large scale employment related development and a separate consent for various forms of residential development and in this context the proposals would not have any greater visual impact on the local landscape character or visual amenity of the locality. In many respects the development of residential dwellings alongside the proposed Country Park would be more in accord with the existing character and appearance of the town that that which is approved, especially the extant employment scheme. In this respect and given the findings of previous appeal decisions in respect of earlier phases of development at Brynards Hill and the Inspectors' conclusions on landscape matters it is not considered that a sound and defensible reason for refusal exists in respect of visual impact on the character and appearance of the locality.

### **Drainage**

Wessex Water, the Environment Agency and the Council's Drainage Engineers have all been consulted on these proposals. Wessex Water engineers raised no objection to the proposals in principle subject to the use of "Grampian" conditions requiring the submission and approval of full details in respect of foul drainage services and surface water drainage. In addition Wessex Water identifies the need for assessment of capacity in the foul sewer network which must be assessed at the expense of the developer. The output of such assessment will inform the detailed proposals for foul drainage provision.

At the time of preparation of this report the Environment Agency and the Council's drainage Engineers have raised a holding objection to the proposed development in respect of the submitted surface water drainage strategy and the absence of specific information confirming that the proposed strategy is capable of implementation. The strategy proposes to discharge unattenuated surface water from the development site into the adjacent Flood Storage Area (FSA) (variously called Lower Woodshaw or Hancocks Water) and required reinforcement works to be undertaken to support extra capacity

The impounding structure to the FSA is owned and maintained by the Environment Agency. It was subject to an inspection by a Reservoirs Engineer in relation to the previous application whose report stated that the structure was in a poor condition. The Environment Agency had some concerns that further discharge of water above the existing discharge from the completed element of the wider scheme could increase risk to the structure, if the compensatory works discussed below had not been adequately undertaken. Under planning applications 09/00871 and 10/03055, and the ensuing Operation and Maintenance (O&M) Strategy (Issue 6 April 2011) there was a requirement to undertake excavation/re-profiling works to enlarge the FSA in order to facilitate the proposed unattenuated runoff from these developments.

Prior to accepting any further drainage under the application the Environment Agency



required the applicant to demonstrate that there was no increased flood risk by submitting:

- Evidence that the previous permitted re-profiling of the FSA has been undertaken in accordance with the approved plans under planning permissions 09/00871/OUT and 10/03055/FUL. This should be confirmed by the provision of before and after survey evidence.
- Confirmation of the capacity of the FSA; capacity available to receive the discharge; anticipated water level; and the volumes of surface water currently discharging to the FSA.
- Evidence that the O&M Strategy is being appropriately implemented, we would have no objection to the proposed surface water discharge into the FSA subject to the planning conditions and comments below.

Providing that the appropriate information could be submitted the Environment Agency stated that it would be able to withdraw their holding objection and offer a conditional response.

This position was further reflected in the consultation response of the Council's Drainage Engineers also.

The applicant has submitted information copied to the Environment Agency in response to the above identified requirements for agreement. The Council's drainage engineers have considered and assessed these additional submissions and have removed their holding objection subject to the response of the Environment Agency and use of conditions as set out below. At the time of writing the Environment Agency has yet to respond further and as such this matter will be reported as a late item.

The consultation response of Network Rail is noted but the extant permissions for earlier phases of development that resulted in the flood attenuation proposals including bunding was determined in the first instance at appeal several years ago and are now confirmed requirements and material considerations. As noted above the EA has responsibility for the flood storage area.

### **Planning Obligation/S106 Requirements**

Requirements in respect of Affordable Housing provision at 40% as required under the WCS; Education provision (primary & secondary school places); built leisure facilities; Traffic Regulation Order on Bicknoll lane to be funded by the developer; air quality management and cycle and pedestrian facility provision and maintenance have all been identified. In addition the Council previously identified a requirement for the future maintenance of the Country Park and provided an estimate of commuted sums in this respect. It is considered appropriate to take this provision forward into the new agreement.

The applicant has submitted a draft agreement for consideration and this addresses the majority of the identified heads of terms increased in a prop rata basis or amended to take account of changed circumstances. In addition the applicant has committed to meeting the identified requirements of consultees and the recommendation provides sufficient time to address matters fully and appropriately in the Section 106 agreement. Consequently it is not considered that there is a sound and defensible basis for refusal of the application on the basis of conflict with CP3 of the WCS and the absence of provision for the necessary

services and infrastructure generated as a consequence of the development proposals.

In addition the recommendation includes a timeframe of up to 6 months for completion of the S106 agreement and the applicant has confirmed that this is acceptable to them and indeed they will seek to complete an agreement well in advance of this deadline.

## **10. Conclusion**

Given the current position in respect of the WCS, Site allocations DPD, Neighbourhood Plan; the extant consents for employment and residential development on the site; and recent appeal decision and High Court Judgements in respect of residential development it is considered that there is no sound basis to identify an in principle objection to this development proposal. It is accepted that the applicant has effectively marketed the site for the approved employment use and that there is no evidence of proceedable interest in the site for employment development. Similarly that there is evidence that existing employment provision is not being taken up. Also that there is no evidence of proceedable interest from care home operators in bringing forward a facility at his site. On this basis it is considered that the site is not required for employment or care home use in the foreseeable future. It is also considered that in terms of the balance between the harm and benefits arising from development that the proposals represent an overall benefit outweighing any harm in terms of conflict with the development strategy of the WCS set out in core policies CP1 & CP2 and that a refusal of permission would not be defensible in principle. In this respect concerns over drainage, highways impact, pedestrian and cycle accessibility, parking provision and design and layout of the development have been addressed in revisions to the scheme proposals and the submission of additional supporting information such that all site specific impacts can be readily mitigated through appropriate conditions and S106 agreement provisions. As such it is considered that on balance there are material circumstances that override the limited conflict with the development plan and thereby support a recommendation of approval.

## **RECOMMENDATION**

To delegate authority to the Area Development Manager to grant planning permission subject to the signing of a Section 106 agreement within the next 6 months and the conditions listed below.

In the event that the S106 agreement is not signed in the next 6 months delegate authority to the Area Development Manager to refuse permission for the following reason:-

The application proposal fails to provide and secure the necessary and required Services and infrastructure supporting the proposed residential development including Affordable Housing; Waste; Public Open Spaces and their maintenance including maintenance provision for the Country Park; Air Quality Management; Traffic Regulation Order; and Pedestrian Footpath works and is therefore contrary to Policies CP3 CP43 & CP55 of the Wiltshire Core Strategy Adopted January 2015 and Paras 7, 14 & 17 of the National Planning Policy Framework March 2012.

Proposed Conditions and Informatives:-

### **WA1 FULL PLANNING PERMISSION -COMMENCEMENT 3 YEARS**

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.

#### **WB1 SUBSEQUENT APPROVAL OF MATERIALS FOR WALLS & ROOFS**

No development shall commence on site until details and samples of the materials to be used for the external walls and roofs have been submitted to and approved in writing by the Local Planning Authority. Development shall be carried out in accordance with the approved details.

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

#### **WC1 APPROVAL OF LANDSCAPING BEFORE COMMENCEMENT**

No development 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:-

- location and current canopy spread of all existing trees and hedgerows on the land;
- full details of any to be retained, together with measures for their protection in the course of development;
- a detailed planting specification showing all plant species, supply and planting sizes and planting densities;
- finished levels and contours;
- means of enclosure;
- car park layouts;
- other vehicle and pedestrian access and circulation areas;
- all hard and soft surfacing materials;
- minor artefacts and structures (e.g. furniture, play equipment, refuse and other storage units, signs, lighting etc);
- proposed and existing functional services above and below ground (e.g. drainage, power, communications, cables, pipelines etc indicating lines, manholes, supports etc);
- tree(s), of a size and species and in a location to be agreed in writing with the Local Planning Authority, shall be planted in accordance with BS3936 (Parts 1 and 4), BS4043 and BS4428

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

## **WC2 LANDSCAPING TO BE CARRIED OUT & MAINTAINED**

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.

## **WC6 PROTECTION OF RETAINED TREES**

No demolition, site clearance or development shall commence on site, and; no equipment, machinery or materials shall be brought on to site for the purpose of development, until a Tree Protection Plan showing the exact position of each tree/s and their protective fencing in accordance with British Standard 5837:

2012: "Trees in Relation to Design, Demolition and Construction - Recommendations"; has been submitted to and approved in writing by the Local Planning Authority, and;

The protective fencing shall be erected in accordance with the approved details. The protective fencing shall remain in place for the entire development phase and until all equipment, machinery and surplus materials have been removed from the site. Such fencing shall not be removed or breached during construction operations.

No retained tree/s shall be cut down, uprooted or destroyed, nor shall any retained tree/s be topped or lopped other than in accordance with the approved plans and particulars. Any topping or lopping approval shall be carried out in accordance British Standard 3998: 2010 "Tree Work – Recommendations" or arboricultural techniques where it can be demonstrated to be in the interest of good arboricultural practise.

If any retained tree is removed, uprooted, destroyed or dies, another tree shall be planted at the same place, at a size and species and planted at such time, that must be agreed in writing with the Local Planning Authority.

No fires shall be lit within 15 metres of the furthest extent of the canopy of any retained trees or hedgerows or adjoining land and no concrete, oil, cement, bitumen or other chemicals shall be mixed or stored within 10 metres of the trunk of any tree or group of trees to be retained on the site or adjoining land.

[In this condition "retained tree" means an existing tree which is to be retained in accordance with the approved plans and particulars; and paragraphs above shall have effect until the

expiration of five years from the first occupation or the completion of the development, whichever is the later].

REASON: To enable the Local Planning Authority to ensure the retention of trees on the site in the interests of visual amenity.

#### **WC8 SUBMISSION OF LANDSCAPE MANAGEMENT PLAN**

No development shall commence on site until a landscape management plan, including long-term design objectives, management responsibilities and maintenance schedules for all landscape areas (other than small, privately owned, domestic gardens) has been submitted to and approved in writing by the Local Planning Authority. The landscape management plan shall be carried out as approved in accordance with the approved details.

REASON: To ensure the proper management of the landscaped areas in the interests of visual amenity.

#### **WD1 CONSOLIDATED ACCESS**

The residential dwellings hereby permitted shall not be first occupied until the first five metres of the access, measured from the edge of the carriageway, has been consolidated and surfaced (not loose stone or gravel). The access shall be maintained as such thereafter.

REASON: In the interests of highway safety.

#### **WD8 ROADS/FOOTPATHS ETC TO BASE COURSE BEFORE OCCUPATION**

The roads, including footpaths and turning spaces, shall be constructed so as to ensure that, before it is occupied, each dwelling has been provided with a properly consolidated and surfaced footpath and carriageway to at least base course level between the dwelling and existing highway.

REASON: To ensure that the development is served by an adequate means of access.

#### **WE3 NO ADDITIONS/EXTENSIONS OR EXTERNAL ALTERATIONS**

Notwithstanding the provisions of the Town and Country Planning (General Permitted Development) Order 1995 (as amended by the Town and Country Planning (General Permitted Development) (Amendment) (No.2) (England) Order 2008 (or any Order revoking or re-enacting or amending that Order with or without modification), there shall be no additions/extensions or external alterations to any building forming part of the development hereby permitted.

REASON: In the interests of the amenity of the area and to enable the Local Planning Authority to consider individually whether planning permission should be granted for additions extensions or external alterations.

#### **WE6 NO GARAGES / OUTBUILDINGS**

Notwithstanding the provisions of the Town and Country Planning (General Permitted Development) Order 1995 (as amended by the Town and Country Planning (General Permitted Development) (Amendment) (No.2) (England) Order 2008 (or any Order revoking

or re-enacting or amending that Order with or without modification), no garages, sheds, greenhouses and other ancillary domestic outbuildings shall be erected anywhere on the site on the approved plans.

REASON: To safeguard the character and appearance of the area.

#### **WE15 USE OF GARAGE**

Notwithstanding the provisions of the Town and Country Planning (General Permitted Development) Order 1995 (as amended by the Town and Country Planning (General Permitted Development) (Amendment) (No.2) (England) Order 2008 (or any Order revoking or re-enacting or amending that Order with or without modification), the garage(s) hereby permitted shall not be converted to habitable accommodation.

REASON: To secure the retention of adequate parking provision, in the interests of highway safety.

#### **NSC**

Prior to the first occupation at the site the developer shall provide a scheme of footway / cycleway widening (3m) extending from the Interface Business Park access road onto the southern section Bincknoll Lane towards the 'Swallow Mead' bus stop. Full construction details shall be submitted to and approved in writing by the Local Planning Authority prior to construction taking place. The approved scheme shall be constructed in accordance with the approved details prior to the first occupation at the site and to the satisfaction of the Local Planning Authority.

REASON: To ensure that the development is served by an adequate means of access.

#### **NSC**

No works shall commence on site until full evaluation of the existing public and S104 drainage systems have been checked for capacity to serve the site and where reinforcement / mitigation works are required these need to be completed before first occupation.

REASON: to ensure no increase in downstream property flooding due to this development.

#### **NSC**

Prior to the commencement of works on site the excavation and re-profiling works to the Woodshaw Flood Storage Area approved within the Operation and Maintenance (O&M) Strategy (Issue 6 April 2011) under planning application references N/09/00871/OUT and N/10/03055/FUL shall have been completed in full and a condition survey report shall be submitted to the Local Planning Authority. The Woodshaw Flood Storage Area shall be maintained in accordance with the approved O&M Strategy and any subsequently approved surface water drainage details thereafter.

REASON: To ensure that the development can be adequately drained

#### **WG4 DISPOSAL OF SEWERAGE -IMPLEMENTED**

The development shall not be commenced until a foul water drainage strategy is submitted and approved in writing by the local Planning Authority in consultation with Wessex Water acting as the sewerage undertaker

- a drainage scheme shall include appropriate arrangements for the agreed points of connection and the capacity improvements required to serve the proposed development

Phasing

- the drainage scheme shall be completed in accordance with the approved details and to a timetable agreed with the local planning authority.

REASON: To ensure that proper provision is made for sewerage of the site and that the development does not increase the risk of sewer flooding to downstream property.

#### **WH9 ECOLOGICAL ASSESSMENT (IMPLEMENTATION)**

Prior to the commencement of works on site the mitigation measures detailed in the approved Ecological Management Plans in relation to planning application references N/09/00871/OUT & N/10/03055/FUL dated 28/2/2011, shall be carried out in full. Monitoring reports will be submitted in accord with the approved Ecological Management Plans.

REASON: To mitigate against the loss of existing biodiversity and nature habitats.

#### **WM4 CONSTRUCTION METHOD STATEMENT**

No development shall commence on site (including any works of demolition), until a Construction Method Statement, which shall include the following:

- a) the parking of vehicles of site operatives and visitors;
- b) loading and unloading of plant and materials;
- c) storage of plant and materials used in constructing the development;
- d) the erection and maintenance of security hoarding including decorative displays and facilities for public viewing, where appropriate;
- e) wheel washing facilities;
- f) measures to control the emission of dust and dirt during construction;
- g) a scheme for recycling/disposing of waste resulting from demolition and construction works; and
- h) measures for the protection of the natural environment.
- i) hours of construction, including deliveries;

has been submitted to, and approved in writing by, the Local Planning Authority. The approved Statement shall be complied with in full throughout the construction period. The development shall not be carried out otherwise than in accordance with the approved construction method statement.

REASON: To minimise detrimental effects to the neighbouring amenities, the amenities of the area in general, detriment to the natural environment through the risks of pollution and dangers to highway safety, during the construction phase.

## **NSC**

The development hereby permitted shall not begin until a noise impact assessment and scheme for protecting the proposed dwellings and their cartilages from environmental and railway traffic noise has been submitted and approved by the Local Planning Authority. Any works which form part of the scheme approved by the Local Planning Authority shall be completed before any permitted dwelling is first occupied, unless an alternative period is agreed in writing by the Local Planning Authority.

REASON: In order to safeguard the amenities of the area in which the development is located.

## **NSC**

No plant machinery or equipment shall be operated or repaired so as to be audible at the site boundary outside the hours of 0730 to 1800hrs Mondays to Fridays and between 0730 and 1400hrs Saturdays or at any time on Sundays or Bank Holidays.

REASON: In order to safeguard the amenities of the area in which the development is located.

## **WM13 APPROVED PLANS**

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

1629/01 REV F dated 06/02/106

1629/02 REV C dated 06/02/106

129/03 REV B dated 06/02/106

1629/03 REV B dated 06/02/106

1629/04 REV B dated 06/02/106

1269/06 REV A dated 06/02/106

1629/07 dated 06/02/106

1629/09 dated 01/03/2016

Lower Woodshaw House Types Booklet:

WAIN/PLAN/BC

WAIN/PLAN/NE15 REV A

WAIN/WR/01

WAIN/WR/02

WAIN/PLAN/DA/01

WAIN/PLAN/DA/02

WAIN/PLAN/DA/03

WAIN/PLAN/DA

WAIN/PLAN/DA SIDE

WAIN/PLAN/WOS/GARAGE

WAIN/PLAN/WO/SIDE

WAIN/PLAN/WO/01

WAIN/PLAN/WO/02

WAIN/PLAN/WO

WAIN/PLAN/SH15 REV A

WAIN/PLAN/ST15/01

WAIN/PLAN/ST15 REV A

WAIN/PLAN/SH15

WAIN/chau/01-1 REV A



WAIN/chau/01-2 REV A  
WAIN/PLAN/FL/203/rent01 REV A  
WAIN/PLAN/EL/204/rent REV A  
WAIN/PLAN/FL/203/rent01  
WAIN/PLAN/FL/HLe1/rent  
WAIN/PLAN/FL/HKLplans/rent  
WAIN/BL/2014/inter  
WAIN/PLAN/FL/207 REV A  
WAIN/PLAN/ENC REV A  
Wain/gar/01 rev a  
All dated 06/02/106  
Wootton Bassett Feb 2016 Attenuation Pond As Built Survey Dated 08/03/2016

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

#### **WP6 ALTERATIONS TO APPROVED PLANS**

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.

#### **WP8 REFERENCE TO SECTION 106 AGREEMENTS**

This permission shall be read in conjunction with an Agreement made under Section 106 of the Town and Country Planning Act, 1990 and dated the [INSERT].

#### **WP13 PUBLIC SEWERS**

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. Any alterations to the approved plans, brought about by the need to secure easements for Wessex Water Facilities must first be agreed in writing with the Local Planning Authority before commencement of work.

#### **WP18 PERMISSION NOT AUTHORISING WORK ON LAND OUTSIDE THE APPLICANT'S CONTROL & PARTY WALL ACT**

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.

#### **RIGHTS OF WAY LEGAL ORDER**

A legal order to divert the rights of way will have to be undertaken to implement this development. If the development proceeds without this order and obstructs a right of way, legal action must be taken against the developer. It is recommended that the developer applies for this order at the earliest opportunity.

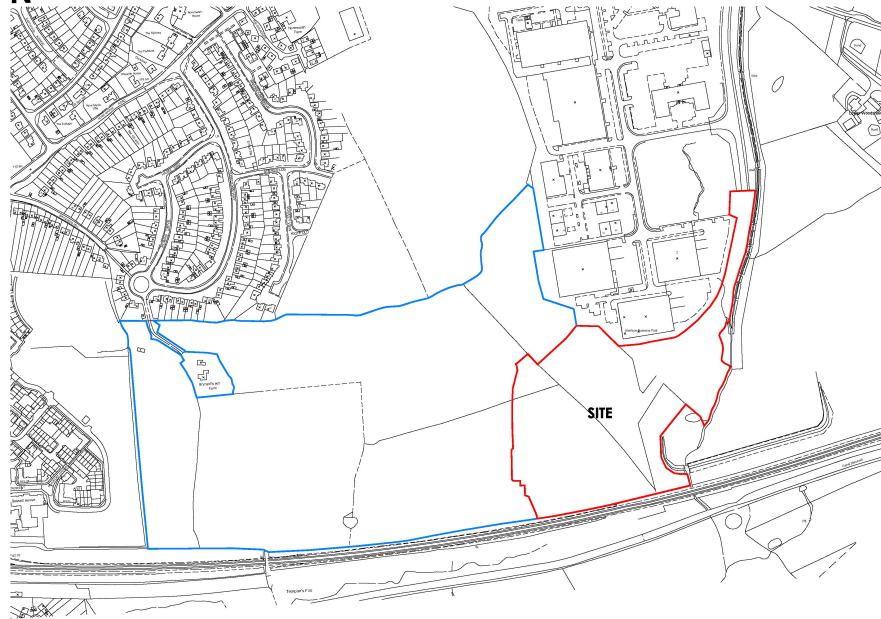
## **WP31 MATERIAL SAMPLES**

Please note that Council offices do not have the facility to receive material samples. Please deliver material samples to site and inform the Planning Officer where they are to be found.

### **Background Documents Used in the Preparation of this Report:**

Application Submission and further revisions and additional information  
National Planning Policy Framework  
Planning Practice Guidance  
Wiltshire Core Strategy Adopted 2015  
North Wiltshire Local Plan 2011 Saved Policies

Lower Woodshaw, Royal Wootton Bassett, Wiltshire



REVISIONS :  
The drawings and specifications are prepared on the basis of information supplied by the client and are not to be used for any other purpose without the written consent of the architect.

PROJECT : LOWER WOODSHAW  
ROYAL WOOTTON BASSETT  
WILTSHIRE

CLIENT : WAINHOMES (SOUTH WEST)  
HOLDINGS LTD.

DRAWING : SITE LOCATION

DATE : OCTOBER 2015  
SCALE : 1:500 @ A2  
DRAWN BY : D.J.C.

DRAWING NO.: 1629/05 REV.

Wainhomes (South West) Holdings Ltd.

**SIMMONS**  
BUILDING  
DESIGN  
  
The Old Pump House  
Rushmore Road  
Wells, BA6 7TL  
Tel: 01749 479900  
Fax: 01749 479902  
www.sbd.co.uk  
ARCHITECTS AND DEVELOPMENT CONSULTANTS

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## REPORT OUTLINE FOR AREA PLANNING COMMITTEES

Report No.

<b>Date of Meeting</b>	30 March 2016
<b>Application Number</b>	16/01121/FUL
<b>Site Address</b>	Chuffs Lower Kingsdown Road Kingsdown Wiltshire SN13 8AZ
<b>Proposal</b>	Extension & Alterations to the Annexe
<b>Applicant</b>	Mr & Mrs Antrobus
<b>Town/Parish Council</b>	BOX
<b>Electoral Division</b>	BOX AND COLERNE – Cllr. Shelia Parker
<b>Grid Ref</b>	381377 168021
<b>Type of application</b>	Full Planning
<b>Case Officer</b>	Victoria Davis

### Reason for the application being considered by Committee

The application has been called into committee by the Local Member, in order to consider the health circumstances of the applicant and how these are related to the proposal.

#### 1. Purpose of Report

To consider the above application and to recommend that planning permission is REFUSED.

#### 2. Main Issues

The main issues are:

- Principle of development
- Impact on the Green Belt
- Impact on the character and appearance of the surrounding area of outstanding natural beauty

The Parish Council has acknowledged that the proposal exceeds limits of acceptable development within the green belt and reiterated the importance of the existing legal agreement preventing the annexe being let or sold separately. One letter of support was received following the neighbour consultation. No objections have been received.

### 3. Site Description

Chuffs is one of a small group of properties situated along a quiet road near to the top of Kingsdown Hill. The curtilage consists of a narrow strip extending to the side of the main house. To the eastern side of this strip is an annexe. The annexe building was originally built as a garden store in 1989 and then extended and converted into ancillary accommodation under a permission granted in 2003. A legal agreement connected to this permission requires that the annexe remains within the same planning unit as the main house and is not leased or sold separately. The annexe sits approximately 2m lower than the road and properties behind. The site is located in the Western Wiltshire Green Belt and within an area of outstanding natural beauty. The site is not located within the boundary of any defined settlement and so in terms of planning policy the site is located in open countryside.

### 4. Relevant Planning History

6400 (1968)	Extension to house and erection of double garage - approved
N/89/00868/FUL	Erection of garden shed/implement store - approved
N/91/01348/FUL	Alterations and extensions to garage - approved
N/03/00023/FUL	Conversion and extension of existing domestic outbuilding to self contained annexe - approved
N/10/01798/S106	Application to modify the requirements of legal agreement relating to planning permission 03/00023 to allow occupation as a separate dwelling INVALID – application not pursued
N/15/06526/PREAPP	Extension to annexe – proposal not supported
N/15/12291/PREAPP	Extension to annexe – proposal not supported

### 5. The Proposal

The application proposes an extension to the existing annexe building replacing the earlier conservatory extension. The annexe currently comprises of one bedroom, living room, conservatory, separate kitchen and bathroom. The extension is intended to provide additional living accommodation in the form of an enlarged living/dining and kitchen area along with a second bedroom.

### 6. Planning Policy

Wiltshire Core Strategy: Adopted January 2015

CP1 Settlement Strategy

CP51 Landscape

CP57 Ensuring High Quality Design and Place Shaping

National Planning Policy Framework (NPPF):

Achieving sustainable development – Core Planning Principles, Paragraphs 14 & 17

Chapter 7 Requiring Good Design

## 7. Consultations

Box Parish Council: Commented that the proposal would exceed acceptable increase in volume for extensions within the greenbelt. Added that should permission be granted, the details of existing S106 agreement should still be valid.

Highways: No Objection subject to conditions

## 8. Publicity

The application was advertised by site notice and neighbour consultation. One letter of support was received.

## 9. Planning Considerations

### Principle of Development

Greenbelt policy is set out in the NPPF. This explains that apart from within specific exceptional situations, the construction of new buildings within the greenbelt is inappropriate. Such development is harmful by definition and should not be approved unless very special circumstances exist. One exception involves extension and alteration of a building provided that it would not result in disproportionate addition over and above the size of the 'original building'. Annex 2 of the NPPF defines the original building as the building as it existed on 1<sup>st</sup> July 1948 or if built after, as it was originally built. The purpose of this definition is to prevent the cumulative increase to the size of buildings over time materially harming the openness of the greenbelt. All extensions and outbuildings constructed within the curtilage after this date, authorised or unauthorised, will be included when considering the cumulative impact to the openness of the greenbelt.

In this case the original building on this site is the main house, Chuffs. The planning history available shows that this was originally a modest two-up two-down cottage (approx 160m<sup>3</sup> total volume). Permission was granted in 1968 for substantial two storey additions to the house and the construction of a detached double garage which resulted in an additional 178m<sup>3</sup>. A separate outbuilding was approved in 1989 resulting in a further 128m<sup>3</sup> (according to the approved plans) and further alterations to the garage roof and main house resulted in an additional 70m<sup>3</sup>. In 2003 permission was granted to convert and extend the garden store to create ancillary accommodation. Based on the volume of the annexe as it exists now - this has resulted in a further 84m<sup>3</sup>. The series of development is set out below -

Extensions to main house and Garage (1968)	= 178m <sup>3</sup>
Erection of outbuilding (1989 as in approved plan)	= 128m <sup>3</sup>
Alterations to garage (1991 from client)	= 35m <sup>3</sup>
Conservatory to main house (from client)	= 35m <sup>3</sup>
Extensions/alterations to annexe (based on survey dwg.)	= 84m <sup>3</sup>

The current application proposes to replace the annexe conservatory with a larger extension. As a result the total additional volume over the original building (the main house, Chuffs) would be approximately 490m<sup>3</sup>. The original house according to the 1968 plans is 160m<sup>3</sup>

and so the cumulative volume of all previous additions is already over 300% of the original volume. It is considered that this scale of extension at the site is now beyond the limits of what could be considered acceptable and proportionate and so any further extensions on this site would equate to disproportionate additions and therefore inappropriate development within the greenbelt which is harmful by definition.

This assessment does not consider the annexe as an 'original building' in its own right, however should the volumes be compared for information they are below.

The original outbuilding as constructed in 1989 was 128m<sup>3</sup>.

Extensions to outbuilding (to current size) = 84m<sup>3</sup>

Total volume increase so far is already 66%. This is still over and above what is considered to be proportionate within the green belt. Replacing the conservatory with the larger extension as proposed creates a volume increase of approx. 90%.

It has been suggested by the applicant that that, historically, an outbuilding had existed in the same location as the current annexe building. This point was investigated and no evidence of a historic structure in this location could be found within the historic OS maps or within the 1968 or 1989 planning application drawings. Without additional supporting evidence, little weight can be given to this point.

It is noted that the annexe as exists now (indicated by survey drawing) is in fact larger than the building that was permitted in 2003. All additional volume, authorised and unauthorised must be considered when compiling the cumulative volume figures. It is also noted that volume analysis submitted within the supporting letter, from Planning Sphere, is incorrect. This issue was raised with the agent who has since acknowledged that at the time of writing they were not aware of the full planning history of the site. The agent has accepted that the volume increase proposed is disproportionate and has requested that the proposal be considered in light of the personal circumstances relating to the applicants health.

According to the NPPF, substantial weight should be given to harm within the green belt when considering planning applications. The applicant submits that the reason for further extending the existing one bed-roomed annexe is to allow for herself and her husband to move into the annexe permanently and for their son and his family to move into the main house. The planning statement explains that the applicant suffers with incurable spinal cancer and that over time this will lead to worsening mobility issues. The extension as proposed is to provide additional accommodation and space needed to allow for the couple to comfortably occupy the annexe into the future and for their family to remain close by in the main house.

The health condition of the applicant is relevant to the proposal and so is a material consideration that should be given some weight. However, paragraph 88 of the NPPF sets out that 'very special circumstances' will not exist unless the harm caused by inappropriate development is clearly outweighed by other considerations. In this case, the council does fully sympathise with the personal circumstances of the applicant and acknowledges the reasons for wanting to enlarge the annexe for their permanent occupation and to allow their son and family to move into the main house, however this does not outweigh the more general planning considerations. Unfortunately, the personal circumstances cannot be given significant weight as it is considered that the applicant's needs could be met by other means. It also noted that these personal circumstances could be identified on many occasions leading to significant levels of inappropriate development in the green belt. The proposal is therefore considered to be contrary to the aims and objectives of the NPPF.



The proposal has been subject to two separate pre-application discussions. In both responses the applicant was advised that the officer could see no justification in planning terms for further extending the annexe. It was acknowledged that the most recent proposal did represent a design quality improvement over the u-pvc conservatory and it was explained that there would be a case for replacing the conservatory with a more solidly constructed extension providing it was not materially larger than the current structure.

#### Scale and Design

In accordance with Core Policy 57 and Chapter 7 of the NPPF development should respond positively to the existing site features which include building layout, built form, mass and scale. High quality design should be achieved for all development. It is considered that in general the design approach and use of materials is appropriate in relation to the host building and surrounding area.

#### Impact on surrounding area of outstanding natural beauty

Core Policy 51 and Chapter 11 of the NPPF require that development protects, conserves or where possible, enhances valued landscapes. The site is located within an area of outstanding natural beauty where the impact of development on the wider landscape is an important consideration. In this case the sensitive design and use of high quality materials is considered to be appropriate and would not harm the surrounding landscape character.

#### Impact on the amenity and living conditions of local residents

Due to the position of the extension it is not considered that the proposal is likely to have any significant impact on residential amenity by way of overlooking, overshadowing or overbearing appearance.

#### Impact on highway safety

The site is accessed from the road via a steep driveway which leads to the garage of Chuffs and a separate driveway splits off and leads to the annexe. The current access and parking arrangements would remain unchanged. The proposal would result in an additional bedroom however the highways department are satisfied that the existing parking arrangements would be sufficient.

### **10. Conclusion**

Section 38(6) of the Planning and Compulsory Purchase Act 2004 and section 70(2) of the Town and Country Planning Act 1990 states that "determination must be made in accordance with the plan unless material considerations indicate otherwise". Paras 2 & 11 of the NPPF reiterate and confirm this requirement. This is the starting point for determination from a policy point of view. The Wiltshire Core Strategy Adopted January 2015 forms the local component of the current development plan.

It is considered that the scale of extensions on this site is now beyond the limits of what could be considered acceptable and proportionate. Any further extensions on this site would equate to disproportionate additions and therefore inappropriate development within the greenbelt which is harmful by definition. In accordance with Chapter 9 of the NPPF, substantial weight is given to this harm and development in these cases should not be approved unless very special circumstances exist. The benefits of this proposal in meeting the applicant's accommodation needs are not sufficient to clearly outweigh the harm to the Green Belt and so the very special circumstances needed to justify the development do not exist.

### **11. Recommendation**

Planning Permission is REFUSED for the following reason:

The application site lies within the Green Belt where strict policies of restraint apply. The cumulative volume of all previous extensions to the main house, garage and annexe building on this site is substantial and so it is considered that any further extension to any building on this site would be disproportionate to the original building. The development therefore; is inappropriate, diminishes the openness of the green belt, and conflicts with the purpose of including land within the greenbelt. There are no very special circumstances in planning terms that are sufficient to outweigh this harm. The application is contrary to the aims and objectives of the National Planning Policy Framework 2012, paragraphs 14 & 17 Chapter 9 in particular paragraphs 88 & 89 and is not justified by any other material considerations.



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WILTSHIRE COUNCIL

NORTHERN AREA PLANNING COMMITTEE

30 MARCH 2016

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**TOWN AND COUNTRY PLANNING ACT 1990 AND  
WILDLIFE AND COUNTRYSIDE ACT 1981  
THE WILTSHIRE COUNCIL**

**LANGLEY BURRELL 22 (part) STOPPING UP ORDER AND DEFINITIVE MAP  
MODIFICATION ORDER 2015**

**Purpose of Report**

1. To:
  - (i) Consider the objections and representations received to the making of “Langley Burrell 22 (part) Stopping Up Order and Definitive Map Modification Order 2015” made under Section 257 of the Town and Country Planning Act 1990 and Section 53 of the Wildlife and Countryside Act 1981.
  - (ii) Recommend that the Order be forwarded to the Secretary of State for Environment, Food and Rural Affairs for determination.

**Relevance to Council’s Business Plan**

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

**Background**

3. On 10 December 2015 Wiltshire Council granted Full Planning Permission for the construction of a car park and storage area at Parsonage Way, Chippenham. This arose from application 15/04763/FUL and is to allow for the expansion of Wavin Plastics at this site.
4. A location plan is attached at **Appendix A**.
5. Part of public footpath Langley Burrell 22 leads across the site and is coincident with the southerly corner of the car park, the new stockyard area and the landscaped bunded area to the north. The line of the path also crosses two permitted security fence lines. As a result, it is necessary to divert or extinguish the footpath to allow the permitted development to proceed. A plan showing the line of the footpath overlaid onto the Site Layout plan is attached at **Appendix B**.

6. On 13 August 2015 Wiltshire Council received an application from Wavin Limited to extinguish the section of footpath leading across the site and affected by the development.
7. Officers carried out an initial consultation from 20 August to 2 October 2015 and an Order extinguishing the section of footpath was made and advertised from 24 December 2015 until 25 January 2016.
8. The Council's decision report is appended at **Appendix C** and a copy of the Order is appended at **Appendix D**.

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

9. The Order attracted four objections:

**(i) Mrs J Mannering 08.01.16**

*"I object to this order.*

*I use this footpath sometimes, especially as an alternative route from home to Chippenham town. Footpaths, whether urban or rural are an important part of our national heritage. We hold them in trust for future generations. Once they are stopped up, they are lost forever. As the challenge of climate change becomes more pressing, the existence of low carbon transport routes will become more and more important. It does not constitute sustainable development for the present generation to deny low carbon routes to future generations. Footpaths should only be stopped up if it is absolutely necessary. It is not necessary to stop up this path."*

**(ii) Mr D Mannering 08.01.16**

*"I object to the order.*

*Two key reasons for my objection are that stopping up is not necessary and that stopping up contravenes Wiltshire Council's own policies. The full reasons for my objection are stated at length in the following correspondence with Wiltshire Council:*

- *3<sup>rd</sup> September 2015 e.mail to [rightsofway@wiltshire.gov.uk](mailto:rightsofway@wiltshire.gov.uk) titled PPO enquiry 2015/08*
- *25<sup>th</sup> September 2015 Attachment to email [rightofway@wiltshire.gov.uk](mailto:rightofway@wiltshire.gov.uk) titled PPO enquiry re 2015/08*
- *26<sup>th</sup> November 2015 Email to [lee.burman@wiltshire.gov.uk](mailto:lee.burman@wiltshire.gov.uk) title "Wavin"*
- *9<sup>th</sup> December 2015 Section 7 of the attachment to the e.mail to members of Wiltshire Council North Planning Committee copied to [developmanagement@wiltshire.gov.uk](mailto:developmanagement@wiltshire.gov.uk), [lee.burman@wiltshire.gov.uk](mailto:lee.burman@wiltshire.gov.uk) and William [Oulton@wiltshire.gov.uk](mailto:Oulton@wiltshire.gov.uk) titled "Supplementary note for consideration at planning committee 9<sup>th</sup> December 2015 to consider Wavin phase 2".*

**Also Mr D Mannering 22.01.16**

*"In addition to the objection letter dated 8<sup>th</sup> January 2016, I wish to record that a third high level reason for objecting to the proposed closure is the loss of amenity to current and prospective users resident both locally and those from further afield that are visiting Wiltshire. The concern regarding the loss of amenity relates to both functional and recreational uses."*

**(iii) Mrs J Cook 21.01.16**

*"I am writing to object to the order to stop up part of footpath LBUR22. My husband and I walk regularly around Chippenham. The extensive network of footpaths is one of the great assets of the area, creating a wealth of recreational circuits. Footpaths in Langley Burrell are particularly valued for the access they provide to the setting of the significant number of listed heritage assets including Kilverts Parsonage which is very close to the footpath you propose to close. It is important to retain these footpaths for the use of present and future generations for their amenity value and the pedestrian access they provide from the town direct into the countryside."*

**(iv) Ms J Hible, Chippenham Ramblers 24.01.16**

*"Chippenham Ramblers wish to object to these orders. In our opinion development could easily be carried out without the need to lose part of Langley Burrell 22.*

*The footpath could be fenced on either side as it crosses the car park with kissing gates (or other suitable path furniture) on either side where it crosses the access road to the stock area. This could be covered by CCTV. Presumably as Wavin are so concerned about the security of the car park and stock areas, there will be CCTV on the car park and stock area and this will be monitored by security personnel in an office on site.*

*We do not believe it is necessary to stop up the path in order that the site can be developed. We also believe that more effort should be made to incorporate the footpath into the plans rather than determining to divert the path in the first instance."*

**Comments on the objections**

10. There can be no doubt that the rural aspect of the route of this section of Langley Burrell 22 will be lost with the development of the site. Although the route currently leads over fields, when developed, the site will be part car park and part stock yard accessed from a service road to the north. It will be bounded by security fencing and will have an earth bund to the north.
11. Hence, even if it were possible to incorporate the footpath into the site it would not only be disadvantageous to the applicant who would need to manage two secure sites rather than one but it would also provide for the public such a diminished experience from the current route that it could not be justified (it is necessary to balance the loss to the public against the loss to the landowner).
12. Any footpath route, as suggested by Ms Hible, would not only have a restricted feel as it would lead between two high security fences but it would also need to cross an access road and lead over a landscaped bund. As there would be access issues associated with footpath users negotiating the bund it would be necessary to create a breach in the bund. Any breach in the bund would negate the purpose of it as a screen.

13. The alternative route for walkers is not longer (coming from Chippenham 46) 240 metres compared to the existing 248 metres and follows an established footway beside the road. As users would no longer need to walk the 95 metres section of footway beside Parsonage Way the increased distance in footway use is a negligible 25 metres.
14. Given the modern industrial intrusion in a rural landscape that the Wavin site is it cannot reasonably be argued that having to walk through the works is any more advantageous or in historical context as would be walking along the footway beside the road.
15. Members of the Committee are now required to consider the objections received.
16. If the Committee does continue to support the making of the Order it must be forwarded to the Secretary of State for the Environment, Food and Rural Affairs for determination and the Members of the Committee must decide the Wiltshire Council recommendation which is attached to the Order when it is forwarded to the Secretary of State, i.e.:
  - (i) that the Order be confirmed as made, or
  - (ii) that the Order be confirmed with modification.
17. Where Wiltshire Council no longer supports the making of the Order, Members of the Committee may determine that the Order is withdrawn.
18. This Order is made in the landowner's interest and where members consider that the legal tests for confirmation are made it can recommend that the Order be forwarded to the Secretary of State for determination. However, given budgetary constraints at this time, no legal representation or support can be given to the Order in the event of a public hearing or inquiry.
19. The Public Path Diversion Order is made under Section 257 of the Town and Country Planning Act 1990. The requirements of this section of the Act are set out in full in paragraph 6.0 of the decision report attached at **Appendix C**.

### **Safeguarding Considerations**

20. There are no safeguarding considerations associated with the making of this Order.

### **Public Health Implications**

21. There are no identified public health implications which arise from the proposed extinguishment of part of Langley Burrell 22.

### **Procurement Implications**

22. There are no procurement implications associated with the withdrawal of this Order.



23. In the event this Order is forwarded to the Secretary of State there are a number of opportunities for expenditure that may occur and these are covered in paragraph 32 of this report.

### **Environmental and Climate Change Considerations**

24. There are no environmental or climate change considerations associated with the extinguishment of part of Langley Burrell 22.

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

25. The alternative route available to users of the path is more accessible than the existing as it does not have any stiles (the current route has two) and has a hard surface which remains easy to use at all times of the year.

### **Risk Assessment**

26. There are no identified risks which arise from the proposed extinguishment of part of Langley Burrell 22. The financial and legal risks to the Council are outlined in the “Financial Implications” and “Legal Implications” sections below.
27. Walkers will have to use a section of reserved footway beside the B.4069. However, visibility is good along this section and the distance is relatively short (120 metres) when compared to the length of walk any walker would be doing if walking in this area.

### **Financial Implications**

28. The Local Authorities (Recovery of Costs for Public Path Orders) Regulations 1993 (SI 1993/407) amended by Regulation 3 of the Local Authorities (Charges for Overseas Assistance and Public Path Orders) Regulations 1996 (SI 1996/1978), permits authorities to charge applicants costs in relation to the making of public path orders, including those made under Section 257 of the Town and Country Planning Act 1990. The applicant has agreed in writing to meet the actual costs to the Council in processing the extinguishment order.
29. Where there is an outstanding objection to the making of the Order, the Committee may resolve that Wiltshire Council continues to support the making of the Order, in which case it should be forwarded to the Secretary of State for decision. The outcome of the Order will then be determined by written representations, local hearing or local public inquiry, all of which have a financial implication for the Council. If the case is determined by written representations the cost to the Council is £200 to £300; however, where a local hearing is held the costs to the Council are estimated at £300 to £500 and £1,000 to £3,000 where the case is determined by local public inquiry with legal representation (£300 to £500 without). There is no mechanism by which these costs may be passed to the applicant and any costs must be borne by Wiltshire Council. It is therefore considered appropriate where an Order is made under the Council’s powers to do so in the landowners’ interest that the Council does not provide any legal support for the Order at a hearing or inquiry thus minimising the expenditure of public funds even though it considers that the legal tests have been met.

30. Where the Council no longer supports the making of the Order, it may resolve that the Order be withdrawn and there are no further costs to the Council. The making of a Public Path Order is a discretionary power for the Council rather than a statutory duty; therefore, a made Order may be withdrawn up until the point of confirmation if the Council no longer supports it. However, where there is a pre-existing grant of planning permission the Council must make very clear its reasons for not proceeding with the Order.

### **Legal Implications**

31. If the Council resolves that it does not support the Order, it may be withdrawn. There is no right of appeal for the applicant; however, clear reasons for the withdrawal must be given as the Council's decision may be open to judicial review. This could be more likely where a grant of planning permission has already been made.
32. Where the Council supports the making of the Order, it must be sent to the Secretary of State for determination, which may lead to the Order being determined by written representations, local hearing or local public inquiry. The Inspector's decision is open to challenge in the High Court.

### **Options Considered**

33. Members may resolve that:
- (i) The Order should be forwarded to the Secretary of State for determination as follows:
    - (a) The Order be confirmed without modification, or
    - (b) The Order be confirmed with modification.
  - (ii) Wiltshire Council no longer supports the making of the Order, in which case the Order should be withdrawn, with clear reasons given as to why Wiltshire Council no longer supports the making of the Order, i.e. why the Order fails to meet the legal tests.

### **Reason for Proposal**

34. It is considered that the loss of this section of Langley Burrell 22 to the public is outweighed by the inconvenience of having to accommodate a footpath through the site. Such a path would not only disadvantage the operation of the site and potentially its security but would provide the public with such a diminished walking experience that there would be a significant loss to them even if the path were retained. In the event that members consider the path should be retained through the site a new planning application would need to be made by Wavin Ltd.
35. An adequate alternative route exists for the public which is easier to use and not any longer.

## **Proposal**

36. That “Langley Burrell 22 (part) Stopping Up Order and Definitive Map Modification Order 2015” is forwarded to the Secretary of State for Environment, Food and Rural Affairs for determination with the recommendation that it is confirmed without modification.

### **Tracy Carter**

Associate Director – Waste and Environment

Report Author:

**Sally Madgwick**

Rights of Way Officer – Definitive Map

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### **The following unpublished documents have been relied on in the preparation of this Report:**

None

### **Appendices:**

Appendix A –Location Plan

Appendix B – Site Layout Plan

Appendix C – Decision Report

Appendix D – Order and Order Plan

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Site boundary - - - - -


**Legend**

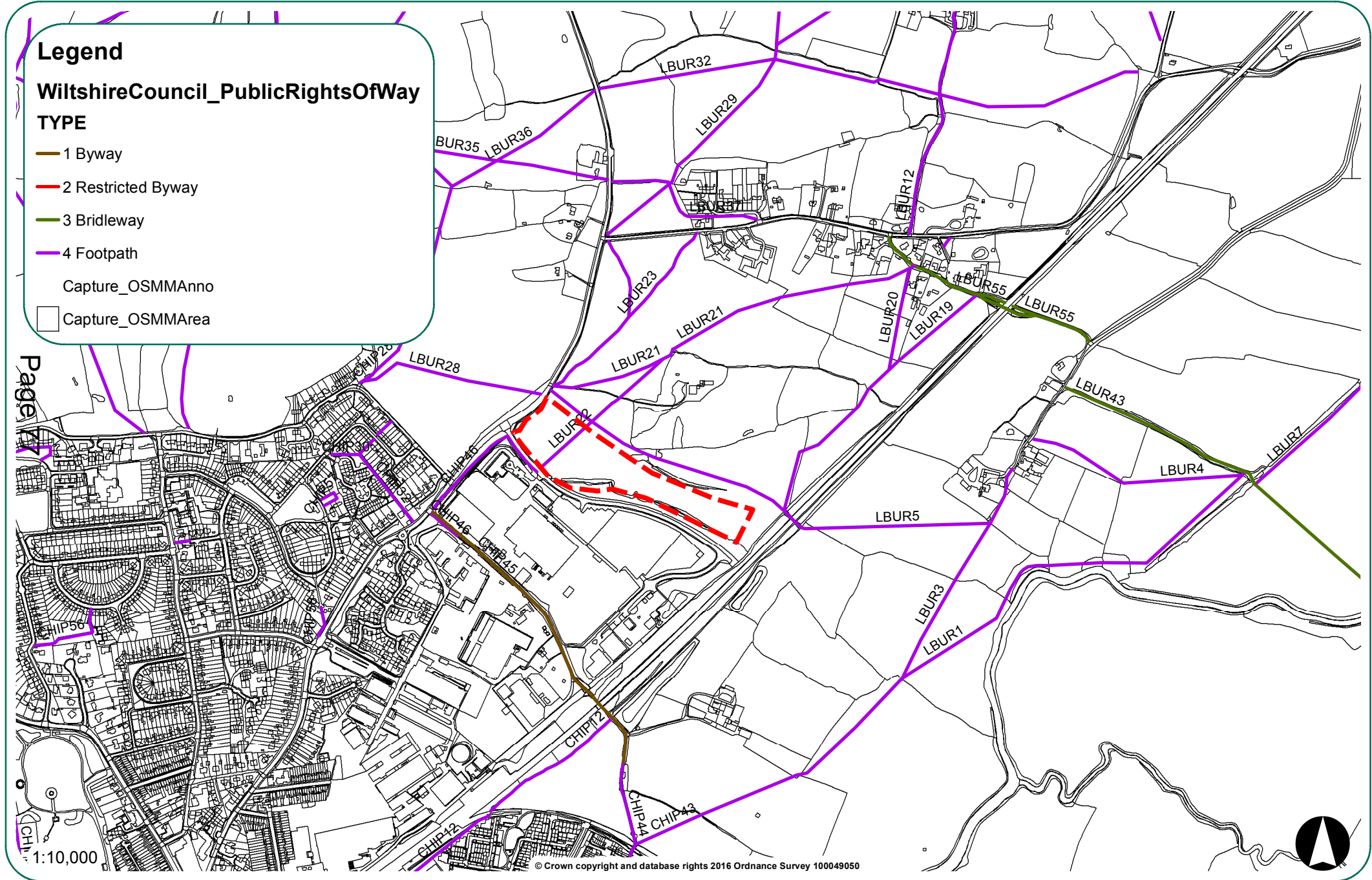
WiltshireCouncil\_PublicRightsOfWay

**TYPE**

-  1 Byway
-  2 Restricted Byway
-  3 Bridleway
-  4 Footpath

Capture\_OSMAnno

 Capture\_OSMMArea



Page 17

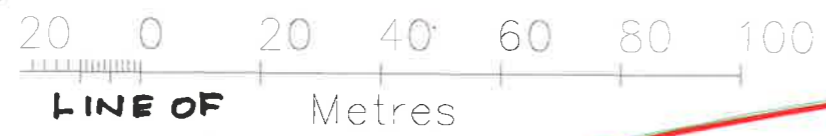
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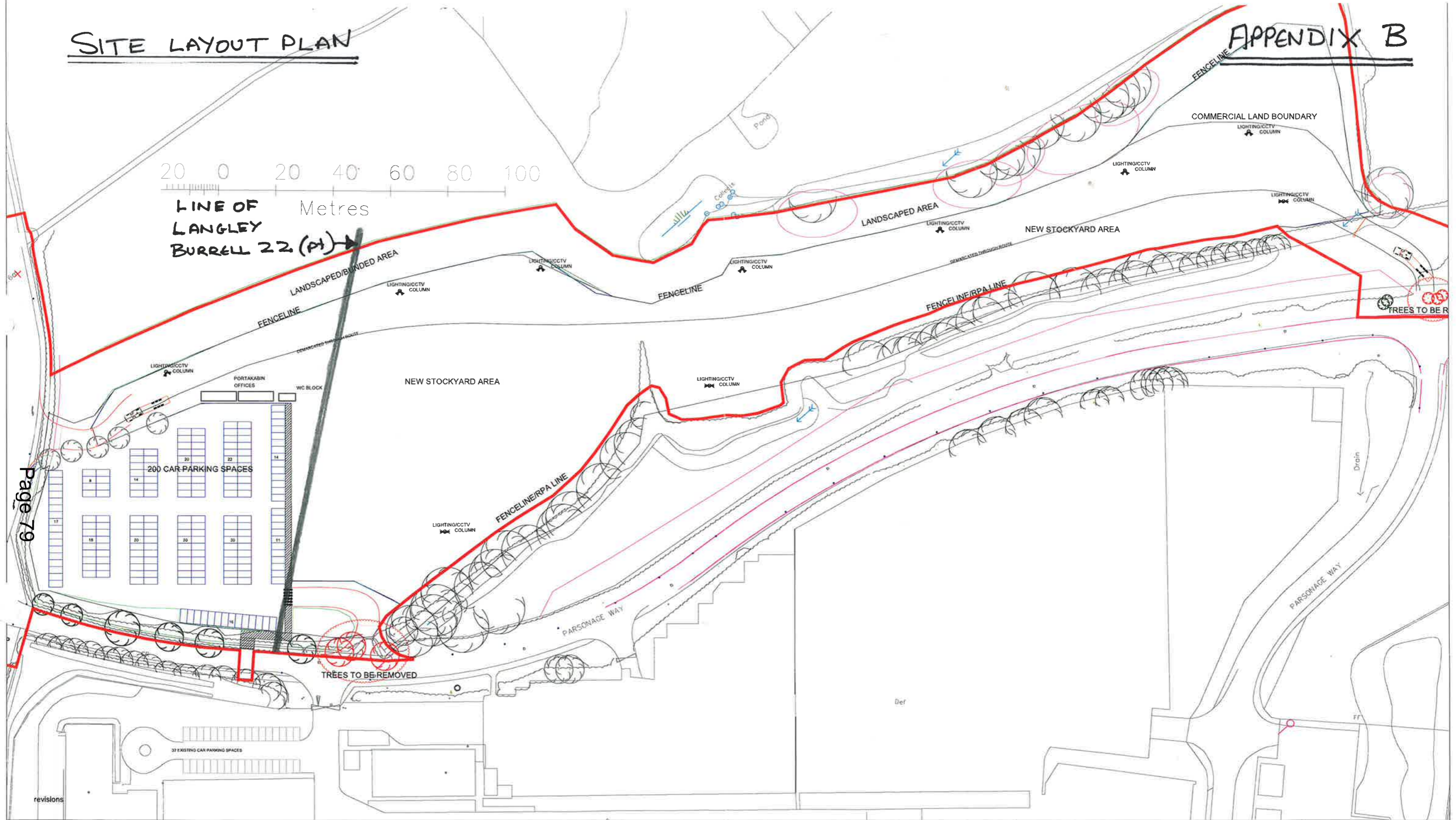


# SITE LAYOUT PLAN

# APPENDIX B




LINE OF  
LANGLEY  
BURRELL 22 (A1)



Page 79

revisions

project	CHIPPENHAM PHASE 2	scale	1:1250@A3	 <p>Suite 203 792 Wilmslow Road Manchester, M20 6UG t: 0161 434 3862 e: enquiries@udcman.co.uk</p>
client	WAVIN LIMITED	date	09/04/15	
drawing	SITE LAYOUT	drawn	IGR	
		drawing no.	CHIP PH2/PROP	

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WILTSHIRE COUNCIL

TOWN AND COUNTRY PLANNING ACT 1990

PROPOSED EXTINGUISHMENT OF PART OF LANGLEY BURRELL FOOTPATH  
22 (LBUR22) TO ENABLE DEVELOPMENT BY WAVIN LTD

**1 Purpose of Report**

1 To:

- (i) Consider and comment on an application to extinguish part of Langley Burrell footpath 22 (LBUR22) to enable development to take place.
- (ii) Recommend that an Order be made under s.257 of the Town and Country Planning Act 1990 to extinguish the part of the path affected by the development and to confirm the order if no representations or objections are received.

**2 Background**

2 On the 11<sup>th</sup> of August 2015 Wiltshire Council received an application from Roger Taylor of Wavin Limited, Parsonage Way, Chippenham, SN15 5PN to extinguish part of LBUR22.

3 The reason for the extinguishment was given as:

*“Conversion of land over which the footpath LBUR 22 runs to a car park and stockyard. Planning Application Reference 15/04763/FUL.”*

The proposed new route for pedestrians being over the existing footway of the B4069, Maud Heath’s Causeway. This is recorded as a publicly maintainable highway.

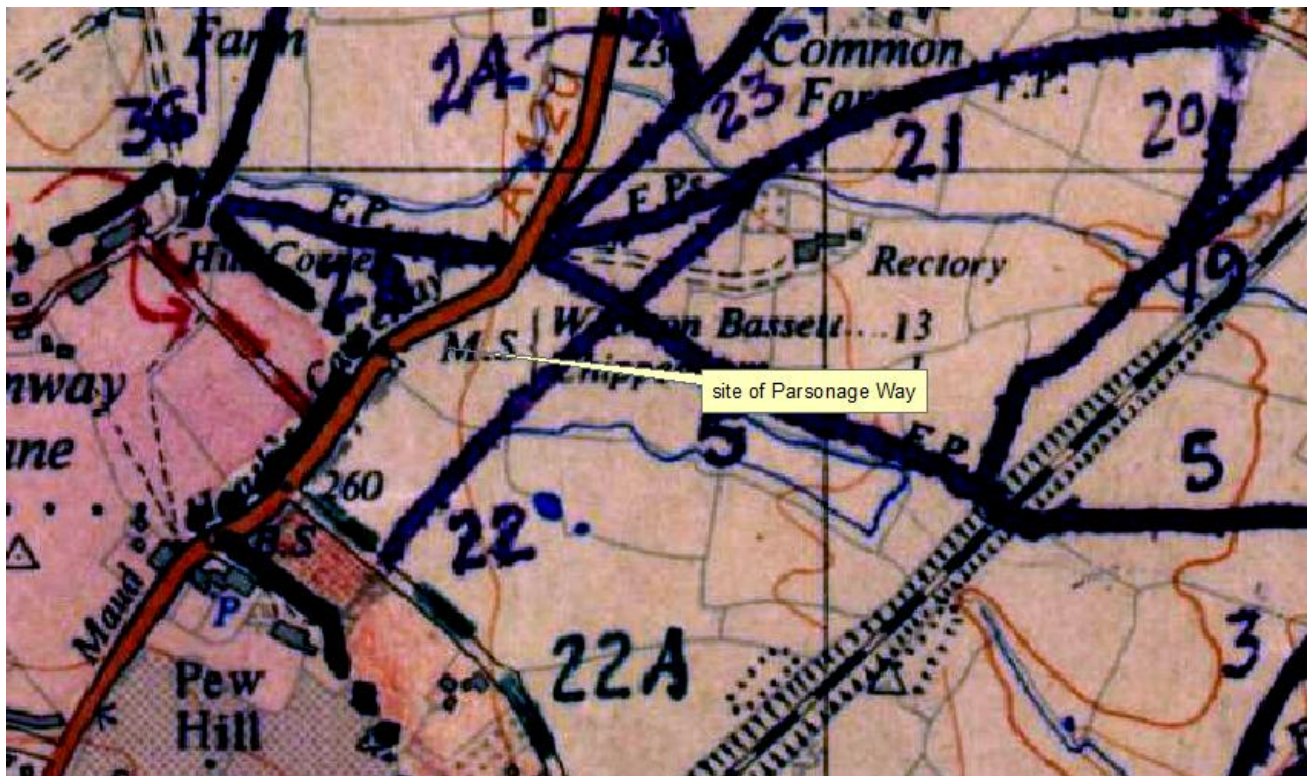
4 Although planning application ref. 15/04763/FUL has not yet been decided, changes to s.257 of the Town and Country Planning Act 1990 brought about by the Growth and Infrastructure Act 2013 permit Wiltshire Council to proceed with making an Order under s.257 before that decision is made. Any Order so made cannot however be confirmed until Planning Permission has been granted.

5 Further, paragraph 7.9 of the Government’s Rights of Way Circular 1/09 “Guidance for Local Authorities” Version 2 October 2009 advises that:

*“...if there is a reasonable expectation that planning permission will eventually be forthcoming there is clearly no reason why the proposals for any consequential stopping up or diversion of public rights of way should not be*

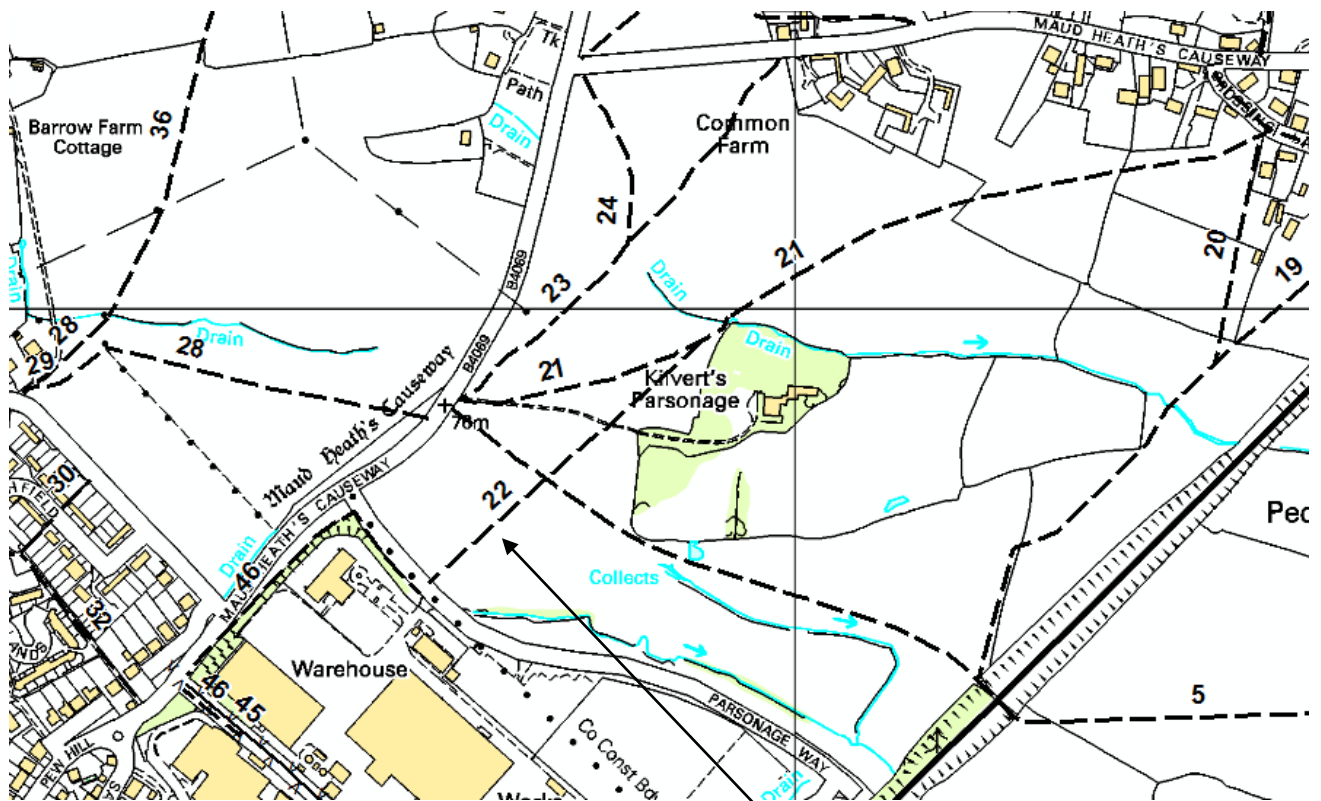
*considered concurrently with, and as part of, discussions on the proposed development rather than await the grant of planning permission..”*

- 6 The planning application submitted by Wavin on the 15<sup>th</sup> May 2015 included plans showing the proposed extinguishment of part of LBUR22 and it was therefore open to public consultation from that time. A further consultation was also conducted by the Rights of Way team throughout September 2015 and is detailed later in this report.
- 7 LBUR22 was originally recorded in the Calne and Chippenham Rural District Council area definitive map and statement dated 1953 as a footpath extending from LBUR21 in a south westerly direction to its junction with path no 45.



- 8 Part of the route was diverted in 1979 to allow for industrial development south of Parsonage Way and this is reflected in the working copy shown as paragraph 10.
- 9 The definitive statement reads:

Langley Burrell 22 FOOTPATH. From Parsonage Way, leading north-east across path No.5 to Without path No.21, west of the Rectory.  
Approximate length 350 m.



- 11 Planning application 15/04763/FUL seeks to build a car park and stock yard over land north of Parsonage Way, crossed by part of LBUR22.
- 12 Wavin Limited currently operates on land south of Parsonage Way and this proposed development is Phase 2 of an expansion programme. A secure perimeter fence around the car park and stock yard is fundamental to the operation of the new site which will be accessed from Parsonage Way and a route around the northern boundary created by a new access road from the B4069, Maud Heath's Causeway. The site will therefore be accessed from two roads, albeit that the north eastern one will be a private access route for lorries.
- 13 There is a significant requirement for screening of the site in the north east and it is likely to be bounded by a planted bund of at least 3 metres high.
- A plan showing the proposed development is attached at **APPENDIX A**
- 14 The route of LBUR22 affected by this application currently leads across a field from its junction with footpath 5 to Parsonage Way. The affected length is 150 metres.
- 15 The site was visited by officers of the Council in June and August 2015 and the route of LBUR 22 walked. Officers also walked the alternative route alongside the B4069 in August.



16 June 2015



Line of path from Parsonage Way stile north towards LBUR5

17 August 2015



Line of path from LBUR5 stile south west towards Parsonage Way stile

18 August 2015



Line of path to Parsonage Way stile

19 August 2015 – part of 1979 diversion of LBUR22 (now CHIP46)



FP CHIP46





**3 Land Ownership**

21 Wavin Limited, Parsonage Way, Chippenham, Wiltshire, SN15 5PN . Former owners The Diocese of Bristol, c/o Savills, 14 Cirencester Office Park, Tetbury Road, Cirencester, GL7 6JJ

**4 Consultation**

22 An initial consultation period was carried out between 20 August and 02 October 2015. The following letter was circulated:

***Town and Country Planning Act 1990 s.257***

***Application to extinguish part of footpath Langley Burrell 22 at SN15 4LE***

*Wiltshire Council has received an application to extinguish part of Langley Burrell 22 from its junction with Parsonage Way, Chippenham to path Langley Burrell 5; a distance of 152 metres. The applicant, Wavin Ltd, have also applied to Wiltshire Council for planning consent to develop the area with the construction of a car park and storage area. Application no 15/04763/FUL.*

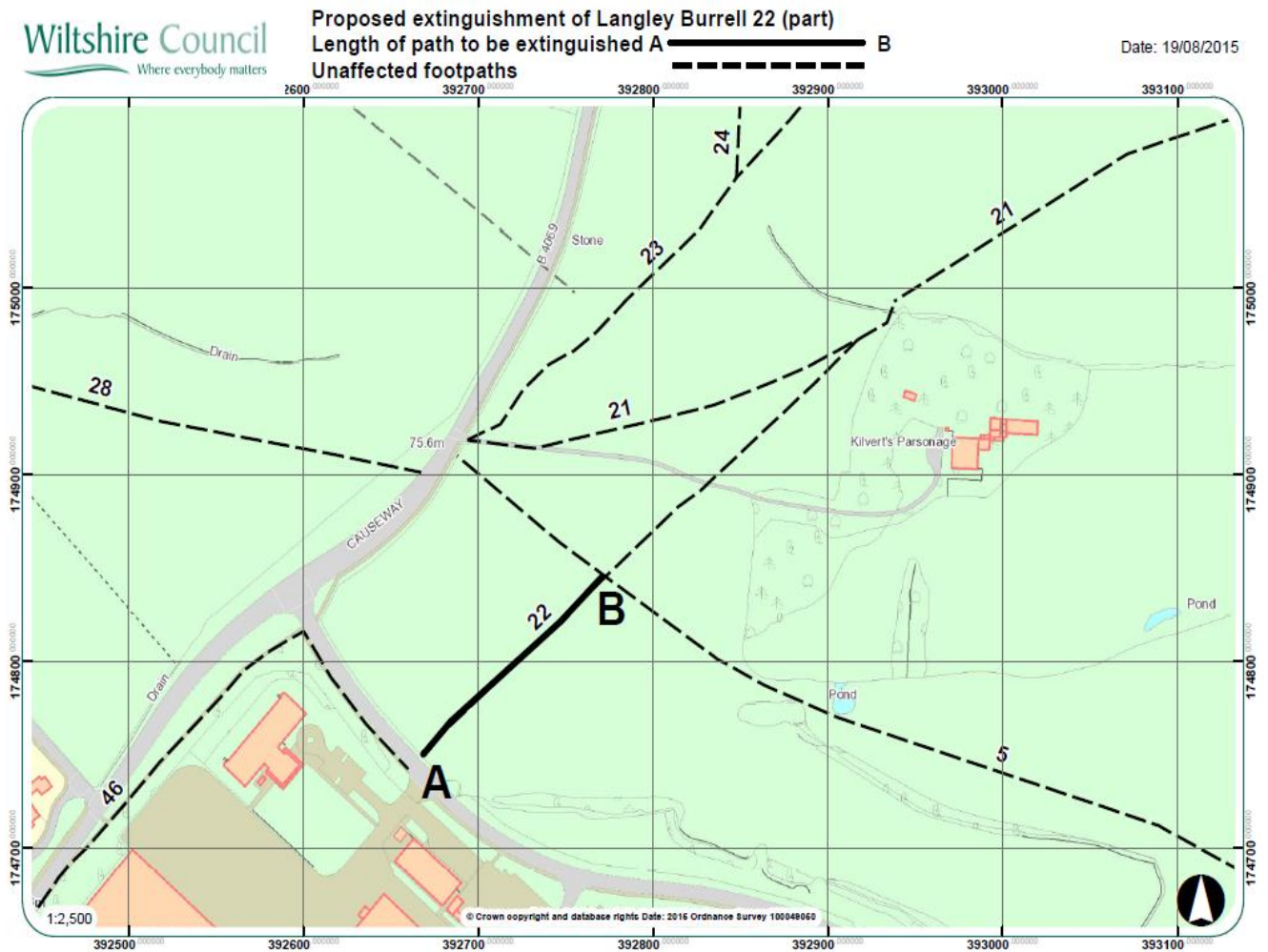
*If permission is granted for this development it will be necessary to extinguish that part of the footpath that crosses the site as it is coincident with the storage*

or stockyard area. Although an alternative footway is proposed (leading from Chippenham 46 across Parsonage Way and north east beside the B. 4069 Maud Heath's Causeway) it lies within the boundaries of the existing publicly maintainable highway and as a result may not form a diversion for that part to be extinguished (as it is not possible to record a highway on an existing highway).

Please find enclosed a map showing the proposed length to be extinguished and also a plan showing the extent of the site affected by the planning application.

If you have any comments to make on the extinguishment of the path (but please don't submit responses related to the planning application to this team) I would be pleased to receive them by Friday October 2<sup>nd</sup> 2015. If you have any queries related to this please don't hesitate to contact me.

23 The plan appended at A and the plan below were circulated:



24 This was sent to:

The Auto Cycle Union  
Commons, Open Spaces and Footpaths Society  
Wiltshire Bridleways Association  
Wiltshire Cycling Touring Club  
British Horse Society (BHS)  
Langley Burrell Parish Council  
Wiltshire Councillor Howard Greenman (Kington Division)  
Wiltshire Councillor Chris Caswill (Chippenham Monkton Division)  
Mrs D Plummer BHS Wiltshire  
Byways and Bridleways Trust  
Wiltshire Council Senior Rights of Way Warden Stephen Leonard  
Wiltshire Ramblers representative Mrs Judy Hible  
Wiltshire Council Ecology Consultations  
Trail Riders Fellowship  
Open Spaces Society  
Wavin Limited  
The Diocese of Bristol  
British Driving Society  
National Grid Electricity and Gas  
Scottish and Southern Electric plc  
Wales and West Utilities  
Easynet BT  
Wessex Water  
Virgin Media

**5 Consultation responses**

25 **Linesearch 19.08.15**

No apparatus affected.

26 **Virgin Media 19.08.15**

No apparatus affected.

27 **Openreach BT 19.08.15**

No apparatus affected.

28 **Scottish and Southern Energy 19.08.15**

High voltage overhead lines cross the field and the path.



29 **Mr D Mannering 25.09.15**

Mr Mannering submitted a 6 page paper containing his comments and conclusion on the application. This is reproduced in full below and considered by officers at Section 6.0 of this report.

**“Motive for extinguishment**

*The motive for the application to extinguish LBUR 22 is the planning application 15/04763/FUL by Wavin Plastics Ltd for a Car Park & Storage Area on the surrounding land. Originally, Wavin proposed to divert the path as shown in diagram 1 (design proposals section 6). However, Wiltshire Council advised that it was not possible to divert the path along an existing right of way; an application for extinguishment should be made instead.*

*I have submitted a separate response to the planning application. This response shows that there are numerous conflicts between the application and the National Planning Policy Framework (NPPF), Wiltshire’s Core Strategy (WCS) and the associated Core Policies. I have submitted evidence to show that the proposal fails to meet sustainability criteria and, therefore, according to Wiltshire Council’s own policy, should not be supported. Given the rejection of the planning application, the argument for diversion disappears and the application to extinguish the path should also be rejected.*

*Without prejudice to the above arguments, there are distinct arguments for retaining the footpath even if the planning application is approved subject to conditions. These are set out below.*

**Extinguishment not necessary for the development**

*If the Council were to agree to the request, this would be under s257 of the Town and Country Planning Act 1990. For the powers to stop up the path to be exercisable, the planning authority must be satisfied that it is necessary to extinguish the way in order to enable the development to be carried out. It is not sufficient that the extinguishment of the path would make it more convenient for the developer.*

*I shall show that the extinguishment of the path is not necessary for the development to proceed:*

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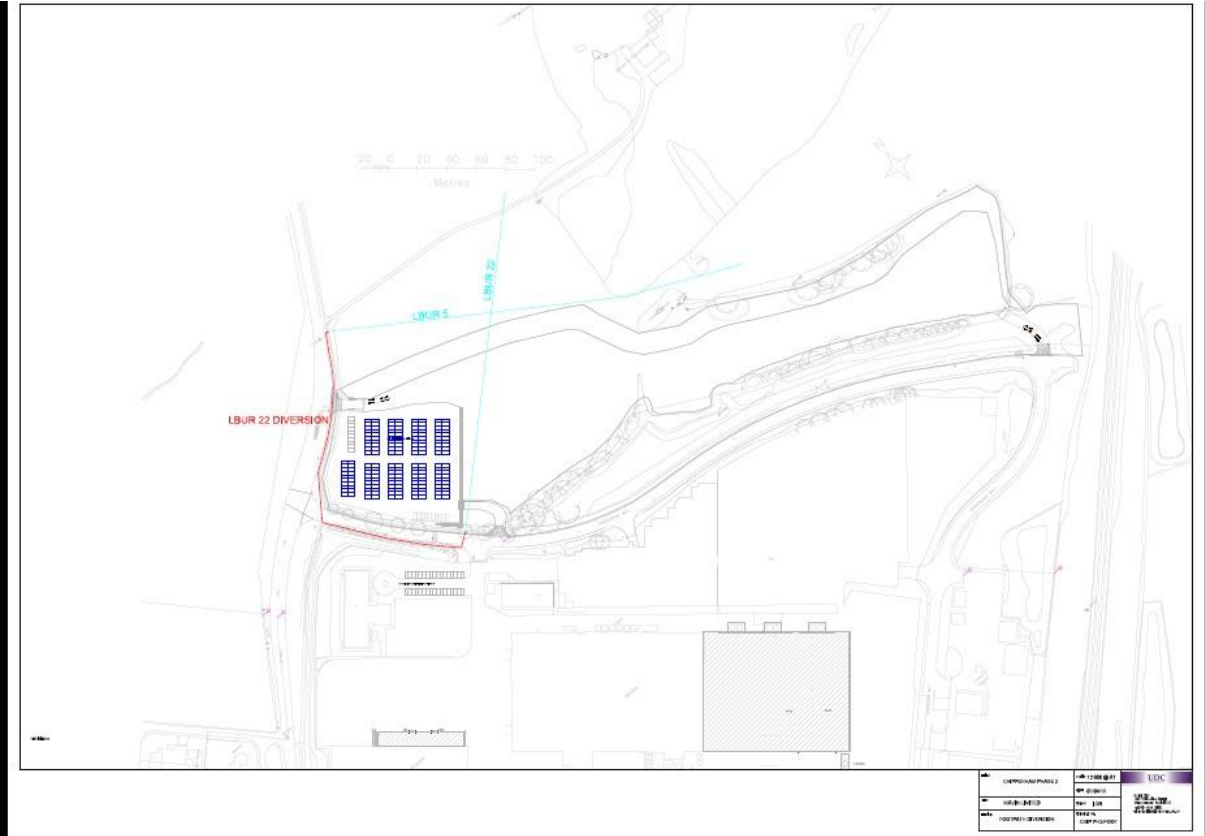
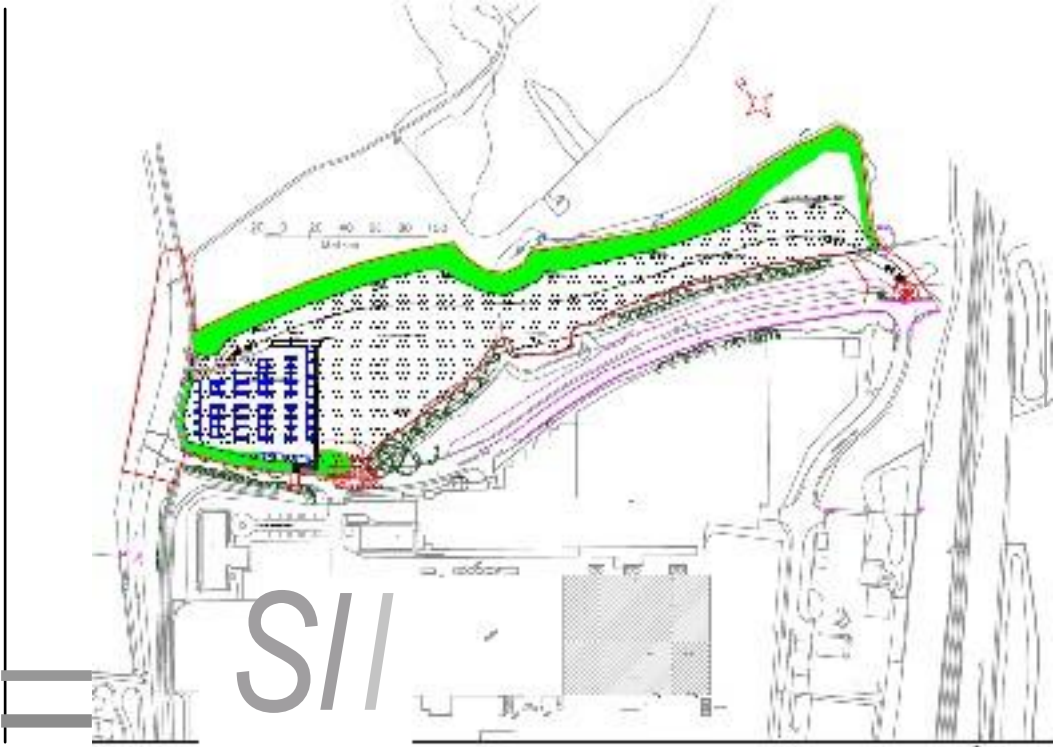


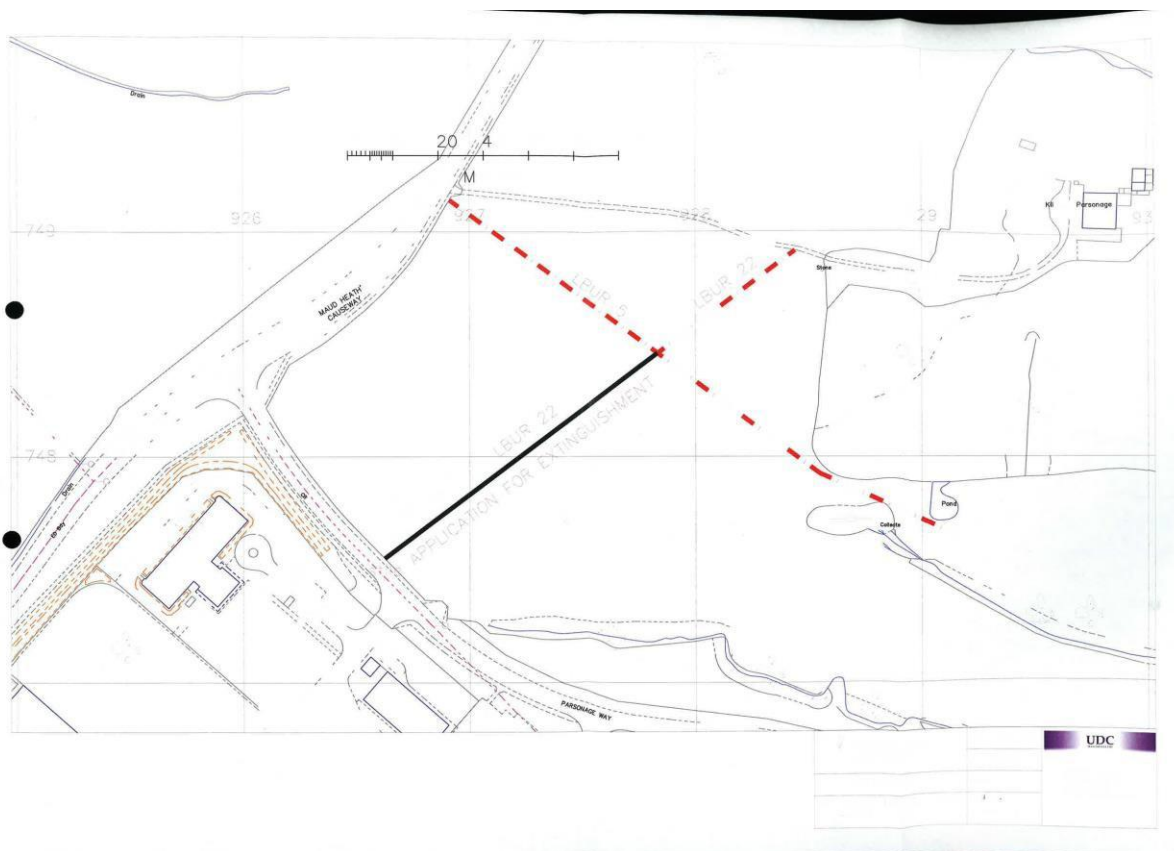
Diagram 1 – Wavin’s original diversion plan

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Diagram2 shows the site layout proposed by Wavin



**Diagram 3 Proposed extinguishment of LBUR 22:**



*It is clear from diagrams 1, 2 and 3 that the left hand (western) boundary of the footpath follows broadly the right hand boundary of the proposed car park. It would be easy to divert the path to follow the right hand boundary of the car park. Alternatively, the car park could be reshaped so that its right hand boundary follows the existing line of the footpath. This second approach might make the car park slightly larger. However, I have already pointed out in my response to the planning application that the proposed car park capacity does not provide for the offsite parking of cars that are currently parked along Parsonage Way. On-street parking will become untenable once Parsonage Way becomes part of the northern bypass.*

*A footpath along the side of the car park is likely to be useful to car park users as well as existing users of LBUR 22.*

*If Wavin has concerns about the security of the proposed storage area, this could be fenced off from the footpath.*

*Wavin may seek to claim that the footpath needs to be extinguished on safety grounds because it crosses the proposed HGV access road (shown running along the northern edge of the site in diagram 2). Such an argument would not stand up to scrutiny. First, Wavin's proposed alternative to LBUR 22 for pedestrians is that they walk along the main road. This too would involve crossing the proposed access road and is more dangerous for pedestrians as drivers' attention will be focused on B4069 traffic as they try to exit the site. Should there be any perceived residual safety issues where the path crosses the proposed access road, these could be addressed by building a footbridge over the access road.*

*In any event, I have argued that the proposed route of the access road, and in particular, the proposed exit point onto the B4069 is undesirable on safety and congestion grounds. Under an alternative configuration, where the access road links only with Parsonage Way, it would no longer cross the line of LBUR 22.*

*The conclusion is that it is not necessary to extinguish LBUR 22 even if the development proceeds and retains broadly Wavin's configuration as above. If the configuration were to be amended to improve the acceptability of the site against other planning criteria, the case for extinguishing LBUR 22 would be even weaker.*

### **Amenity value of LBUR 22**

*LBUR 22 provides a more direct link between the village of Langley Burrell and the northern end of Chippenham. It is also preferable to walking along the main road – the views are better and one is not subject to the constant rush of passing vehicles. I use the path regularly.*

### **Contravention of NPPF and Wiltshire Core Policies**

*The WCS defines Green Infrastructure as follows:*

*6.82 Green infrastructure is a descriptive term used to characterise spaces such as parks and gardens (urban and country parks, formal gardens); amenity green space (informal and formal recreation and sports spaces, domestic gardens, village greens, green roofs); urban green spaces (urban commons, waste land and disturbed ground); woodland, downland and meadows, wetlands, open and running water, quarries; green corridors (rivers and canals including their banks, road and rail corridors, cycling routes, pedestrian paths, and **rights of way**);*

*Thus Rights of Way including Public Footpaths are part of Wiltshire's Green Infrastructure.*

#### **Core Policy 52 states:**

##### **Green infrastructure**

*Development shall make provision for the retention and enhancement of Wiltshire's Green Infrastructure network, and shall ensure that suitable links to the network are provided and maintained. Where development is permitted developers will be required to:*

*Retain and enhance existing on site green infrastructure*

#### **NPPF 75 states:**

*Planning policies should protect and enhance public rights of way and access. Local authorities should seek opportunities to provide better facilities for users, for example by adding links to existing rights of way networks including National Trails.*

#### **WCS para 3.9 states:**

##### **Key outcomes**

*Wiltshire's network of multi-functional green infrastructure will have been maintained and enhanced to contribute towards achieving the vision set out in the Wiltshire Green Infrastructure Strategy.*

*In summary, both the NPPF and the WCS require developments to enhance or, at least, maintain existing rights of way. If Wiltshire Council were to agree to the extinguishment of this footpath, it would be a flagrant breach of its own and national policies.*

## **Conclusion**

*Based on planning law, national and county policies, walkers have a legitimate expectation that Wiltshire Council will reject the application to stop up LBUR 22. This conclusion is at odds with the comments from Wavin which state (Letter to Lee Burman dated 25<sup>th</sup> August 2015):*

### **“Public Rights of Way**

*We note that no objection is raised subject to conditions.”*

*This is based on the response from the Wiltshire Council Rights of Way Officer – North whose response dated 18th June 2015 has ticked the box “support subject to conditions”.*

*The conditions suggested are as follows:*

#### **Matters Considered:**

*The applicant is proposing to divert the public footpath (LBUR22) onto the public highway. Public rights of way cannot be diverted onto existing highway. **Conditions:** The applicant should apply for an extinguishment of LBUR22 under section 257 of the Town and Country Planning Act 1990. This application can be made prior to planning permission being granted and must be applied for prior to commencement of works. The path should be available on its legal line until an order to extinguish the path is confirmed.*

*For the reasons set out above, I do not see how the Wiltshire Council Rights of Way Officer could justifiably support the planning application on condition that the footpath is extinguished. Compliance with the Town and Country Planning Act, the NPPF and Wiltshire Core Strategy would all seem to require a condition that the footpath is maintained.*

*I object to the extinguishment of this path.”*

### **30 Langley Burrell Parish Council 30.09.15**

*“At its meeting on 21<sup>st</sup> September, this Council debated the views expressed by our Councillor David Mannering in his paper attached, and formally and unanimously supported the opinions stated therein. Accordingly this Council OBJECTS to the extinguishment of this footpath.” See Mr Mannering’s submission at paragraph 29.*

### **31 Ms J Hible, The Ramblers 09.10.15**

*“I visited this site this morning . The path is in use although the stile at ST 927 747 has a broken footstep,*

*The application is misleading as it implies that the path finishes at this point. The route continues across the road as footpath Chippenham 46 which joins up with Chippenham 32 and Chippenham 45. In the opposite direction, it connects with*

*Langley Burrell 5, and Langley Burrell 21 thus forming a key part of an extensive area of footpaths on this northern edge of Chippenham. This is part of 'Kilvert Country' and an important area for those with a literary interest. Maud Heath's Causeway follows the main road here before turning west through the village. Langley Burrell 22 forms part of a good walking route allowing the walker to follow the route of the causeway, avoiding the main road until the quieter stretches can be reached through the village.*

*To the east of the main road, major developments are in hand so any further loss of the path network is to be deprecated.*

*The land was purchased for development quite recently, knowing that the right of way was there. It could easily have been incorporated into the plans. As it is, the route could be retained across the car park along the boundary with the storage or stockyard area with minimal change from its current course. If it is safe for employees to use the car park then it should be safe for walkers to cross it.*

*Chippenham Ramblers wish to oppose the application to extinguish this part of footpath Langley Burrell 22.”*

## **6 Considerations for the Council – Legal Empowerment**

32 The Town and Country Planning Act of 1990 states (as amended by section 12 of the Growth and Infrastructure Act 2013), in sections 257 and 259:

### **257 Footpaths and bridleways affected by development: orders by other authorities.**

(1) Subject to section 259, a competent authority may by order authorise the stopping up or diversion of any footpath or bridleway if they are satisfied that it is necessary to do so in order to enable development to be carried out—

(a) in accordance with planning permission granted under Part III, or

(b) by a government department.

(1A) Subject to section 259, a competent authority may by order authorise the stopping up or diversion in England of any footpath, bridleway or restricted byway if they are satisfied that –

(a) an application for planning permission in respect of development has been made under Part 3, and

(b) if the application were granted it would be necessary to authorise the stopping up or diversion in order to enable the development to be carried out.



(2) An order under this section may, if the competent authority are satisfied that it should do so, provide—

(a) for the creation of an alternative highway for use as a replacement for the one authorised by the order to be stopped up or diverted, or for the improvement of an existing highway for such use;

(b) for authorising or requiring works to be carried out in relation to any footpath or bridleway for whose stopping up or diversion, creation or improvement provision is made by the order;

(c) for the preservation of any rights of statutory undertakers in respect of any apparatus of theirs which immediately before the date of the order is under, in, on, over, along or across any such footpath or bridleway;

(d) for requiring any person named in the order to pay, or make contributions in respect of, the cost of carrying out any such works.

(3) An order may be made under this section authorising the stopping up or diversion of a footpath or bridleway which is temporarily stopped up or diverted under any other enactment.

(4) In this section “competent authority” means—

(a) in the case of development authorised by a planning permission, the local planning authority who granted the permission or, in the case of a permission granted by the Secretary of State, who would have had power to grant it

(b) in the case of development carried out by a government department, the local planning authority who would have had power to grant planning permission on an application in respect of the development in question if such an application had fallen to be made.

(c) in the case of development in respect of which an application for planning permission has been made under Part 3, the local planning authority to whom the application has been made or, in the case of an application made to the Secretary of State under section 62A, the local planning authority to whom the application would otherwise have been made.”

### **259 Confirmation of orders made by other authorities.**

(1) An order made under section 257 or 258 shall not take effect unless confirmed by the Secretary of State or unless confirmed, as an unopposed order, by the authority who made it.

(1A) An order under section 257(1A) may not be confirmed unless the Secretary of State or (as the case may be) the authority is satisfied –



- (a) that planning permission in respect of the development has been granted, and
- (b) it is necessary to authorise the stopping up or diversion in order to enable the development to be carried out in accordance with the permission.

(2)The Secretary of State shall not confirm any such order unless satisfied as to every matter as to which the authority making the order are required under section 257 or, as the case may be, section 258 to be satisfied.

(3)The time specified—

(a)in an order under section 257 as the time from which a footpath or bridleway is to be stopped up or diverted; or

(b)in an order under section 258 as the time from which a right of way is to be extinguished,

shall not be earlier than confirmation of the order.

(4)Schedule 14 shall have effect with respect to the confirmation of orders under section 257 or 258 and the publicity for such orders after they are confirmed.

Prior to the changes brought about to s.257 on the 1990 Act by the Growth and Infrastructure Act 2013 it had only been possible to make an order under Section 257 of the Town and Country Planning Act 1990 where planning permission was already granted under part III of the 1990 Act, however the amendment of the 1990 Act under the Growth and Infrastructure Act 2013, also allows a s.257 order to be made where an application for planning permission has been made under part III of the 1990 Act and where, if the application is granted, it would be necessary to stop up or divert the footpath in order to enable the development to continue. Any such order must not be confirmed until full planning permission has been granted.

33 The Order Making Authority may therefore consider whether or not to make Orders in advance of planning permission being granted. In this case, a planning application is in place, but the application has not yet been determined. Making an order prior to the granting of planning permission would be beneficial to the applicant as once permission for the development is granted there is no undue delay in commencing works as the order is in place and can be confirmed once the planning permission is granted. Alternatively, where the planning application is not successful, the authority is entitled to recover from the applicant, its reasonable costs in processing the order to date and making the order, even where it is not confirmed.

34 Paragraph 7.15 of Circular 1/09 (Rights of Way Circular – Guidance for Local Authorities – Defra) advises that the disadvantages or loss likely to arise as a result

of the stopping up, either to members of the public generally or to persons whose properties adjoin or are near the existing highway should be weighed against the advantages of the Order.

35 7.15 states:

*“...Having granted planning permission for a development affecting a right of way however, an authority must have good reasons to justify a decision either not to make or not to confirm an order. The disadvantages or loss likely to arise as a result of the stopping up or diversion of the way to members of the public generally or to person whose properties adjoin or are near the existing highway should be weighed against the advantages of the proposed order.”*

## **6 Comments on Considerations**

### **i) Whether it is necessary to stop up or divert the footpath in order to enable development to be carried out.**

36 The application, both as made and as amended, has a perimeter fence as fundamental to the development. Any unrestricted public access through the site would therefore be contrary to the aim of the applicant. Division of the site into two fenced secure areas creates a less than desirable situation for the applicant (who would have to maintain two secure areas) and would also create a footpath that led between security fences giving it an industrial and restrictive feel. Any diversion of the path within the bounds of the site would create a similar situation.

37 To provide adequate screening of the site from the north east a bund of at least 3 metres high will be constructed. The footpath would have to cross this bund (regardless of fencing or position within the site) which would be unacceptably steep and inaccessible. Any reduction in the bund to allow the footpath would reduce the screening capability of the bund allowing noise, light and visual intrusion to the areas north east of the site.

38 Officers therefore consider that however undesirable it is to lose footpaths where they are green corridors (as per Wiltshire Council’s Core Policy 52) the change of use of this site from agricultural land to developed land leads to an inevitable loss of the green qualities of the path, wherever it is located within the site.

39 The footpath on the opposite side of Parsonage Way was diverted away from the land to the roadside footway when the site was developed in the late 1970s/early 1980s and the 150 metres of Langley Burrell 22 affected by this application would also need to be similarly dealt with to enable the development to proceed.

ii) **The disadvantages or loss likely to arise as a result of the extinguishment**

- 40 Although Langley Burrell 22 was once part of a relatively direct footpath linking Langley Burrell with Chippenham it lost its sense of direction and purpose with the diversion of a section in 1979 . It is therefore considered that the loss of under 150 metres of footpath does not represent a significant loss and that the use of the existing footway alongside the B4069 provides a safe and reasonable alternative.
- 41 The section of Langley Burrell 22 affected by the application does not appear to be well used (there was no path visible through the long grass in June 2015 (see photograph at paragraph 16). Ms Hible in her response from The Ramblers points out that the B4069 follows the route of Maud Heaths Causeway but that she advocates using LBUR22 as it allows the walker to avoid the road. It is however noted that the first promoted Maud Heath walk to appear when searching the internet with Google ([www.walkscene.co.uk](http://www.walkscene.co.uk)) doesn't use LBUR22 but uses the footway beside the B4069 instead.
- 42 It is a logical route as the B4069 footway option is direct, has good visibility and does not require the dog-leg into Parsonage Way that is currently required if using LBUR22.
- 43 Although Mr Mannering and the Parish Council object to the loss of the footpath it is noted that there was less concern for the loss at the consultation stage for the planning application (which clearly showed the route being diverted along the B4069 footway) and that this was publicly consulted.
- 44 In that consultation the Langley Burrell Residents Association responded to say that *"it is absolutely critical that if the proposal is to proceed the storage area has comprehensive screening, such that the activities behind it cannot be seen from any of the neighbouring properties or public footpaths."*
- 45 There can be little doubt that there is nothing visually attractive to the public offered by Wavin's car park and stock yard and photographs of the car park and stock yard on the opposite side of Parsonage Way are included here to give a flavour for the proposed site:





**iii) Alternative Routes**

46 The footway beside the B4069 offers a reasonable alternative route for users of the short section of LBUR22 to be extinguished. The footway route is surfaced, will not become wet or muddy, is more accessible and is more direct.

**iv) Environmental Impact of the Recommendation**

47 Planning Consent would be granted with full consideration of the environmental impacts of the proposal. The stopping up of the right of way has no environmental impact.

**v) Risk Assessment**

48 There are no risks to users of the path associated with the proposed extinguishment.

**vi) Legal Considerations and Financial Implications**

49 The landowner will meet all costs related to the making of the Order. The landowner will meet all costs related to the confirmation of the order excluding any costs associated with sending the Order to the Secretary of State (SoS) for determination. This occurs if objections are received. The SoS may choose to determine the order by written representations (no additional cost to the Council), a local hearing (approximate cost £200) or a public inquiry (approximate cost £2500).

50 Although the making of public path orders is a power that Wiltshire Council has and is not a duty, where the planning authority and the highway authority are the same authority, a duty is implied. If Wiltshire Council fails to make an order following the granting of planning permission it is liable to application for judicial review from the developer. This has a potential cost to the Council of up to £50000.

51 In this instance planning permission has not yet been granted. If permission is not granted the Order cannot be confirmed and there is no further cost to the Council.

52 Officers consider that given the importance to the local economy of the proposed development, proceeding with making an Order prior to any decision relating to the

Planning application is made, is a sensible approach as it could enable the applicant to proceed in a more timely manner with the development, if permission is granted.

## **vii) Equality Impact**

53 The Council must have regard to The Equality Act 2010. This act requires (broadly) that in carrying out their functions, public authorities must make reasonable adjustments to ensure that a disabled person is not put at a substantial disadvantage in comparison with a person who is not disabled. The Equality Act goes further than just requiring a public authority does not discriminate against a disabled person. Section 149 imposes a duty, known as the “public sector equality duty”, on the public bodies listed in sch. 19 to the Act, to have due regard to three specified matters when exercising their functions.

54 These three matters are:

- Eliminating conduct that is prohibited by the Act
- Advancing equality of opportunity between people who have a disability and people who do not; and
- Fostering good relations between people who have a disability and people who do not.

55 The Equality Act applies to a highway authority’s provision of public rights of way services. (DEFRA Guidance *Authorising structures (gaps, gates and stiles) on rights of way* Oct 2010)

56 The Council must also have regard to the Wiltshire Council Rights of Way Improvement Plan (ROWIP). The ROWIP recognises the Council’s duty to have regard to DDA95 (replaced by the Equalities Act 2010) and to consider the least restrictive option.

57 The alternative route offered by this proposal provides a flat and accessible path of comparable distance to the existing one. The footway route is well defined, has no limitations or conditions (LBUR22 has two stiles), is easy to follow and would currently be the route of choice for anyone with impaired mobility or sight.

## **8 Options to Consider**

- 58 i) To make an order to extinguish part of Langley Burrell 22 under s.257 of the Town and Country Planning Act 1990.
- ii) Not to make an order to extinguish part of Langley Burrell 22 under s.257 of the Town and Country Planning Act 1990.

## **9 Reasons for Recommendation**

- 59 The change of use from agricultural to industrial brings about an inevitable change in the landscape. In the event that planning permission is granted officers can see no route for LBUR22 through the site that allows Wavin to conduct its operations there safely and securely or for the public to continue to enjoy a rural footpath.
- 60 If permission to develop is not granted then no changes to the path can occur under the proposed Order. If permission to develop is granted then the early processing of the application to extinguish the path will assist the developer.

## **10 Recommendation**

- 59 **That Wiltshire Council makes an order under s.257 of the Town and Country Planning Act 1990 and s.53 of the Wildlife and Countryside Act 1981 to extinguish part of Langley Burrell 22 and if after due advertisement no objections or representations are received the Order be confirmed when the grant of planning permission is made (s.259(1A) TCPA 90) and the definitive map and statement be altered accordingly.**

Sally Madgwick  
Rights of Way Officer

13 October 2015

**PUBLIC PATH STOPPING UP AND DEFINITIVE MAP AND STATEMENT MODIFICATION  
ORDER**

APPENDIX

**TOWN AND COUNTRY PLANNING ACT 1990 SECTION 257**

D

**WILDLIFE AND COUNTRYSIDE ACT 1981 SECTION 53(A)(2)**

**WILTSHIRE COUNCIL**

**LANGLEY BURRELL 22 (PART) STOPPING UP ORDER AND DEFINITIVE MAP  
MODIFICATION ORDER 2015**

This order is made by Wiltshire Council under section 257 of the Town and Country Planning Act 1990 because it is satisfied that it is necessary to stop up the footpath to which this order relates in order to enable development to be carried out in accordance with planning permission granted under Part III of the Town and Country Planning Act 1990 namely to construct a car park and storage area at Parsonage Way, Chippenham.

This order is also made under section 53A(2) of the Wildlife and Countryside Act 1981 ("the 1981 Act") because it appears to the authority that the Calne and Chippenham Rural District Council Definitive Map and Statement dated 1953 as modified under the Wildlife and Countryside Act 1981 require modification in consequence of the occurrence of an event specified in section 53(3)(a)(i) of the 1981 Act, namely, the extinguishment (as authorised by this Order) of a highway hitherto shown or required to be shown in the map and statement.

**BY THIS ORDER:**

1. The footpath over the land shown by a bold black line on the attached map and described in Part 1 of the Schedule to this order ("the schedule") shall be stopped up and the Calne and Chippenham Rural District Council Definitive Map and Statement dated 1953 as modified by the Wildlife and Countryside Act 1981 shall be modified as provided below.
2. The stopping up of the footpath shall have effect on the confirmation of this order.
3. Where immediately before the date on which the footpath is stopped up there is apparatus under, in, on, over, along or across it belonging to statutory undertakers for the purpose of carrying on their undertaking, the undertakers shall continue to have the same rights in respect of the apparatus as they then had.

**SCHEDULE**

**PART 1**

**Description of site of existing path or way**

That length of footpath known as Langley Burrell 22 and as shown on the attached map by a continuous black line starting at point A leading north east to point B

Approximate length 140 metres

**PART 2**

**Modification of Definitive Statement  
Variation of particulars of path or way**

<b>Parish</b>	<b>Path No</b>	<b>Description</b>	<b>Modified under Wildlife and Countryside Act 1981</b>
Langley Burrell	22	<u>Footpath</u> leading from Langley Burrell Path No. 5 to path No. 21, west of the Rectory.	53(3)(a)(i)

Approximate length 190 metres

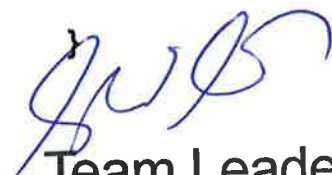
THE COMMON SEAL OF }  
}

THE WILTSHIRE COUNCIL }  
}

Was hereunto affixed this }  
}

15th day of December 2015 }  
}

In the presence of: -

  
Team Leader (Legal)  
S.W.SUTER

82530

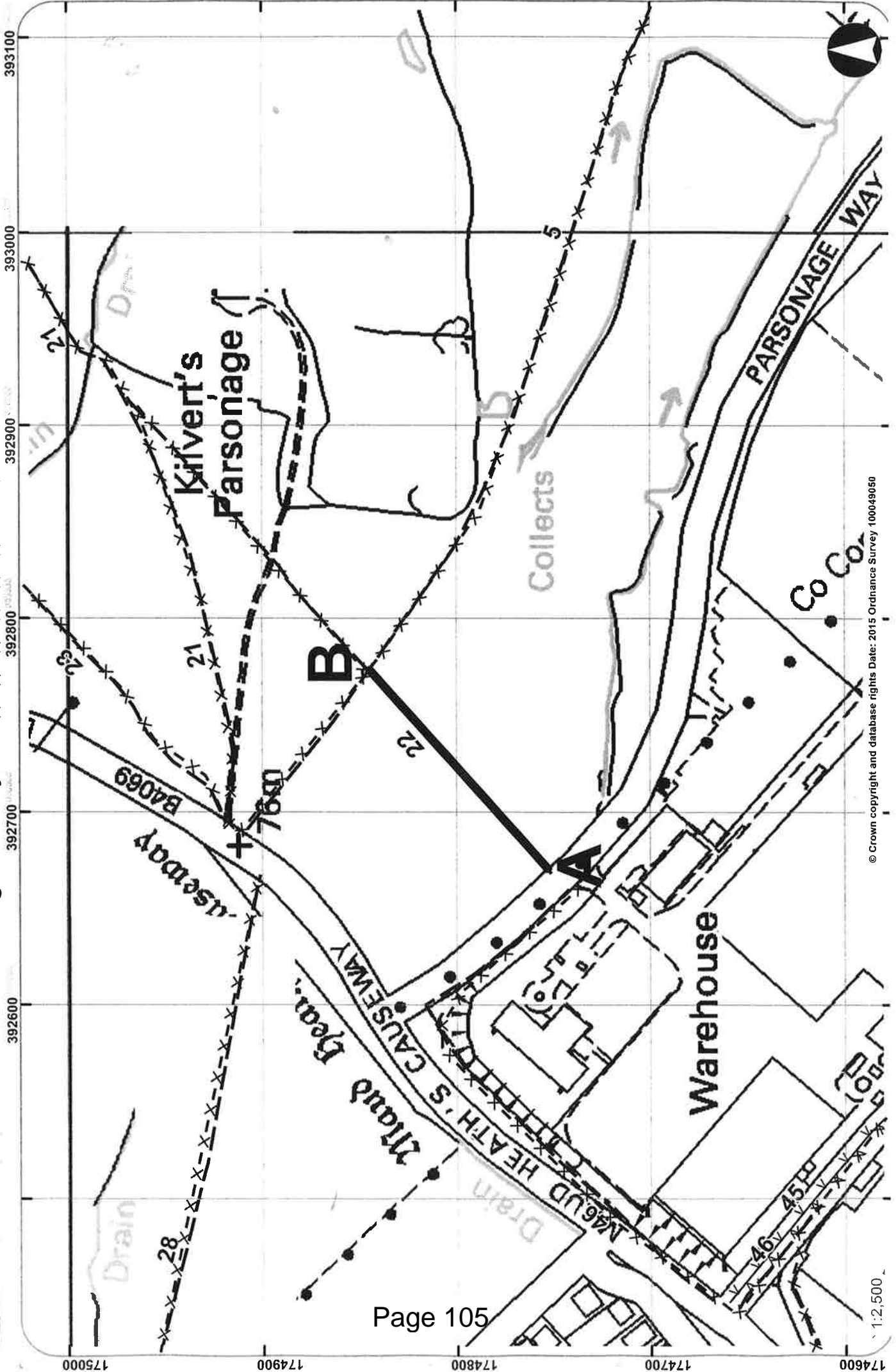


**ORDER PLAN - EXTINGUISHMENT of LANGLEY BURRELL 22 (pt)**

**Footpath to be stopped up A**  **B**

**Unaffected rights of way**                                           

Date: 12/10/2015



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