

AGENDA

Meeting: Northern Area Planning Committee
Place: Council Chamber - Council Offices, Monkton Park, Chippenham
Date: Wednesday 22 June 2016
Time: 3.00 pm

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

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Membership:

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

Substitutes:

Cllr Desna Allen	Cllr Jacqui Lay
Cllr Glenis Ansell	Cllr George Jeans
Cllr Mary Champion	Cllr Linda Packard
Cllr Ernie Clark	Cllr Melody Thompson
Cllr Dennis Drewett	Cllr Philip Whalley
Cllr Bill Douglas	Cllr Graham Wright

THIS AGENDA HAS BEEN AMENDED PRIOR TO FIRST PUBLICATION TO INCLUDE ITEM 7C – THE AMENDMENT MADE FALLS WITHIN THE STATUTORY DEADLINE.

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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 - 12*)

To approve and sign as a correct record the minutes of the meeting held on 1 June 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:

If you would like to make a statement at this meeting on any item on this agenda, please register to do so at least 10 minutes prior to the meeting. Up to 3 speakers are permitted to speak for up to 3 minutes each on any agenda item. Please contact the officer named above for any further clarification.

Questions:

To receive any questions from members of the public or members of the Council received in accordance with the constitution. Those wishing to ask questions are required to give notice of any such questions in writing to the officer named above (acting on behalf of the Corporate Director), no later than 5pm on Wednesday 15 June 2016 in order to be guaranteed a written response prior to the meeting. Any question received between the above deadline, and no later than 5pm two clear working days before the meeting, may only receive a verbal response at the meeting.

Please contact the officer named on the first page 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 13 - 14*)

An appeals update report is attached for information.

THIS AGENDA HAS BEEN AMENDED PRIOR TO FIRST PUBLICATION TO INCLUDE ITEM 7C – THE AMENDMENT MADE FALLS WITHIN THE STATUTORY DEADLINE.

7 Planning Applications

To consider and determine planning applications as detailed below.

- 7a **15/09143/OUT - Vale of the White Horse Inn, Station Road, Minety, Wiltshire SN16 9QY** (*Pages 15 - 32*)
- 7b **16/03151/FUL & 16/03350/LBC - Pickwick Cottage, 17 Pickwick, Bath Road, Corsham, SN13 0JD** (*Pages 33 - 40*)
- 7c **15/10659/FUL - Ashley, Common Road, Malmesbury, Wiltshire, SN16 0HN** (*Pages 41 - 56*)

8 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

MINUTES OF THE NORTHERN AREA PLANNING COMMITTEE MEETING HELD ON 1 JUNE 2016 AT COUNCIL CHAMBER - COUNCIL OFFICES, MONKTON PARK, CHIPPENHAM.

Present:

Cllr Peter Hutton (Vice Chairman), Cllr Christine Crisp, Cllr Mollie Groom, Cllr Toby Sturgis, Cllr Philip Whalley (Substitute), Cllr Terry Chivers, Cllr Howard Greenman, Cllr Jacqui Lay (Substitute), Cllr Howard Marshall and Cllr Chris Hurst

Also Present:

Cllr Sheila Parker

61 Apologies

Apologies were received from the Chairman, Cllr Trotman, who was substituted by Cllr Whalley and Cllr Berry, who was substituted by Cllr Lay.

Cllr Hutton acted as Chairman for the meeting.

62 Minutes of the Previous Meeting

Resolved:

To approve as a true and correct record the minutes of the meeting held on 4 May 2016.

63 Declarations of Interest

There were no declarations of interest.

64 Chairman's Announcements

The Chairman advised that Cllr Hurst was to replace Cllr Parker as a full member of the Committee; Cllr Bill Douglas was to replace Cllr Hurst as a substitute member.

The Chairman thanked Cllr Parker for her commitment as a long-standing member of the Committee.

65 **Public Participation and Councillors' Questions**

The Committee noted the rules on public participation.

66 **Planning Decisions and Updates**

The Committee considered an update on planning appeals and inquiries; the Chairman advised that there was an error in the report in respect of application 14/09744/WCM in that the officer recommendation had been for approval. Officers advised that this error would be corrected.

The Committee was advised that an informative had been added by officers under delegated authority to a Committee resolution at the previous meeting in respect of 15/12651/FUL refusal reason 4. The addition was a standard informative attached to decision notices. A full report was available in the agenda pack.

Resolved:

To note the update on planning appeals and inquiries and officer recommendation in respect of 14/09744/WCM.

To note the addition of the informative to the Committee resolution in respect of 15/12651/FUL The Pippin, Calne.

67 **Planning Applications**

68 **16/01382/FUL - Land Adjacent to Ashley Lane, Box, Wiltshire, SN13 8AN**

Mr Alan Brewster spoke in objection to the application.

Mr Michael Regnard spoke in support of the application.

Cllr Hill, Box Parish Council, spoke in objection to the application.

The Planning Officer introduced the application for the erection of an American style barn on the site; the site was approximately 4 hectares in size and the building would replace existing stables and storage containers. The proposed elevations of the barn were shown and it was explained that the proposals had been reduced in scale from the original submission including a reduced number of stables. If permission were to be granted, the area for parking a horsebox would be removed, and hard standing onsite reduced. It was acknowledged that the site was located within the Cotswolds Area of Outstanding Natural Beauty (AONB) and Bristol- Bath Green Belt, however the officer considered the application would reduce the impact on both the openness of the Green Belt and the landscape quality of the AONB in comparison to the existing

permissions and development on site by providing storage in one single location. It was identified that facilities for outdoor sport and recreation were one of the uses identified in national guidance as not constituting inappropriate development within the green belt. The officer recommended that the application be approved, subject to the conditions and informatives outlined in the report and amendments to conditions 3 and 8 and the addition of two further conditions as detailed in Agenda Supplement 1. The planning officer also recommended the addition of further condition to provide that foul sewage be connected to the main drain.

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

The local member, Cllr Parker spoke in objection to the application and recommended that the application be refused on Core Policy 51 and 61 of the Wiltshire Core Strategy. The councillor recommended that, should permission be granted, it would be essential to condition the connection of foul sewage to the main drain.

The planning officer responded to comments raised by the public, advising that the floor print of the proposed development was not too dissimilar to space already allocated to storage on site and would clearly be of the character and appearance of an agricultural building rather than residential dwelling. It was explained that the removal of containers from the site was provided for by way of condition and the lighting on site would also be controlled by condition.

During the debate that followed, councillors sympathised with residents' concern about enforcement issues and agreed that applying the correct conditions to permission would be essential. Cllr Sturgis, seconded by Cllr Greenman, moved the officer's recommendation subject to an amendment to condition 8 (as appeared in Agenda Supplement 1) to reflect that no outside storage of any kind be permitted on site and amendment to condition 3 (as appeared in Agenda Supplement 1) that the building not be subdivided into more than 4 stables, and to delegate the exact wording of these conditions to the Area Development Manager. The proposed amendment to condition 8 was to provide clarity and the amendment to condition 3 was to allow that foals may need to be stabled with their mothers in the winter. The Committee agreed that the development would be acceptable if the conditions were observed.

Resolved:

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: layout plan PL05C & PL07A; elevations and floor plan PL01B, side elevations PL02A dated 4th April 2015.

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

3. There shall be no more than 10 horses kept on the site at any one time, including foals at foot, and there shall be no more than 4 stables within the building hereby approved without the prior approval of the Local Planning Authority.

REASON: To prevent overgrazing of the land to the detriment of the landscape quality of the AONB and to clarify the permission.

4. Within 2 months of the date of the first occupation of the development hereby permitted being occupied, the existing stables on site (not field shelters) and 2 containers on site, including any fixtures and ancillary pipework, shall be fully removed from the site.

REASON: To protect the amenity and landscape quality of the Area of Outstanding Natural Beauty and Green Belt.

5. No fences or jumps shall be erected on the site without the prior approval in writing of the Local Planning Authority.

REASON: In order to protect the living conditions of nearby residents and/or the rural character of the area.

6. The development hereby permitted shall only be used for the private stabling of horses and the storage of associated equipment and feed and shall at no time be used for any commercial purpose whatsoever, including for livery, or in connection with equestrian tuition or leisure rides.

REASON: In the interests of highway safety and/or to protect the living conditions of nearby residents.

7. There shall be no parking of horse boxes, caravans, trailers or other vehicles during the hours between dusk and dawn on the site.

REASON: In order to protect the living conditions of nearby residents and/or the rural character of the area.

8. There shall be no external/outdoor storage of any kind at the site and there shall be no portable buildings or structures (other than the field shelters approved under 14/09422/FUL), van bodies,

trailers, vehicles or other structures used for storage, shelter, rest or refreshment, stationed on the site without the prior approval in writing of the Local Planning Authority.

REASON: In order to protect the landscape quality of the AONB and the openness of the Green Belt.

- 9. No materials, goods, plant, machinery, equipment, finished or unfinished products/parts of any description, skips, crates, containers, waste or any other item whatsoever shall be placed, stacked, deposited or stored outside any building on the site.**

REASON: In the interests of the appearance of the site and the amenities of the area.

- 10. No external lighting shall be installed on site until plans showing the type of light appliance, the height and position of fitting, illumination levels and light spillage in accordance with the appropriate Environmental Zone standards set out by the Institute of Lighting Engineers in their publication "Guidance Notes for the Reduction of Obtrusive Light" (ILE, 2005)", have been submitted to and approved in writing by the Local Planning Authority. The approved lighting shall be installed and shall be maintained in accordance with the approved details and no additional external lighting shall be installed.**

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

- 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.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, has been submitted to and approved in writing by the Local Planning Authority. The development shall not be first brought into use until surface water drainage has been constructed in accordance with the approved scheme.

REASON: To ensure that the development can be adequately drained.

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

REASON: In the interests of highway safety.

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

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

15.The development hereby permitted shall not be brought into use until the approved sewage disposal works proposed have been completed in accordance with the submitted and approved details.

REASON: To ensure that the development is provided with a satisfactory means of drainage.

INFORMATIVE TO APPLICANT:

The applicant is advised that the development hereby approved may represent chargeable development under the Community Infrastructure Levy Regulations 2010 (as amended) and Wiltshire Council's CIL Charging Schedule. If the development is determined to be liable for CIL, a Liability Notice will be issued notifying you of the amount of CIL payment due. If

an Additional Information Form has not already been submitted, please submit it now so that we can determine the CIL liability. In addition, you may be able to claim exemption or relief, in which case, please submit the relevant form so that we can determine your eligibility. The CIL Commencement Notice and Assumption of Liability must be submitted to Wiltshire Council prior to commencement of development. Should development commence prior to the CIL Liability Notice being issued by the local planning authority, any CIL exemption or relief will not apply and full payment will be required in full and with immediate effect. Should you require further information or to download the CIL forms please refer to the Council's Website www.wiltshire.gov.uk/planninganddevelopment/planningpolicy/communityinfrastructurelevy.

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.

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.

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.

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.

69 **Urgent Items**

There were no urgent items.

(Duration of meeting: 3.00 - 3.25 pm)

The Officer who has produced these minutes is Libby Beale, of Democratic Services,
direct line 01225 718214 , e-mail Elizabeth.beale@wiltshire.gov.uk

Press enquiries to Communications, direct line (01225) 713114/713115

**Wiltshire Council
Northern Area Planning Committee
22nd June 2016**

Forthcoming Hearings and Public Inquiries between 10/06/2016 and 31/12/2016

Application No	Site Location	Parish	Proposal	DEL or COMM	Appeal Type	Officer Recommend	Date	Overturn at Cttee
14/09744/WCM	Lower Compton Waste Management Facility, Lower Compton, Calne, Wiltshire SN11 8RB	CALNE WITHOUT	Retain and extend existing Materials Recycling Facility including transfer activities, screening bund and ancillary activities and development	COMM	Inquiry	Approve with Conditions	06/09/2016	Yes
14/10433/OUT	Land North & East of Barrow Farm Chippenham, Wiltshire, SN15 5LX	LANGLEY BURRELL	Residential Development for up to 500 Dwellings (C3), Two New Roundabout Accesses, Two Form Primary School (D1), up to 4000m2 of Employment (B1), up to 500m2 of Assembly & Leisure (D2), up to 300m2 Retail Uses (A1), Play Areas, Open Space, Landscaping, Drainage & Ancillary Works	COMM	Inquiry	Refuse	11/10/2016	No

Planning Appeals Received between 18/05/2016 and 10/06/2016

Application No	Site Location	Parish	Proposal	DEL or COMM	Appeal Type	Officer Recommend	Appeal Start Date	Overturn at Cttee
15/11987/FUL	Milbourne House Milbourne Lane Milbourne, Wiltshire SN16 9JD	ST PAUL MALMESBURY WITHOUT	Renovation, Alteration and Extension to Outbuildings.	DEL	Written Representations	Refuse	02/06/2016	No
15/12157/LBC	Milbourne House Milbourne Lane Milbourne, Wiltshire SN16 9JD	ST PAUL MALMESBURY WITHOUT	Renovation, Alteration and Extension to Outbuildings.	DEL	Written Representations	Refuse	02/06/2016	No

Planning Appeals Decided between 18/05/2016 and 10/06/2016

Application No	Site Location	Parish	Proposal	DEL or COMM	Appeal Type	Officer Recommend	Appeal Decision	Decision Date	Costs Awarded?
15/00209/REM	Land at The Coach House, Heddington Calne, SN110PQ	HEDDINGTON	Demolition of Industrial Buildings & Erection of 8 Dwellings	DEL	Written Reps	Refuse	Dismissed	23/05/2016	No
15/00210/REM	Land at The Coach House, Heddington Calne, SN110PQ	HEDDINGTON	Demolition of Industrial Buildings & Erection of 6 Dwellings	DEL	Written Reps	Refuse	Dismissed	23/05/2016	No
15/03258/FUL	Copse Cottage Oaksey Malmesbury Wiltshire, SN16 9TJ	OAKSEY	Extension & Alterations to Existing Outbuilding to Create New Dwelling	DEL	Written Reps	Refuse	Dismissed	02/06/2016	No
15/07298/FUL	82 Springfield Close Rudloe, Corsham Wiltshire, SN13 0JR	BOX	Erection of Detached Dwelling (Re-submission of 15/03509/FUL)	DEL	Written Reps	Refuse	Dismissed	31/05/2016	No
15/09171/FUL	1a Burlands Road Chippenham Wiltshire, SN15 3DF	CHIPPENHAM	Erection of Two Storey One Bedroom Town House.	DEL	Written Reps	Refuse	Allowed with Conditions	02/06/2016	No

REPORT TO THE AREA PLANNING COMMITTEE

Date of Meeting	22nd June 2016
Application Number	15/09143/OUT
Site Address	Vale of the White Horse Inn, Station Road, Minety, Wiltshire SN16 9QY
Proposal	Erection of 6no. Dwellings (Resubmission of 14/08912/OUT)
Applicant	Mr Jamie Denman
Town/Parish Council	Minety
Division	Minety – Cllr Berry
Grid Ref	403450 190562
Type of application	Outline Planning
Case Officer	Lee Burman

Reason for the application being considered by Committee

The Application is reported to Committee again following a change in material circumstances regarding Section 106 Contributions in respect of Affordable Housing requirements since the matter was considered at NAPC meeting on the 4th May 2016.

1. Purpose of Report

To recommend that authority be delegated to the Area Development Manager to grant permission subject to conditions listed below and the signing of a S106 agreement within 6 months of the date of the Committee resolution.

In the event that the S106 agreement is not signed and sealed within 6 months to delegate authority to the area Development Manager to refuse permission for the reason identified below.

2. Report Summary

The position in respect of consultation undertaken on the application is as follows:-

12 Representations of support

1 representation of objection

The Parish Council support the application proposals.

3. Site Description

The Vale of the White Horse is a public house located on the outskirts of Minety. The public house is set into an embankment with a railway line to the north of the site. Surrounding the property is a large parking area. Onsite there is a large building which is utilised by the squash club. To the south of the site is a substantial pond surrounded by planting. The site is

located on the outskirts of the village and is poorly related to the centre of the village and its amenities; such as the school and playing fields, with no footpath to connect them.

4. Planning History

N/99/00466/COU	Change Of Use And Internal Alterations To Provide Self Contained Dwelling	Approved
N/00/01569/COU	Change Of Use From Public House To Residential Dwelling	Refused Dismissed at Appeal
N/88/00813/FUL	Extension And Alterations To Public House	Approved
N/02/00117/FUL	Erection Of Staff Accommodation Block	Approved
N/02/00118/FUL	Erection Of Conservatory, Porch And Store	Approved
N/04/03502/FUL	Construction Of Sixteen Bed Accommodation Block	Approved
N/11/00984/FUL	Provision Of Additional Accommodation & Associated Works	Withdrawn
N/11/02501/FUL	Provision Of Additional Accommodation And Associated Works (Resubmission Of 11/00984/FUL)	Approved
14/03728/OUT	Erection Of 12 Detached Dwelling & Formation Of 8 Apartments.	Withdrawn
14/08912/OUT	Erection Of 8 Dwellings	Withdrawn
14/08917/FUL	Convert Part Of Bar In Semi-Basement Into 3no. Guest Accommodation Rooms.	Approved

5. The Proposal

The proposed development is for the erection of 6 no. dwellings including 4 x 3 bedroom properties in a short terrace to the rear of the Public House and 2 x 4 bedroom units adjacent to the existing lake. The proposed development aims to provide income to invest in the adjacent public house; to secure its long term future and in that context is advanced as enabling development.

The application is submitted in Outline with approval sought for access, appearance, layout and scale with landscaping reserved for future determination.

The proposals in terms of design, appearance, scale and, to a certain extent, layout have been significantly amended from those previously advanced under application reference 14/08912/OUT.

6. Planning Policy

National Planning Policy Framework

Paragraph 14 – Decision Making

Paragraph 17 - Core Planning Principles

Section 4 – Promoting sustainable transport (Paragraphs 32, 34, 35, 36, 37 & 38)

Section 6 – Delivering a wide choice of high quality homes (Paragraphs 47, 49)

Section 7 – Requiring good design (Paragraphs 63, 64, 65 & 66)

Section 8 – Promoting healthy communities (Paragraphs 73)

Planning Practice Guidance

Wiltshire Core Strategy CP1, CP2, CP13, CP41, CP49, CP57, CP61, CP62

North Wiltshire Local Plan 2011 (Saved Policies)

Policy H4 – Residential Development in the Open Countryside

7. Consultations

The following is a summary of consultation responses submitted in respect of the application as considered at the 4th May 2016 NAPC meeting. There has been no further consultation on the proposals since that date, other than in respect of liaison with the Council's Legal Team, which is referenced in the main body of the report.

Ecology

No Objection following the submission of additional information in response to initial consultation response and subject to the use of a condition requiring the submission of an Ecological Mitigation Plan.

Drainage

No objection subject to conditions requiring submission and approval of drainage details

Rights of Way

No impact on rights of way so no objections or comments to make.

Spatial Planning

No comment further to previous application N/14/08912/OUT. Previous comment:-

Development should be in accordance with the development plan unless there are material considerations to indicate otherwise. The proposal is considered contrary to saved policy H4 of the North Wiltshire Local Plan and CP2 of the Core Strategy for Wiltshire in that it represents new development in the countryside. There is not an urgent need for housing in the area, nor is the application for affordable housing which is recognised as a serious shortcoming of the proposal.

New Housing

Identify an immediate housing need of 34 households seeking affordable housing in the Community Area of Malmesbury. The need for affordable housing has a tenure split of 60% Affordable Rented and 40% Shared Ownership homes.

Core Policies 43 and 45 are applicable; in line with current policy approaches a 40% on-site affordable housing provision will be sought. Following review and liaison off site financial contribution of £114,104.66 sought.

Public Protection

In response to the previous outline planning permission, officers requested an acoustic report to assess both road traffic noise and railway noise.

Neither of these have been assessed or provided in an acoustic report. Therefore, objection to this application is raised. Following discussion with the applicant and the case officer, the Public Protection Team confirmed no objection; subject to a condition requiring submission of a noise assessment.

Education

No objection and given the scale of development proposed education requirements should be addressed through Community Infrastructure Levy.

Trees

No objection in principle to this application in relation to trees. As there are important hedgerows which surround the site on the east, south and western boundaries which incorporate trees, request that a Tree Protection Plan is provided to protect the hedgerow and trees during development. If there is not adequate room for protective fencing, as specified in BS5837:2012, then ground protection should be used. This is addressed by condition.

Estates

Following review of the submitted viability appraisal identified that on the basis of the submitted information (which could have included significant additional detail) the scheme would be viable with the identified Affordable Housing requirement, whilst still providing the required level of funding for the enhancement of the public house.

Wessex Water

No objection, but identified Wessex Water infrastructure could be affected by the proposed development and consultation with them would be required prior to the commencement of development. A standard informative is included in this respect.

Network Rail

No objection, but identified concerns and requirements in respect of protection of Network Rail assets; including the need for protective fencing. This can be dealt with via condition requiring submission and approval of details for boundary treatments.

Minety Parish Council

Supports the application, especially as it will sustain the continuance of a community asset.

Wiltshire Fire & Rescue Service

Raised no objection to the scheme proposals, but identified the need for consideration to be given to emergency vehicle access, fire fighting equipment, fire regulations and the use of domestic sprinkler systems.

8. Publicity

The following is a summary of consultation responses submitted in respect of the application as considered at the 4th May 2016 NAPC meeting. There has been no further public consultation on the proposals since that date.

The application was advertised by neighbour notification, site notice and press advert.

13 representations from members of the public were received in respect of this application

12 representations expressing support for the proposal on the basis that the development will secure the future of the public house as a valued local community facility; and will provide much needed housing for young local residents.

1 letter of objection on the basis that the adjacent road is a very busy HGV route, though there are 30 mph signs very few vehicle take notice. There are no pavements at this end of Station Road; which makes it difficult for pedestrians to access homes/pub etc. Also because of the speed in which vehicles come over the bridge; the access to and from the proposed site could be dangerous. Living on the road it is difficult to exit the property.

9. Planning Considerations

Planning principle

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. The development plan for this area is the Wiltshire Core Strategy (WCS) and limited saved policies in the North Wiltshire Local Plan. The National Planning Policy Framework (NPPF) is an important material consideration. The main policies considered relevant to the consideration of the principle of this development are Core Policy 1, Core Policy 2 and Core Policy 13 of the WCS and the policies of the NPPF.

The principle of the proposal is considered to conflict with the settlement strategy for Wiltshire; in that the development is on the outskirts of a small village, poorly related to the core of the village and in a location where new development is only considered acceptable if it is for small scale infill within the existing built area. Mitigating factors have been presented which identify that the redevelopment of the site will provide funding for the provision of letting rooms onsite.

Consideration has been given to whether the scheme has mitigating factors which outweigh the underlying planning policy objection to the scheme. With regard to supplementing land required for housing development, the WCS has been recently adopted. It is however acknowledged that the Council cannot currently demonstrate a deliverable supply of land of housing for a 5 year period, plus requisite tolerances, although the situation is currently under review in respect of preparation of a new Housing Land Supply Statement for 2016/2017. It is anticipated that this position will therefore change very shortly.

Given this position full weight cannot be given to policies in respect of the scale and distribution of housing under the terms of para 49 of the NPPF. In the determination of planning applications, the most crucial issue to consider is whether or not the proposal accords with the relevant provisions of the development plan (the WCS). If it does not then the question of whether material considerations, including relevant policies in the NPPF, mean that permission should be granted despite conflict with policies arises. In understanding how to interpret paragraph 49 of the NPPF and what weight should be applied to policies within the WCS, the Council has relied on a number of appeal decisions in Wiltshire (Land at Arms Farm, Sutton Benger APP/Y3940/W/15/3028953 & Land to North of Holt Road and Cemetery Lane, Bradford-on-Avon APP/Y3940/W/15/3141340), and a recent court of appeal judgement that specifically examined how to apply and interpret paragraph 49 (C1/2015/0583 Suffolk Coastal District Council and Hopkins Homes Limited and C1/2015/0894 Richborough Estates Partnership LLP vs Cheshire East Borough Council First).

There are a number of important statements and points of clarity provided in the above decisions that are important to framing any discussion on this application and the degree of conflict with the WCS. Particularly relevant are the statements in the court of appeal

decision, paragraphs 42 to 48 ('How is the policy in paragraph 49 of the NPPF to be applied?'), which highlight a number of key points. First, it is up to the decision maker to judge whether a plan policy is or is not a relevant policy for the supply of housing, this can include restrictive policies not necessarily related to housing specifically; however that may have the effect of limiting housing. Furthermore, the appeal court decision confirms that in their view there will be many cases in which restrictive policies are still given sufficient weight to justify the refusal of planning permission, despite their not being up-to-date under the auspices of paragraph 49. In conclusion, the appeal court decision confirms that ultimately it will be up to the decision-maker to judge the particular circumstances of each application and how much weight should be given to conflict with policies for the supply of housing that are 'out-of-date', and, that the fundamental purpose of paragraph 49 is not to punish Councils (and by extension local communities), but to provide an incentive to boost housing land supply. In this context, it is important to note that the scale of the proposed development at 6 dwellings is very limited and, in the view of officers, would not significantly boost the supply of land for housing, such that this could be given significant weight in the planning balance.

Importantly, the decision goes on to highlight that paragraphs 14 and 49 of the NPPF do not make 'out of date' housing policies irrelevant to the determination of applications and that the weight given to such policies is not dictated by the NPPF and will vary according to circumstances on a case by case basis. This will also depend on the extent to which relevant policies fall short of providing for the five-year supply of housing land and the action being taken by the local planning authority to address the shortfall. Currently, the shortfall is only 36 homes and there is no indication that rural areas are struggling to deliver housing. The Council has continued to promote development in the Malmesbury Community Area (which covers this site) at sustainable locations and recent committee approvals have seen further housing sites approved, subject to signing of S106 agreements overall and above those minimum indicative targets.

In both of the Wiltshire based appeal decisions the Inspectors considered that weight should be applied to Core Policy 1 of the WCS despite paragraph 49 being engaged and, in fact, in the Sutton Benger appeal the inspector applied full weight to Core Policy 1. However, following the appeal court judgement the Council agrees that Core Policy 1 must be seen and assessed in the context of paragraph 49 and cannot be considered 'up-to-date'. Nevertheless, the Council still believes that Core Policy 1 must carry significant weight in any decision making process; as the fundamental principles of the policy largely align with core planning principles of the NPPF, as set out in paragraph 17. It sets out the overarching spatial strategy for Wiltshire and, as highlighted above, the shortfall in supply is low and there is no evidence of significant unmet demand in the community area. As such, the settlement strategy and Core Policy 1 remains fundamental and relevant to the determination of this application.

Statements in the supporting material to the application identify that the future of the public house is in jeopardy. Funding realised by the proposed development will underwrite investment that can help to support it as a going concern. The applicant has agreed to enter into a Section 106 agreement to tie the residential development to the required enhancements to the public house, thereby ensuring the link between the development proposed and community benefits is identified. The public house is a well valued local community resource and there is significant local support for its retention. There are a limited range of other local community facilities in this location following closures, thereby increasing the importance and value the remaining facilities such as the Public House. When the previous application was considered at the Northern Area Planning Committee meeting this benefit was identified as of significant weight as a community objective. Core Policy 49 identifies strong support for the retention of existing local community facilities and services within rural areas; improved accessibility to local services and the enhancement of a sense

of community are a key aspect of the Spatial Vision of the Plan. Whilst ensuring that adequate infrastructure is in place to support local communities is Strategic Objective 6 of the Core Strategy.

As such the retention of the public house, which will be facilitated by this development proposal and secured by S106 agreement, is a material consideration of significant weight. On balance it is considered that this benefit, alongside other benefits identified below and in the context of the current limited shortfall in the supply of land for housing, is sufficient to outweigh the harm identified.

The above position remains of relevance and importance to the determination of the application following the changed circumstances relating to S106 contributions to Affordable Housing; which are discussed in detail below under the following section of the report.

Planning contributions and CIL

Prior to reporting to Committee on 4th May 2016, an extensive viability appraisal exercise was undertaken between the Council and the applicant team. It was concluded that the scheme proposals would be viable with the identified Affordable Housing off site financial requirement, as referenced in the consultation section (new Housing Team response) above. Further, it was identified that the Affordable Housing contribution would be viable whilst still providing the necessary funding to secure enhancement works to the public house. Following this process of testing assumptions and evidence, the applicant agreed to enter into the requisite S106 agreement/planning obligation to meet this requirement and work on the agreement commenced following the Committee resolution of 4th May 2016.

Subsequent to that and as of 11th May 2016 the Court of Appeal issued its judgement ([2016] EWCA Civ 441) in respect of the Government's challenge to the High Court decision in respect of the West Berkshire and Reading Case [2015] EWHC 2222 (Admin). In summary, members may recall that the Government issued a Written Ministerial Statement and amended the Planning Practice Guidance (PPG) in November 2014 to identify that development of 10 dwellings or less would not be liable to Section 106 "tariff style" Service and Infrastructure requirements, including as is the case here, off site financial contributions to Affordable Housing provision. This amendment to the PPG was challenged in the Courts by West Berkshire and Reading Councils and the court found in their favour. The PPG was subsequently amended to remove this provision, but the Government was given leave to challenge the High Court decision again through the courts. This has led to the recent Court of Appeal judgement which has found in the Government's favour, identifying that it was acceptable for the provision to be included in the PPG. Subsequent to this the PPG has now (19th May 2016) been once again amended to include the provision for 10 dwellings or less to be excluded from "tariff style" S106 requirements for service/ Infrastructure provision. In addition, the PPG has been amended to include the vacant building credit provision also.

The applicant team has subsequently contacted Officers to assert that the previously identified off site affordable housing financial contribution is no longer appropriate or necessary, given these circumstances and the scale of the proposed development at 6 dwellings. Officers have liaised with the Council's Legal Team regarding the situation and requested that work on the S106 agreement be amended accordingly. The Council's Legal Team is in the process of considering the full ramifications of the Court of Appeal judgement and further alteration to the PPG. Interim advice indicates that the Court of Appeal judgement was nuanced and caveated in its findings and not as definitive and clear cut as may be thought on first reading. In particular, the Council's Legal Team highlight that the judgement identifies that the PPG is a material consideration in the determination of applications and forms part of the policy guidance to be weighed in the balance. This therefore needs to be considered alongside up to date and adopted Development Plan

policy; which under national legislation and the guidance of the NPPF has statutory weight as the principle material consideration. Development must be determined in accordance with the adopted development plan, where up to date, and it is for the decision taker to determine the weighting to be attached to all material considerations, including development plan policy and ultimately the content of the PPG and government policy in making that planning judgement. As such, the latest revision to the PPG is not a blanket ban on S106 contributions being sought from all development proposals of 10 dwellings or less.

It is in this context that the section of the report to Committee on 4th May 2016 entitled “**Planning principle**” and reproduced above remains of relevance. At the current time the Development Plan cannot be considered to be up to date and attracting full weight due to the position in respect of the 5 year supply of land for housing and the content of the NPPF in this respect. As such, policies in relation to the supply and distribution of housing cannot be considered to have full weight. In this context, the supply and provision of affordable housing is considered to be affected and, as such, the further amendment to the PPG is a relevant material consideration of weight in this case and at the current time.

Members will also recall that there are other material considerations of significant weight in this instance, including the funding of works of the enhancement of the Public House in order to secure its long term retention and its importance as a local community facility. There are also the broader benefits of the economic contribution that the development itself and the retention and increased use of the public house will bring to the local community. In addition, the boost to the supply of land for housing locally is a consideration of some limited weight, proportionate to the scale of development proposed and the shortfall in the provision of a 5 year supply of land for housing. These matters must also be weighed in the planning balance.

As noted above the S106 agreement will also tie the development of the residential properties to completion of the enhancement works to the public house and, as such, these scheme benefits can be given full weight in the planning balance. No other section 106 requirements have been identified by consultees or officers. This tie between development and enhancement of the public house remains as a requirement and the applicant has confirmed that completion of the S106 agreement in this respect is acceptable.

The development would also be liable for CIL contributions following its adoption and the Council has taken the position that CIL payments are non-negotiable, regardless of the planning merits of a proposal and therefore, CIL is payable. Notwithstanding the above, CIL is separate from the issuing of any planning decision and therefore is not a matter for consideration within the planning balance informing determination of this application.

For the sake of clarity and to fully and appropriately address all material considerations, the following sections of the report to Committee on 4th May 2016 are reproduced here with additional information in respect of highways matters:-

Size, scale and design

It should be noted that in terms of the previous application proposal 14/08912/OUT the officer report to Committee recommended refusal on the basis of poor quality design of the proposed dwellings. There were also concerns in respect of the proposed site layout and quantity of development in this respect.

The applicant team has worked closely and co-operatively with Council officers since the withdrawal of the previous application to address officer’s concerns. It is considered that the scheme proposals both in terms of design character, site layout and the quantum of development are a major improvement on the previous submissions. The proposals are

considered to now accord with development plan requirements as set out in CP57 and the NPPF and no objections or concerns are raised in this respect.

CP41 of the WCS addresses sustainable construction and low carbon energy requirements in new development. Proposed amendments to the Building Regulations regime aimed at addressing such requirements nationally have yet to be introduced and until that time the policy remains of relevance. The requirements of the policy have not yet been addressed but it is considered that this can be dealt with by way of condition.

Impact on residential amenity

The positioning of the units onsite are not considered to be in such close proximity to existing dwellings that they would impact on the living conditions in respect of overlooking and loss of privacy. As set out above, the applicant team has worked closely and proactively with officers to address concerns in respect of the design and layout of the properties. As such, previous concerns in respect of the scheme proposals relating to adequacy of private amenity space have been appropriately and fully addressed and it is now considered that the proposal accord with requirements of CP57 and NPPF para 17 in this respect.

Highways

Highways Officers raised objection to the original proposal due to the lack of parking provision. The amended scheme requires less parking provision and Highways Officers are satisfied that the proposal now provides sufficient spaces for the public house and new dwellings. Officers have raised no concerns in relation to highways safety.

In addition, it has been clarified by Highways officers that it is not considered that the provision of a public footway on the adjacent highway (Station Road) is feasible given site circumstances. These include substantial technical, practical and ownership issues such as:-

On the north side of Station Road the extent of the highway is the kerb - there is no highway verge. The assumption is that the embankment is owned by Network Rail. Because the land is sloping, a structure would be required to support the footway. We agreed that the cost of designing and building a structure (and presumably with a wall or a handrail to stop users falling down the bank) and negotiating with Network Rail would be disproportionate, given the amount of use that such a footway would be likely to accommodate.

On the south side, there is 1m of highway verge and, for the most part, the land is in the ownership of the applicant. The land is sloping and it would need some kind of structure to support the footway. Again, the cost of designing and building a structure (also with a wall or a handrail to stop users falling down the bank) would be substantial. However, third party land would be required at the western end of the property so that pedestrians would be able to cross the road opposite the end of the existing footway where there is sufficient visibility. It was considered that the cost of acquiring the third party land (assuming this were possible) and the design and construction of the footway would be disproportionate, given the small amount of people likely to be using the footway.

In either case, pedestrians will be encouraged to cross the road where visibility is inadequate. Other pedestrians might also be encouraged to continue to walk past the end of the footway and the entrance to the public house across the railway bridge, where there are no pedestrian facilities at all.

As such this is not identified as a reasonable, practical or necessary requirement.

10. Conclusion

It is considered that despite the alterations to the PPG, following the Court of Appeal Judgement, and consequent removal of the affordable housing contribution and alongside conflict with the provisions of the Wiltshire Core Strategy given the location of the proposed development in the open countryside, that there remains sufficient material considerations of significant weight justifying a recommendation for the grant of permission. In short, there remain sufficient benefits arising from the scheme proposals that outweigh the limited harm identified through conflict with policies of the adopted development plan. These benefits include; the contribution to the retention of a valued local community facility and service in terms of the public house. The economic development benefits arising from the construction works that will take place and the additional expenditure in the local community arising from the new population resident in the dwellings and indeed, the increased occupancy at the public house itself. The provision of additional housing adding to the available supply is also a benefit, albeit of limited weight given the scale of development proposed.

The harm arising from conflict with adopted development plan policies for the location and distribution of housing is considered to be limited; given the identified shortfall in the available supply of land for housing below the required 5 years plus contingency, albeit this shortfall is considered to be very limited. In addition, the lack of contribution toward Affordable Housing provision and conflict with the WCS policy CP 43 can only be of limited weight, given that the development plan has been found to be out of date given the absence of a 5 year supply of land for housing. Whilst in these circumstances the Council's adopted policies can still carry some weight dependent upon material circumstances, given the position identified, it is considered that on balance permission should still be granted.

RECOMMENDATION

That authority is delegated to the Area Development Manager to GRANT planning permission, subject to conditions listed below and completion of a S106 legal agreement within six months of the date of the resolution of this Committee.

In the event of failure to complete, sign and seal the required section 106 agreement within the defined timeframe to then delegate authority to the Area Development Manager to REFUSE planning permission for the following reason:-

The application proposal fails to provide and secure the necessary and required enhancement to and retention of the local community facility of the public house and is therefore contrary to Policies CP1 & CP49 of the Wiltshire Core Strategy Adopted January 2015 and Paras 7, 14 & 17 of the National Planning Policy Framework March 2012.

1. The development hereby permitted shall be begun either before the expiration of three years from the date of this permission, or before the expiration of two years from the date of approval of the last of the reserved matters to be approved, whichever is the later.

REASON: To comply with the provisions of Section 92 of the Town and Country Planning Act 1990 as amended by the Planning and Compulsory Purchase Act 2004.

2. No development shall commence on site until details of the following matters (in respect of which approval is expressly reserved) have been submitted to, and approved in writing by, the Local Planning Authority:

(a) The landscaping of the site;

The development shall be carried out in accordance with the approved details.

REASON: The application was made for outline planning permission and is granted to comply with the provisions of Section 92 of the Town and Country Planning Act 1990 and Article 5 (1) of the Town and Country Planning (Development Management Procedure) (England) Order 2015.

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

GTB-646-10-3D

GTB-646-10-4D

GTB-646-50B

GTB-646-52A

GTB-646-53

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

4. Notwithstanding the provisions of the Town and Country Planning (General Permitted Development) (England) Order 2015 (or any Order revoking or re-enacting or amending that Order with or without modification), 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.

5. Notwithstanding the provisions of the Town and Country Planning (General Permitted Development) (England) Order 2015 (or any Order revoking or re-enacting or amending that Order with or without modification), 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.

6. 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.

7. Prior to the commencement of development details including design, external appearance and decorative finish of all railings, fences, gates, walls, bollards and other boundary treatments and means of enclosure shall be have been submitted to and approved in writing by the Local Planning Authority. Development shall be carried out in accordance with the approved details prior to the development being occupied

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

8. 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: The application contained insufficient information to enable this matter to be considered prior to granting planning permission and/or 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 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.

9. No development shall commence on site until details of the proposed ground floor slab levels have been submitted to and approved in writing by the Local Planning Authority. The development shall be carried out in accordance with the approved levels details.

REASON: The application contained insufficient information to enable this matter to be considered prior to granting planning permission and/or 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.

10. No development shall commence on site until a scheme for the discharge of foul water from the site has been submitted to and approved in writing by the Local Planning Authority.

REASON: To ensure that the development can be adequately drained

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

REASON: To ensure that the development can be adequately drained

12. 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

13. 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

14. Prior to commencement of development and Ecological Mitigation Plan shall be submitted to and approved in writing by the Local Planning Authority. The approved plan shall be in general accordance with Section 6 of the submitted Ecological Appraisal (AD Ecology, dated 26th October, 2015) and include full details of:

- Construction methods for works in or near the pond and retained trees to reduce damage and disturbance to species and habitats
- Details of re-profiling and restoration of the pond margins
- The location and design of all bat and bird roosting / nesting features

The development shall be carried out in full accordance with the approved Ecological Mitigation Plan unless otherwise agreed in writing by the Local Planning Authority.

REASON: In the interests of Nature Conservation

15. No development shall commence on site until a noise impact assessment and scheme for protecting the residential properties and their curtilages against noise from both road traffic and railway noise has been submitted to and approved by the Local Planning Authority. Any works that form part of the scheme shall be implemented in full before any permitted dwelling is first occupied.

General: In discharging this condition the applicant should engage an Acoustic Consultant. The consultant should carry out a background noise survey and noise assessment according to BS8233: 2014 and demonstrate that internal and external noise levels will not exceed the guideline noise levels contained in Section 7.7 of BS8233:2014. The report should also demonstrate that internal maximum noise levels in bedrooms will not normally exceed 45dB LAmax between the hours of 23:00 and 07:00.

REASON: In the interests of residential amenity.

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

17. The dwellings hereby approved shall achieve a level of energy performance at or equivalent to Level 4 of the Code for Sustainable Homes. No dwelling shall be occupied until evidence has been issued and submitted to, and approved in writing by, the local planning authority certifying that this level or equivalent has been achieved.

REASON: To ensure that the objectives of sustainable development equal or equivalent to those set out in Policy CP41 of the Wiltshire Core Strategy are achieved.

INFORMATIVES:

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

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

The applicant is 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.

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.

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].

Appendices: None

Background Documents Used in the Preparation of this Report:

NPPF

PPG

Wiltshire Core Strategy

Application Submissions

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REPORT OUTLINE FOR AREA PLANNING COMMITTEES

Date of Meeting	22 June 2016
Application Number	16/03151/FUL & 16/03350/LBC
Site Address	Pickwick Cottage, 17 Pickwick, Bath Road, Corsham, SN13 0JD
Proposal	First Floor Extension and Internal & External Alterations.
Applicant	Lorraine Vaun-Davis
Town/Parish Council	CORSHAM
Electoral Division	CORSHAM PICKWICK – Cllr Alan Macrae
Grid Ref	386547 170831
Type of application	Full Planning
Case Officer	Chris Marsh

Reason for the applications being considered by Committee

The applications have been called to Committee by the local Member, in order to consider the relationship to adjoining properties and need to provide modern living conditions.

1. Purpose of Report

The purpose of the report is to assess the merits of the proposal against the policies of the development plan and other material considerations and to consider the recommendation that the applications are refused.

2. Report Summary

The main issues in the consideration of the above applications are as follows:

- Principle of development;
- Impact on the significance of the listed building and its setting;
- Impact on the Pickwick Conservation Area;
- Impact on residential amenity.

Corsham Town Council has no objection to the proposals, in respect of which the Council has received four letters of support.

3. Site Description

Pickwick Cottage is a Grade II-listed cottage dating originally from the late C17th and situated to the north of the A4 at Pickwick, Corsham, outside of the saved development framework boundary for the town. The immediate area is characterised by its historic fabric either side of the main road, with later C20th residential development north of the highway at nearby Woodlands and further northeast, whilst the site itself borders open countryside on its northern and eastern sides. The site is located within the Pickwick Conservation Area.

The cottage is of double-fronted, two-storey proportions and attached to a slightly later building of more vertical configuration, no.17, to the immediate West. The building is constructed in rubble stone, now limewashed, with ashlar quoins beneath a traditional stone tile roof, with later rear wings and a C20th conservatory providing access to the rear garden. Attached to the East gable end of the building is a modest single-storey lean-to of C19th origin, constructed in the vernacular materials of Cotswold rubble stone and stone slate roof tiles, bordering the adjacent open area of pasture enclosed by a traditional stone wall. Occupying the intervening space to the southeast is a substantial detached timber outbuilding, understood to be in separate ownership; which obscures immediate views of the front of the building to an extent.

4. Planning History

N/12/03614/FUL	First Floor Extension – refused, appeal dismissed
N/12/03629/LBC	Internal Alterations to First Floor and First Floor Extension – refused, appeal dismissed
N/08/00791/LBC	Internal Alterations Associated with the Insertion of a First Floor Shower Room and Store Between the Two Existing Bedrooms – approved
N/06/02686/LBC	Erection Of First Floor Extension (no.19) – withdrawn
N/06/02687/FUL	Erection Of First Floor Rear Extension (no.19) – withdrawn
N/99/02253/LBC	SINGLE STOREY REAR CONSERVATORY EXTENSION – approved
N/99/02272/FUL	SINGLE STOREY CONSERVATORY – approved

5. The Proposal

The proposal comprises the erection of a two-storey side extension to provide a new office/workshop and store at the eastern end of the building, together with internal works to the first floor accommodation, as previously approved by the partial grant of listed building consent on appeal, although this appears to have now expired. The latter comprise the erection of internal partitions at the centre of the plan and insertion of an additional staircase to create two separate bedrooms, with a central ensuite and wardrobe accessed via the earlier breakthrough.

The proposed gable extension is to project over the full 2.1m x 4.8m plan of the existing lean-to, the fabric of which is to be retained where possible, to provide an office at ground floor level with storage above accessed via an internal space-saver corner staircase. Externally, the extension is to be finished in natural rubble stone to match the existing lean-to, with a pitched stone tile roof maintaining a nominal set-down from the adjacent roof structure.

Under the aforementioned appeal, a very similar gable-end extension, albeit with associated works to the internal staircase now omitted from the scheme, was dismissed in the course of the aforementioned appeal. Applications 12/03614/FUL & 12/03629/LBC refer.

6. Local Planning Policy

Wiltshire Core Strategy:
Core Policy 57 (Ensuring high quality design and place shaping)
Core Policy 58 (Ensuring the conservation of the historic environment)

National Planning Policy Framework:
Paragraphs 14 & 17
Section 7 (Requiring good design)
Section 12 (Conserving and enhancing the historic environment)

The Town and Country Planning (Listed Buildings and Conservation Areas) Act 1990.
Sections 16(2), 66 and 72

7. Summary of consultation responses

Corsham Town Council – no objection

Conservation – objections; the Inspector’s findings in relation to the external arrangement remain valid

8. Publicity

The application was advertised by neighbour notification and site notice.

Letters of support have been received from the Pickwick Association and Corsham Civic Society, together with two further letters from neighbours of the site, advocating the proposed design approach.

9. Planning Considerations

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.

Principle of development

The alteration and extension of the building is acceptable in principle under national and local adopted policies in the NPPF and WCS (CP57 & CP58 subject to a range of criteria; including site specific considerations such as impact on heritage assets). At this location it is considered that there are significant constraints in respect of the context and character of the property that outweigh the presumption in favour of sustainable development in this instance. These are discussed under issue specific headings below.

It is noted that the extension provides only a modest increase in ancillary space rather than making a meaningful contribution to the habitability of the dwelling and thus, the sustainability of the heritage asset into the future. Unlike its adjoining neighbour, having been recently extended the accommodation is comfortably arranged, whether in its present configuration or as previously permitted, and therefore the works will not help the asset attain its optimum viable use. Referring to NPPF Paragraph 134, Core Policy 58 and the earlier findings of the Inspector, therefore, the proposal has no wider public benefit that would justify any substantial or less-than-substantial harm to the listed building.

Impact on the significance of the listed building and its setting

Notwithstanding the omission of the harmful alterations to the original internal staircase at the eastern end of the building, the current proposals remain predominantly the same as previously refused at appeal under application references 12/03614/FUL &

12/03629/LBC. The extension would result in the irreparable removal of historic fabric, obstruction of the original East gable and introduction of unwarranted bulk to this modest cottage. It is considered that the modest lean-to's relationship to the adjoining open land is an important one, indicative of historic occupation in conjunction with the surrounding agricultural land use. The loss of this element is therefore considered to be harmful to the evidential value of the heritage asset. Expounding on the direct impacts of the extension on the heritage asset, it is agreed that notwithstanding the subsequent adoption of the Wiltshire Core Strategy (in which CP58 replaces HE4) the following paragraphs of the earlier Inspector's report remain valid:

- 11. The appellant says that the existing lean-to leaks because the pitch of the roof is inadequate and this problem would be resolved by the extension. But even if there are maintenance issues these do not justify the extension works. Because the building is small, externally unpretentious and domestic in scale and character, it is highly vulnerable to change so that even modest amendments to its form are likely to have an effect on the significance of the heritage asset. In this case there would be a disproportionate and adverse effect resulting from the loss of historic fabric and the embodied evidential legacy of the evolution of the building.*
- 12. Accordingly the effect of the first floor extension would fail to preserve the special interest of the listed building, and harm its significance. Where the harm is less than substantial, as in this case, paragraph 134 of the National Planning Policy Framework (the Framework) says that the harm must be weighed against the public benefits of the proposal. In this appeal no public benefits outweigh the harm I have identified.*
- 13. I therefore conclude that the effect of the first floor extension would be both intrusive and harmful. Thus the works involved in the extension would be contrary to the objectives of s12 of the Framework and the aims of Policy HE4 of the North Wiltshire Local Plan 2011 which both seek to ensure that applications affecting listed buildings will only be permitted if the alterations preserve, or enhance the building, its setting and any features or special architectural or historic interest that it possesses.*

In respect of the first part of Paragraph 11 above, it may very well be the case that the pitch of the lean-to roof tiles causes a propensity to allow leaks; however, this does not in itself justify the works now proposed. Whilst even wholesale replacement with a slate roof would be less intrusive than that currently proposed, a far simpler solution would entail the temporary removal of the roof covering, making good of the roof structure and covering with an impermeable boarding prior to re-covering, thus rendering no long-term change to the outward appearance of the lean-to.

It is considered that the wholly separate internal works included in the proposals remain acceptable for the reasons previously set out by the Inspector. The insertion of new partitions will increase the usability of the first floor space, without incurring the significant loss of historic fabric. Although some disruption is anticipated as a result of the installation of services to the new ensuite, this could be adequately managed by conditions.

Impact on the Pickwick Conservation Area

As concluded by the Inspector in relation to the previous appeal, the proposed works would not have any significant wider detrimental impact on the Pickwick Conservation Area. Although the existing lean-to, it is considered, makes a positive contribution to the general character and appearance of the designated area, its value is as a group with nos.17 & 19 and the timber outbuilding, being evidential of the evolution of Pickwick at the urban fringe.

As noted by the Inspector, the extension would be screened to an extent from the Bath Road by the substantial outbuilding and read in the context of the host dwelling from which its simple form derives. Subject to the use of sympathetic materials, the extension would not appear unduly prominent in its wider context and would conserve the overall character and appearance of the Pickwick Conservation Area.

Impact on residential amenity.

No.17 maintains a considerable separation from the nearest residential receptors to the East; 'Copperfield', 'The Ashes' and no.15 Pickwick, all of which are at least 40m from the proposed new gable end and separated by an open paddock. The presence of a window in the newly created first floor will not therefore give rise to any significant issues of overlooking, nor will the bulk of the extension directly impact on neighbours in terms of overbearing or overshadowing. Although ostensibly the justification for the works, the newly created floor space will not significantly enhance the amenity of occupiers, however, as discussed through the listed building considerations above.

Conclusion

Overall, the proposals will result in less than substantial harm to the listed building and its immediate setting although, as concluded by the Inspector, not to the wider Pickwick Conservation Area. In the absence of any overriding public benefit or other credible justification for the proposed works that harm is not justified and the applications should be refused.

RECOMMENDATION

That planning permission is REFUSED, for the following reason:

- 1 The proposed extension, by reason of its scale, siting and form would result in the unacceptable loss and obstruction of historic fabric, failing to conserve or enhance the listed building, its setting and the features of special architectural and historic interest it possesses. Accordingly, the proposals conflict with Core Policy 58 of the adopted Wiltshire Core Strategy, Paragraphs 131, 132 and 134 of the National Planning Policy Framework, and Sections 16(2) and 66(1) of the Town and Country Planning (Listed Buildings and Conservation Areas) Act 1990.

That listed building consent is REFUSED, for the following reason:

- 1 The proposed extension, by reason of its scale, siting and form would result in the unacceptable loss and obstruction of historic fabric, failing to conserve or enhance the listed building, its setting and the features of special architectural and historic interest it possesses. Accordingly, the proposals conflict with Core Policy 58 of the adopted Wiltshire Core Strategy, Paragraphs 131, 132 and 134 of the National Planning Policy Framework, and Sections 16(2) and 66(1) of the Town and Country Planning (Listed Buildings and Conservation Areas) Act 1990.

16/03151/FUL and 16/03350/LBC

Pickwick Cottage

17 Pickwick

Bath Road

Corsham

SN13 0JD



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REPORT OUTLINE FOR AREA PLANNING COMMITTEES

Date of Meeting	22 June 2016
Application Number	15/10659/FUL
Site Address	Ashley Common Road Malmesbury Wiltshire SN16 0HN
Proposal	Proposed Erection of Two Detached Dwellings & Associated Landscaping, Following the Demolition of the Existing Dwelling.
Applicant	Mr & Mrs C Beardsmore
Town/Parish Council	ST PAUL MALMESBURY WITHOUT
Electoral Division	SHERSTON – Cllr Thomson
Grid Ref	392348 186804
Type of application	Full Planning
Case Officer	Sam Croft

Reason for the application being considered by Committee

Applications called in by Councillor Thomson for the following reasons:

- Scale of development
- Visual impact upon the surrounding area
- Relationship to adjoining properties
- Design - bulk, height, general appearance
- Car parking

1. Purpose of Report

To consider the above applications and to recommend APPROVAL subject to conditions.

2. Report Summary

Malmesbury and St Paul Without Resident's Association object to the application. 46 letters of objection were received from local residents relating to a number of consultations on revised schemes/plans.

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

- Principle of Development
- Design and Site Layout
- Impact on the locality/amenity
- Highways

3. Site Description

The Ashley is located off of Common Road within the defined settlement framework boundary of Malmesbury. The existing dwelling is a detached 3-bedroom bungalow with an integral single width garage. The property is located within a sizeable plot, with further parking provided on hardstanding to the front of the property, and a garden located to the rear. The application site has previously been sub-divided to allow the construction of a bungalow to the rear of Ashley, called The Birches. The Ashley and the Birches share a driveway off of Common Road.

4. The Proposal

The application seeks the erection of two detached dwellings & associated landscaping, following the demolition of the existing dwelling.

Following discussions with Wiltshire Council some amendments to the plans have been made and submitted for consideration. These were mainly to address the potential overlooking issue between Plot 2 and The Birches. The proposal does however remain largely unchanged. In order to address this issue the applicant has submitted a number of revised plans which went out for consultation. The first approach sought to provide screening over the windows; however, it was considered that this would still result in a perception of overlooking even if it did diminish the actual visibility of the neighbouring property from the proposed development. The applicant subsequently submitted plans which sought to alter the layout of the first floor and further reduce overlooking by the use of obscure glazed windows and high level windows.

5. Planning History

N/94/02033/OUT	Outline - two bedroom bungalow two bedroom bungalow	Approved
N/95/00561/FUL	Erection of dwelling	Approved
N/05/01733/FUL	Demolition of Existing Dwelling & Erection of Four Dwellings	Approved
15/01966/FUL	Erection of Two Detached Dwellings with Integral Garages & Associated Landscaping following the Demolition of the Existing Dwelling.	Withdrawn

6. Local Planning Policy

National Planning Policy Framework 2012 (NPPF)

Paragraph 7, 14 and 17

Section 6 - Delivering a wide choice of high quality homes

Section 7 - Requiring good design

Wiltshire Core Strategy (Adopted January 2015)

CP1 - Settlement Strategy

CP2 - Delivery Strategy

CP57 - Ensuring High Quality Design and Place Shaping

7. Summary of consultation responses

St Paul Malmesbury Parish Council – Objected and raised the following concerns:

- Over development of the plot
- Impact on the adjacent property, The Birches, will result in a severe and permanent blight
- Impact of the proposal on the privacy of the neighbouring property
- The parking and egress inadequacies of the proposed development
- Highway safety

- The use of materials that hitherto have not been used or seen anywhere else on Common Road

Malmesbury & St Paul Without Residents' Association - The Association continues to have concerns about this application although it acknowledges the attempts by the applicant to address some of the significant unacceptable issues. The association wish to register their strong objection to the application on highway safety grounds.

Highways – No objection subject to conditions

Drainage – No objection

Environmental Health - As the proposal is for residential dwellings, it is unlikely to cause nuisance except possibly during the demolition and construction phase. It is accepted that there will be some noise during construction. To protect neighbours during this period, it would seem prudent to apply conditions to prohibit burning and restrict hours for noisy construction works as per the conditions below. Dust from building activities should be managed as necessary. There is nothing on the mapping layers to indicate any concerns over contaminated land for this site. Therefore, there are no concerns about this aspect.

8. Publicity

Local Residents – 45 letters of objection were received from local residents across periods of consultation. The main concerns raised were as follows:

- Over development of the site
- Overlooking and loss of amenity
- Inconsistent and inaccurate plans
- Confusion over the number of windows being proposed
- Materials out of keeping with the character of the area
- Highways safety and inadequacy of the access
- The development would be overbearing
- Insufficient car parking is being proposed
- Impact on neighbouring development of excavation
- Loss of trees/hedgerow
- Proposed dwellings are out of proportion with surrounding development
- Drainage
- Right of Access

9. Planning Considerations

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. The development plan for this area is the Wiltshire Core Strategy (WCS) and limited saved policies in the North Wiltshire Local Plan. The National Planning Policy Framework (NPPF) is an important material consideration. The main policies considered relevant to the consideration of the principle of this development are Core Policy 1, Core Policy 2 and Core Policy 13 of the WCS and the policies of the NPPF.

The principle of the proposal is considered to comply with the settlement strategy for Wiltshire; in that the development is located within the defined settlement framework boundary of Malmesbury. It is also acknowledged that the Council cannot currently demonstrate a deliverable supply of land of housing for a 5 year period, plus requisite tolerances, although the situation is currently under review

in respect of preparation of a new Housing Land Supply Statement for 2016/2017. It is anticipated that this position will therefore change very shortly.

Given this position full weight cannot be given to policies in respect of the scale and distribution of housing under the terms of paragraph 49 of the NPPF. In the determination of planning applications, the most crucial issue to consider is whether or not the proposal accords with the relevant provisions of the development plan (the WCS). If it does not then the question of whether material considerations, including relevant policies in the NPPF, mean that permission should be granted despite conflict with policies arises. In understanding how to interpret paragraph 49 of the NPPF and what weight should be applied to policies within the WCS, the Council has relied on a number of appeal decisions in Wiltshire (Land at Arms Farm, Sutton Benger APP/Y3940/W/15/3028953 & Land to North of Holt Road and Cemetery Lane, Bradford-on-Avon APP/Y3940/W/15/3141340), and a recent court of appeal judgement that specifically examined how to apply and interpret paragraph 49 (C1/2015/0583 Suffolk Coastal District Council and Hopkins Homes Limited and C1/2015/0894 Richborough Estates Partnership LLP vs Cheshire East Borough Council First).

There are a number of important statements and points of clarity provided in the above decisions that are important to framing any discussion on this application and the degree of conflict with the WCS. Particularly relevant are the statements in the court of appeal decision, paragraphs 42 to 48 ('How is the policy in paragraph 49 of the NPPF to be applied?'), which highlight a number of key points. First, it is up to the decision maker to judge whether a plan policy is or is not a relevant policy for the supply of housing, this can include restrictive policies not necessarily related to housing specifically; however that may have the effect of limiting housing. Furthermore, the appeal court decision confirms that in their view there will be many cases in which restrictive policies are still given sufficient weight to justify the refusal of planning permission, despite their not being up-to-date under the auspices of paragraph 49. In conclusion, the appeal court decision confirms that ultimately it will be up to the decision-maker to judge the particular circumstances of each application and how much weight should be given to conflict with policies for the supply of housing that are 'out-of-date', and, that the fundamental purpose of paragraph 49 is not to punish Councils (and by extension local communities), but to provide an incentive to boost housing land supply. In this context, it is important to note that the scale of the proposed development at 2 dwellings is limited and, in the view of officers, would not significantly boost the supply of land for housing and therefore should only be given limited weight.

Importantly, the decision goes on to highlight that paragraphs 14 and 49 of the NPPF do not make 'out of date' housing policies irrelevant to the determination of applications and that the weight given to such policies is not dictated by the NPPF and will vary according to circumstances on a case by case basis. This will also depend on the extent to which relevant policies fall short of providing for the five-year supply of housing land and the action being taken by the local planning authority to address the shortfall. Currently, the shortfall is only 36 homes and there is no indication that rural areas are struggling to deliver housing. The Council has continued to promote development in the Malmesbury Community Area (which covers this site) at sustainable locations and recent committee approvals have seen further housing sites approved, subject to signing of S106 agreements overall and above those minimum indicative targets.

In both of the Wiltshire based appeal decisions the Inspectors considered that weight should be applied to Core Policy 1 of the WCS despite paragraph 49 being engaged and, in fact, in the Sutton Benger appeal the inspector applied full weight to Core Policy 1. However, following the appeal court judgement the Council agrees that Core Policy 1 must be seen and assessed in the context of paragraph 49 and cannot be considered 'up-to-date'. Nevertheless, the Council still believes that Core Policy 1 must carry significant weight in any decision making process; as the fundamental principles of the policy largely align with core planning principles of the NPPF, as set out in paragraph 17. It sets out the overarching spatial strategy for Wiltshire and, as highlighted above, the shortfall in supply is low and there is no evidence of significant unmet demand in the community area. As such, the

settlement strategy and Core Policy 1 remains fundamental and relevant to the determination of this application.

On balance it is considered given the sites location with the defined settlement framework boundary for Malmesbury and in the context of the current limited shortfall in the supply of land for housing, the principle of the development is considered acceptable. In order for the development to be considered unacceptable in this location the development would need to result in significant harm to the local character and amenity or be subject to specific site constraints sufficient to warrant a refusal.

Impact on the Context and Character of the Site and Surrounding Area

The proposal is for proposed erection of two dwellings following demolition of the existing dwelling known as the Ashley. It is noted that concerns have been raised by the Parish and local residents that the erection of two dwellings on the site would represent an over development of the site in question. However, it should be noted that along Common Road there would appear to be a number of developments that have result from the demolition of the existing property and the erection of a number of dwellings in the plot. The density of development on the site would appear to be less than that which has previously been permitted elsewhere in the area and is not considered to be over development of the site subject to appropriate design of the scheme.

The site is steeply inclined, rising from 50m at the road to 54m at the rear boundary. The larger of the two dwellings, on the site of the original bungalow, has been designed to take advantage of this change in site levels, with the basement built into the site so that it is fully below ground to the rear but open at the front, to allow access to the integral garage. Consequently, the ridge height of the replacement dwelling would not be significantly higher than that of the existing bungalow. It is however noted that this would result in the introduction of a number windows higher than those in the existing bungalow which have the potential to result in overlooking to neighbouring properties. This concern was raised in respect to the original submission which proposed a significant number of windows which had the potential to result in overlooking of the property to the rear know as 'The Birches'. In order to address this issue the applicant has submitted a number of revised plans which were published for consultation. The first approach sought to provide screening over the windows; however, it was considered that this would still result in a perception of overlooking even if it did diminish the actual visibility of the neighbouring property from the proposed development. The applicant subsequently submitted plans which sought to alter the layout of the first floor and further reduce overlooking by the use of obscure glazed windows and high level windows. It is considered these revisions addressed the concerns of overlooking, despite continued objection from local residents, and that it would not warrant refusal of the application

The smaller of the two dwellings would be located closer to the road and would be located entirely above ground. Due to the incline the dwelling would be positioned below the larger dwelling and would sit lower in site. In comparison to the height of neighbouring properties it is not considered that the dwelling would be out of keeping with the scale and bulk of other dwellings positioned just off Common Road. It is noted that the existing hedges and vegetation at the site are to be retained and reinforced helping to provide some screening to the development. The orientation of the dwelling does not follow the general development pattern of the area; however, there are a number of other examples of dwellings that do not face out directly onto Common Road. Furthermore, this is considered to be the only way that two dwellings could be positioned within the site without resulting in one or both of the dwellings suffering from poor levels of amenity. The onsite constraints also to some extent dictate that which is achievable on the site. The orientation of the property would mean that it would look out on the neighbouring property's access to the front and No.1 The Swinfords, which has no habitable windows facing the proposed dwelling. It is noted that concerns have been raised by residents in respect to overlooking from the first floor windows on the North

West and North East Elevations; however, as these look out over the road and the access for both the development site and neighbouring site the separation between the proposed dwelling and the nearest neighbouring properties is considered sufficient to not result in any loss of amenity as a result of overlooking.

In respect to design, the dwellings are to be finished in off white render with grey powder coated windows. The applicant originally proposed a double pitch standing metal seam roof; however, this has been changed to grey slate following comments made by local residents. Retaining walls at basement level would be finished in Cotswold stone cladding. It is noted that concerns have been raised by a number of residents about the design which is considered to be out of keeping with the area and the impact this would have. The street scene of Common Road includes a mix of dwellings of different ages and constructions. There are other examples within the street of render dwellings. Although the immediate area is dominated by brick built dwellings, there are other examples of both render and painted brick within Common Road. This is a more modern style of property and the proposed design as a whole would not appear so incongruous with the appearance of the street scene or cause any significant harm to the visual amenities of the area such that the proposals would warrant a refusal of planning permission.

Impact on Neighbour Amenity

The development would result in a slight decrease in the distance between the nearest and The Birches to 16m, as the existing bungalow is currently situated at an angle within the site. In addition, it is anticipated that the ridge height of the larger dwelling would only be 2m higher than that of the existing bungalow. As set out above, it is noted that the development would result in a number of windows in the rear elevation which have the potential to look out over the property; however, following a number of alterations it is considered that the scheme that is now in front of the Council would not result in a significant loss of residential amenity. The first approach sought to provide screening over the windows; however, it was considered that this would still result in a perception of overlooking even if it did diminish the actual visibility of the neighbouring property from the proposed development. The applicant subsequently submitted plans which sought to alter the layout of the first floor and further reduce overlooking by the use of obscure glazed windows and high level windows. The two new dwellings would be located to the north of The Birches, so would not result in any loss of light.

The nearest adjacent property, No.1 Swinford Paddocks, would be located 7m to the west of the larger dwelling and over 9m from the single storey aspect of the smaller dwelling and 12m from the 2 storey which is considered to be an acceptable distance given that No.1 Swinford Paddocks only has two obscure glazed windows which would face into the site. It is not considered that the proposal would result in any significant harm to the occupiers of this dwelling in terms of loss of outlook or loss of privacy. No.1 Swinford Paddocks is located to the west so it is not considered that there would be any loss of light to the property.

It is noted that one local resident has raised concerns about the impact of the erection of the dwelling and the excavation of parts of the site, specifically in relation to the driveway for plot 2 would result in a detrimental impact to their property. The driveway is located over 4m from the nearest boundary and it therefore considered unlikely that the excavation would result in any impact to the neighbouring property.

Highways

The Council's Highways Officer has raised no objection to the principle of the development. With regard to detail, the Council would expect the access to demonstrate that 2.4m x 43m is available in both directions. In the south west direction, this may require the hedge/vegetation to be cut back. The access should have a minimum width of 4.5m.

Car parking will need to be in accordance with the Council's car parking guidelines. The guidelines require that 3 spaces are provided for a 4 bed property and 2 spaces for a 3 bed. Having reviewed the plans the Highways officer has confirmed that this requirements are being met by the proposal with both dwellings providing two parking spaces and the larger of the two dwellings providing an additional parking space in the form of a garage which measure 6m by 5.6m.

It is noted that concerns have been raised about the impact of the development on highways safety and the level of parking being provided. The highways officer has raised no concerns in respect to these matters and accordingly the development is considered appropriate. It is also noted that some comments have been made in respect to the right of access across the land; however, this is a civil matter rather than a planning matter is not a consideration in the determination of this application.

Drainage

It is noted that concerns have been raised by local residents about the impact of the development in terms of drainage specifically in respect to the public foul sewer. The Council's Drainage Officer has stated that the clearances mentioned in the supporting statement and shown on the proposed plan will be required by the sewerage undertaker or will require a formal diversion agreement with them which would also require this standoff distance. This would be separate to the planning permission and an informative setting out that 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. Conditions have also been attached requiring the submission of foul and storm drainage details prior the commencement of development.

Conclusion

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. Overall, it is considered that the development complies with Core Policy 1, 2, and 57 of the Wiltshire Core Strategy as well as the relevant policies in the Malmesbury Neighbourhood plan. Furthermore, the development would provide public benefit in the form of boosting the supply of housing in the context of the current limited shortfall in the supply of land for housing. The addition of two dwellings, although limited, would result in a reduction to this shortfall. On balance, it is considered that the development itself would not result in sufficient harm to the character of the area or the amenity of neighbouring development to outweigh the benefits and to warrant the refusal of the application.

RECOMMENDATION

Planning Permission is APPROVED 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 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. The areas shall be maintained for those purposes at all times thereafter.

REASON:

In the interests of highway safety.

- 3 The development hereby permitted shall not be occupied until the area between the nearside carriageway edge and a line drawn 2 metres parallel thereto over the entire site frontage has been cleared of any obstruction to visibility at and above a height of 900mm above the nearside carriageway level. That area shall be maintained free of obstruction at all times thereafter.

REASON:

In the interests of highway safety.

- 4 No construction or demolition work shall take place on Sundays or Public Holidays or outside the hours of 07:30 to 18:00 Monday to Friday and 08:00 to 13:00 on Saturdays.

REASON:

In the interests of local amenity.

- 5 No burning of waste or other materials shall take place on the development site during the demolition/construction phase of the development.

REASON:

In the interests of local amenity.

- 6 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 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.

- 7 No development shall commence on site until a scheme for the discharge of foul water from the site has been submitted to and approved in writing by the Local Planning Authority.

REASON:

To ensure that the development can be adequately drained

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

REASON:

To ensure that the development can be adequately drained

- 9 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

- 10 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

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

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 enlargements.

- 12 The dwellings hereby approved shall achieve a level of energy performance at or equivalent to Level 4 of the Code for Sustainable Homes. No dwelling shall be occupied until evidence has been issued and submitted to, and approved in writing by, the local planning authority certifying that this level or equivalent has been achieved.

REASON:

To ensure that the objectives of sustainable development equal or equivalent to those set out in Policy CP41 of the Wiltshire Core Strategy are achieved.

- 13 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 completion of the development, whichever is the later].

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

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

P048-50 Location Plan
P048-62 Plot 1 - Bin and Cycle Stores
Received on 26/10/2016

P048-53 Rev A Plot 2 Basement
Received on 23/11/2016

P048-SK51 Rev B Site Plan
Received on 15/02/2016

P048-54 Rev A Plot 2 Ground Floor
P048-57 Rev D Elevations - Plot 2 (Sheet 1)
P048-58 Rev D Elevations - Plot 2 (Sheet 2)
Received on 21/04/2016

P048-55 Rev D Plot 2 First Floor
P048-59 Rev C Elevations - Plot 1
Received on 10/05/2016

REASON:

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

- 12 **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.
- 13 **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.

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:

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.

16 INFORMATIVE TO APPLICANT:

The applicant is advised that the development hereby approved may represent chargeable development under the Community Infrastructure Levy Regulations 2010 (as amended) and Wiltshire Council's CIL Charging Schedule. If the development is determined to be liable for CIL, a Liability Notice will be issued notifying you of the amount of CIL payment due. If an Additional Information Form has not already been submitted, please submit it now so that we can determine the CIL liability. In addition, you may be able to claim exemption or relief, in which case, please submit the relevant form so that we can determine your eligibility. The CIL Commencement Notice and Assumption of Liability must be submitted to Wiltshire Council prior to commencement of development. Should development commence prior to the CIL Liability Notice being issued by the local planning authority, any CIL exemption or relief will not apply and full payment will be required in full and with immediate effect. Should you require further information or to download the CIL forms please refer to the Council's Website

www.wiltshire.gov.uk/planninganddevelopment/planningpolicy/communityinfrastructurelevy.

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