

# AGENDA

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**Meeting:** Southern Area Planning Committee  
**Place:** Alamein Suite - City Hall, Malthouse Lane, Salisbury, SP2 7TU  
**Date:** Thursday 12 January 2017  
**Time:** 6.00 pm

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Please direct any enquiries on this Agenda to Lisa Moore, of Democratic Services, County Hall, Bythesea Road, Trowbridge, direct line (01722) 434560 or email [lisa.moore@wiltshire.gov.uk](mailto:lisa.moore@wiltshire.gov.uk)

Press enquiries to Communications on direct lines (01225) 713114/713115.

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## Membership:

Cllr Fred Westmoreland (Chairman)	Cllr Jose Green
Cllr Christopher Devine (Vice Chairman)	Cllr Mike Hewitt
Cllr Richard Britton	Cllr George Jeans
Cllr Richard Clewer	Cllr Ian McLennan
Cllr Brian Dalton	Cllr Ian Tomes
Cllr Jose Green	Cllr Ian West

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## Substitutes:

Cllr Trevor Carbin	Cllr Leo Randall
Cllr Terry Chivers	Cllr Ricky Rogers
Cllr Ernie Clark	Cllr John Smale
Cllr Tony Deane	Cllr John Walsh
Cllr Dennis Drewett	Cllr Bridget Wayman
Cllr Peter Edge	Cllr Graham Wright
Cllr Magnus Macdonald	

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### **Public Participation**

Please see the agenda list on following pages for details of deadlines for submission of questions and statements for this meeting.

For extended details on meeting procedure, submission and scope of questions and other matters, please consult [Part 4 of the council's constitution](#).

The full constitution can be found at [this link](#).

For assistance on these and other matters please contact the officer named above for details

# AGENDA

## Part I

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 7 - 18*)

To approve and sign as a correct record the minutes of the meeting held on Thursday 3 November 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 Chair.

5 **Public Participation**

The Council welcomes contributions from members of the public.

### Statements

Members of the public who wish to speak either in favour or against an application or any other item on this agenda are asked to register by phone, email or in person no later than 5.50pm on the day of the meeting.

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

Members of the public will have had the opportunity to make representations on the planning applications and to contact and lobby their local member and any other members of the planning committee prior to the meeting. Lobbying once the debate has started at the meeting is not permitted, including the circulation of new information, written or photographic which have not been verified by planning officers.

## Questions

To receive any questions from members of the public or members of the Council received in accordance with the constitution which excludes, in particular, questions on non-determined planning applications.

Those wishing to ask questions are required to give notice of any such questions in writing to the officer named on the front of this agenda no later than 5pm on Thursday 5 January in order to be guaranteed of a written response. In order to receive a verbal response questions must be submitted no later than 5pm on **Monday 9 January 2017**. Please contact the officer named on the front of this agenda for further advice. Questions may be asked without notice if the Chairman decides that the matter is urgent.

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

### 6 **Village Design Statement - Steeple Langford** (*Pages 19 - 50*)

To consider the contents of, and approve as a material consideration, the Village Design Statement (VDS) for Steeple Langford.

### 7 **Rights of Way - Durnford Paths 8, 25 and 26** (*Pages 51 - 116*)

To consider the one representation and one objection received to the making of The Wiltshire Council Durnford Paths 8, 25 and 26 Rights of Way Modification Order 2016 made under Section 53 of the Wildlife and Countryside Act 1981.

### 8 **Planning Appeals and Updates** (*Pages 117 - 118*)

receive details of completed and pending appeals and other updates as appropriate for the period 21/10/2016 to 20/12/2016.

### 9 **Planning Applications**

To consider and determine planning applications in the attached schedule.

#### 9a **14/01986/FUL The White Hart, St John Street, Salisbury, SP1 2SD**

Alterations and extensions to existing rear extension/courtyard buildings, to provide function rooms, entrance, and 28 guest bedrooms. Internal changes and refurbishment, with enhancement of existing parking area.

#### 9b **14/01990/LBC The White Hart, St John Street, Salisbury, SP1 2SD**

Proposed alterations to existing 1970s block including conversion of parking undercroft, stepped four storey extension including an upward



extension to form new level, providing function rooms and a new hotel entrance on the ground floor with 28 No new guest bedrooms above. Proposed internal refurbishment and alterations to existing public areas with associated landscaping.

**9c**     **16/09228/FUL Land at the rear of 82 Britford Lane, Harnham, Salisbury, SP2 8AJ**

Proposed development of two detached chalet dwellings and garages

**9d**     **16/09446/FUL Mayfield, White Way. Pitton, SP5 1DT**

Rear extension and raise roof to provide rooms within roofspace.

**9e**     **16/05643/FUL Land to the rear of 22-30 High Street (The Old Garden Centre) and 98 Crane Street, Salisbury**

Change of use of existing retail unit/storage for restaurant use, extensions, landscaping and public access onto Avon riverside path and servicing access. Demolition of 98 Crane Street and replacement building with gated access.

**9f**     **S/2003/1016 - E V Naish Ltd, Crow Lane, Wilton, SP2 0HD**

Demolition of Existing Buildings to Facilitate the Mixed Use Development of the Site to Provide 61 Residential Units, Two Commercial Units of B1 Use, One Retail Unit, and Associated Car Parking.

**9g**     **16/07192/FUL - E V Naish Ltd, Crow Lane, Wilton, SP2 0HD**

Demolition of Existing Buildings to Facilitate the Mixed Use Development of the Site to Provide 61 Residential Units, Two Commercial Units of B1 Use, One Retail Unit, and Associated Car Parking.

10     **Urgent Items**

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

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## **SOUTHERN AREA PLANNING COMMITTEE**

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**MINUTES OF THE SOUTHERN AREA PLANNING COMMITTEE MEETING HELD ON 3 NOVEMBER 2016 AT SARUM ACADEMY, WESTWOOD ROAD, SALISBURY, WILTSHIRE, SP2 9HS.**

**Present:**

Cllr Fred Westmoreland (Chairman), Cllr Christopher Devine (Vice Chairman), Cllr Richard Britton, Cllr Richard Clewer, Cllr Brian Dalton, Cllr Jose Green, Cllr Mike Hewitt, Cllr George Jeans, Cllr Ian McLennan, Cllr Ian Tomes and Cllr Ian West

**Also Present:**

Cllr Bridget Wayman

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**96 Minutes of the Previous Meeting**

The minutes of the meeting held on Thursday 13 October 2016 were presented.

**Resolved:**

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

**97 Declarations of Interest**

There were none.

**98 Chairman's Announcements**

The Chairman explained the meeting procedure to the members of the public.

**99 Apologies**

**100 Public Participation**

The committee noted the rules on public participation.

## 101 **Planning Appeals and Updates**

The committee received details of the appeal decisions as detailed in the paper circulated at the meeting, for the period 30/09/2016 to 21/10/2016.

### **Resolved**

**That the report be received and noted.**

## 102 **Planning Applications**

### 103 **16/06154/OUT: Land Adjacent 1 Longhedge Cottages, Longhedge, Salisbury, SP4 6BP**

#### Public Participation

Tony Allen (Agent) spoke in support of the application.

The Senior Planning Officer drew attention to late correspondence circulated at the meeting and introduced the outline application for 4 detached dwellings with garages, noting that the application had previously come to Committee on 13 October 2016, where it had been deferred for further information in respect of the provision of a footpath/cycle lane along the Western boundary of the site, extending southwards. The application was recommended for approval, subject to a S106 Legal Agreement and subject to conditions.

Members of the Committee then had the opportunity to ask technical questions of the Officers, it was noted that the section 106 only related to a small section of land, and did not cover the land proposed for preservation for the aspiration of a future path. The application was for 4 dwellings, and a development of that size did not warrant the provision of a footpath.

The land was partly owned by Highways and partly by the land owner, so any future development of a footpath on that reserved land would need negotiation with the landowner. A footpath was originally offered as part of the initial housing development at Longhedge, however there were now 673 houses on the site, and it was now considered a sustainable location.

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

The Unitary Division Member; Councillor Ian McLennan noted that he felt that in terms of the footpath/cycle path, the wider site should be looked at as a whole, as most of the employment land had not been sold to anyone yet. The housing development ended with connection to the Longhedge employment land, he felt there was every case to be made for a path to go to that land, creating a connection, with possible access to the park and ride somehow.

Councillor Ian McLennan proposed Refusal against Officers recommendation, due to the non provision of a footpath/cycle path. This was seconded by Cllr Ian Tomes

The Committee discussed the application, noting that it was unsure how a development of this size could have been allowed to take hold without ensuring there were footpaths and access points to the city, however the application for consideration was for 4 dwellings and was not responsible for the provision of a footpath.

The Longehedge development was now considered as a sustainable development. The ownership of a footpath, if the land was developed at a later date was largely a civil matter, and so unless it was incorporated in to a S106 legal agreement, this was not a planning consideration.

There was no policy background for a cycleway and no evidence that there was a Community aspiration for one.

The Committee voted on the motion put forward by Cllr McLennan, it was not carried. Cllr Westmoreland then put forward a second motion for Approval with conditions in line with Officer's recommendation; this was seconded by Cllr Hewitt.

#### **Resolved**

**That application 16/06154/OUT be approved subject to all parties entering into a S106 legal agreement which secures the following:**

- **A 2 metre wide footway shall have been constructed and made permanently available for use by pedestrians, adjacent the A345 road, and to link from the access to the proposed development, to the adjacent pathway network, to allow pedestrian access to adjacent services and facilities.**

**Then delegate to the Head of Development Management to APPROVE subject to the following conditions:**

**01. This permission relates to the detailed approval of the access and layout only. Approval of the details of the scale, appearance of the buildings, and the landscaping of the site (herein called the reserved matters) shall be obtained from the Local Planning Authority in writing as per condition 03 below.**

**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.**

**02. Plans and particulars of the reserved matters referred to in condition 01 above, relating to the scale, appearance of any building to be erected,**

and the landscaping of the site, shall be submitted in writing to the Local Planning Authority and shall be carried out as approved.

**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.

**03.** Applications for the approval of the reserved matters shall be made to the Local Planning Authority before the expiration of 3 years from the date of this permission.

**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.

**04.** 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.

**05.** The development shall be carried out in general accordance with the following plan(s):

Drawing 0771/01 Rev S dated September 2013, as deposited with the local planning authority on 23.06.16.

**REASON:** For the avoidance of doubt

**06.** No part of the development hereby permitted shall be first occupied until the turning areas 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.

**07.** No part of the development shall be first brought into use until the visibility splays shown on the approved plans (ref: 0771/01 Rev S) have been provided with no obstruction to visibility at or above a height of 0.9m above the nearside carriageway level. The visibility splays shall be maintained free of obstruction at all times thereafter.

**Reason:** In the interests of highway safety

**08.** No development shall commence on site until details of the access including improved junction radii, kerbs, surfacing (not loose stone or

gravel), drainage and an extension to the existing footway have been submitted to and approved in writing by the Local Planning Authority. No part of the development shall be occupied until the access improvements detailed above have been provided in accordance with the approved details.

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

**09.** No development shall commence on site until a scheme of acoustic insulation for the purposes of preventing the ingress of road traffic noise and noise from the proposed business park has been submitted to and approved in writing by the Local Planning Authority. This scheme shall include details of acoustic glazing and ventilation systems. Any works which form part of the approved scheme shall be completed prior to the premises being occupied and shall be maintained in accordance with the approved details at all times thereafter.

**REASON:** In the interests of the amenities of future occupiers of the proposed dwellings.

**10.** No development shall commence on site until a scheme of acoustic screening for the purposes of protecting the residential properties and their external amenity space from road traffic noise and the proposed business park has been submitted to and approved in writing by the Local Planning Authority. Any works which form part of the approved scheme shall be completed prior to the premises being occupied and shall be maintained in accordance with the approved details at all times thereafter.

**REASON:** In the interests of the amenities of future occupiers of the proposed dwellings.

**11.** No construction 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 order to limit the impact of works on residential amenity

**12.** No burning of waste shall take place on the site during the construction phase of the development.

**REASON:** In order to limit the impact of works on residential amenity

**13.** No development shall take place within the application site until a written programme of archaeological investigation, has been submitted to, and approved in writing by the Local Planning Authority. The approved programme of archaeological mitigation has been carried out in accordance with the approved details.

**REASON: To safeguard the identification and recording of features of archaeological interest.**

**14. Before development commences, a Construction Environmental Management Plan (CEMP) shall be submitted to and approved in writing by the Local Planning Authority which secures protection of habitats and species during the construction period, including pollution prevention measures. The development shall be carried out in accordance with the agreed CEMP.**

**REASON: In order to prevent pollution of the water environment and to protect habitats and species during the construction period so as to limit the impacts of the development**

**15. 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/occupied until surface water drainage has been constructed in accordance with the approved scheme.**

**REASON: To ensure that the development can be adequately drained**  
**Informatives**

**1. With regard to archaeology (Condition 13 above) the work should be conducted by a professionally recognized archaeological contractor in accordance with a written scheme of investigation agreed by this office and there will be a financial implication for the applicant.**

**2. The applicant is advised that the development hereby approved represents chargeable development under the Community Infrastructure Levy Regulations 2010 (as amended) and Wiltshire Council's CIL Charging Schedule. A separate Community Infrastructure Levy Liability Notice will be issued by Wiltshire Council.**

**Should you require further information with regards to CIL please refer to the Council's website.**

104 **16/04126/OUT: Land at Hilltop Way, Salisbury, SP1 3QX**

Public Participation

Keith Leslie spoke in Objection to the application.

John Gately (Agent) spoke in support of the application.

Kate Blakemore spoke in support of the application.



The Senior Planning Officer presented the Outline application for the proposed erection of 10 semi detached bungalows, new footpath link, and creation of public open space (resubmission of 15/11350/OUT) incorporating 20 off street parking spaces and 5x laybys to Hilltop Way. The application was recommended for Refusal.

Members of the Committee then had the opportunity to ask technical questions of the Officers, it was noted that they specific type of affordable housing to go on the site was not yet determined. The land was currently deemed as open countryside.

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

The Unitary Division Member; Councillor Mary Douglas spoke in Objection to the application, noting that it had been called in due to local concern, as there had been 22 letters of concern relating to this application. She drew attention to the policies in place to protect residents from certain future planning issues. Nothing had changed with this application since the previous occasion it had come to committee, the impact of this development on Pauls Dene would be negative. The Committee were urged to refuse the application.

Councillor Ian McLennan proposed the application be refused in line with Officers recommendation. If we pre-judge and agree a site outside of the housing allocation site we would open up the floodgate. We should wait to see what the outcome of the Strategic Housing Land Availability Assessment (SHLAA) process was. This motion was then seconded by Cllr Richard Britton.

The Committee discussed the application noting that despite the application being supported by Salisbury City Council's (SCC) Planning Committee, the shared ownership bungalows did not fit with affordable housing, as retired people would find it hard to get a mortgage.

The Chairman took issue with the Open Space Study and hoped that SCC would look at what they were asking for in terms of open space. He added that bungalows on a hill were not best placed for older people's housing.

### **Resolved**

**The application 16/04126/OUT be Refused in line with Officers recommendation, for the following reasons:**

- 1 The site lies outside the defined limits for development and the proposed residential development for affordable housing in this location would be contrary to the Wiltshire Core Strategy Policies 1 and 2 and NPPF para 11, 12, 14 and 49. Although the site is under consideration as part of the Site Allocation process, no decisions have been taken on the likely site choices, and therefore no conclusions can be drawn on the likelihood of**

**this site's designation. Therefore it would be premature to cite this as justification for allowing development contrary to the Core Strategy. By virtue of its scale and nature, the proposal is not considered to meet any of the criteria for exceptional development as set out in the Core Strategy and there are no overriding reasons to treat the land as an appropriate windfall site, because the Council can demonstrate a 5 year housing land supply, which would deliver affordable housing provision under the appropriate policies.**

- 2 The site currently makes a positive contribution to the character of the Paul's Dene Estate and marks a degree of transition between the urban and rural landscapes. The closing of the open area would materially detract from the character of the estate and reduce the attraction of the adjoining bridleway for users, contrary to Core Policy 57 and para 56 of the NPPF.**

**105 16/06309/FUL: 1 Manor Farm Cottages, The Street, West Knoyle, Wiltshire, BA12 6AG**

The Senior Planning Officer drew attention to the late correspondence circulated at the meeting, and introduced the retrospective application for Erection of an open fronted garage to cover two existing car spaces. There had been one objection received from the local Parish Council on four aspects. The application was recommended for Approval.

Members of the Committee then had the opportunity to ask technical questions of the Officers, it was noted that there had been a structure previously in the exact position, however a replacement would still require permission as time has elapsed.

There were no public speakers for this application.

The Unitary Division Member; Councillor George Jeans spoke on the application, noting that he respected both of the view from the Parish Council, and the Officers report.

Councillor Westmoreland proposed approval in line with Officers recommendation. This was seconded by Cllr Devine.

**Resolved**

**That application 16/06309/FUL be APPROVED with the following condition:**

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

**Site Location Plan Date Received 28.06.16**

**DWG No: MC2 Existing Layout Date Received 28.06.16**

**DWG No: MC3 Elevations Date Received 28.06.16**  
**Side Elevations Date Received 28.06.16**

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

106 **16/06888/OUT: Farmer Giles Farmstead, Teffont, Salisbury, Wiltshire, SP3 5QY**

Public Participation.

Pamela Fisher spoke in Objection to the application.

Cally Troup spoke in Objection to the application.

Mary Corrie (Applicant) spoke in Support of the application

Chris Beaver (Agent) spoke in support of the application

Cllr David Wood (Chairman) Teffont Parish Council spoke in support of the application in principle.

The Area Team Leader drew attention to the late correspondence circulated at the meeting and presented the application, noting that this was an Outline application for the erection of 1 dwelling and associated works following demolition of redundant outbuildings. The application follows an application made in March 2015 for a similar proposal, which was refused by the Southern Area Planning Committee in June 2015. The application was recommended for approval subject to conditions.

Members of the Committee then had the opportunity to ask technical questions of the Officers, it was noted that the retained barn as shown on the plan could be removed under Grampian style permission as it was on part of the applicants land.

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

The Unitary Division Member; Councillor Bridget Wayman spoke in Objection to the application, noting that she was a Wiltshire Council representative on the CC&WWDAONB Partnership Panel which was an alliance of 18 local, national and regional organisations that guides the implementation of the Management Plan.

Cllr Wayman felt that the proposal was contrary to the policies CP1 & 2 of the Wiltshire Core Strategy and the exception policies CP44 for Rural Exception sites and CP48 Supporting Rural Life. Adding that Local Planning Authorities should avoid granting permission for new isolated homes in the countryside unless there were special circumstances, such as the essential need for a rural worker, the use of a heritage asset, where the development would lead re-use redundant or dis-used buildings and lead to an enhancement of the immediate setting, or the exceptional quality or innovative design of a building, however she felt that none of these exceptions applied in this instance.

A decision on whether the development was of exceptional quality of innovative design could not be determined as only an outline application had been submitted. Both the AONB and the parish council had expressed their concern at supporting such type of application.

The likelihood of the visitor centre ever reopening was very unlikely as it had been closed for 3 years now, so this was a minor concern.

The master plan which accompanied the application stated that elements of the vision would need to be revisited if this section of the application was approved.

Originally the Lodges were permitted subject to the condition that upon Farmer Giles Farmstead ceasing to trade or operate from the land and/or ceasing to be open to the public, the lodges shall be removed and the land reinstated to grassland in accordance with a scheme to be submitted and approved by the LPA. Yet despite it being mentioned on two occasions, this had not been addressed.

The applicant already had a house within a couple of hundred yards of the site, and had managed to run the visitor centre and the holiday lodges from there for more than a decade.

The Committee should see a full and detailed application not an outline application so it could see exactly what was proposed in order to be able to see the design and how it might fit into and complement the landscape.

Cllr Wayman felt that the application was contrary to so many policies, and asked the Committee to refuse it.

However, if the Committee was mindful to approve, Cllr Wayman asked that the issue of the removal of the holiday lodges if tourist attraction was close be actioned. Or enforcement action needed to be taken.

Councillor Mike Hewitt noted that with any application there was always a bit of give and take. He proposed that an additional condition be included to ensure the house was linked to the farm and could not be sold separately. Councillor Hewitt then proposed the application be approved in line with Officers recommendation. This was seconded by Councillor Jeans.

The Committee then discussed the application where it was noted that a master plan or site vision had not been provided. In the previous application some Members had supported the proposal for the removal of some rundown farm buildings, this application now did not include this as part of the proposals and so it was felt that reduced the justification to permit the development in the AONB.

It was suggested that there had not been an overwhelming show of community support or of an up and coming NHP to support the development. It was felt that an outline application for this site did not help when considering the development as it was too vague.

The Committee noted that the parish council had listed 8 conditions they would like to see included if the application was to be approved, some of which were not within the scope of the Committee.

It was felt that the Lodges should be removed if the Farmer Giles Farmstead had close, and enforcement should take place now to have them removed.

It was acknowledged that the applicant had already indicated that they would be happy for the barn to be demolished under Grampian conditions. This was supported by the Committee.

The Committee then voted on the motion put forward by Cllr Hewitt, this was lost. Cllr Devine then put forward a second motion of refusal, against Officers recommendation for the existing reasons for refusal of the previous application. This was seconded by Cllr Mike Hewitt.

### **Resolved**

**That application 16/06888/OUT be refused for the following reasons:**

- 1. The application site lies in open countryside and an Area of Outstanding Natural Beauty. Within the countryside there is effectively a presumption against new residential development except in limited circumstances not relevant in this case. This presumption is in the interests of sustainability and amenity. It follows that as a matter of principle the proposal comprises unacceptable development. In terms of harm, the proposal would introduce a house and its curtilage with inevitable domestic paraphernalia, and these would be visually intrusive and alien in such an isolated rural location, distant from other residential properties or any settlement. By reason of their visibility and alien appearance, the house and its curtilage would detract from the wider appearance of the landscape, neither conserving nor enhancing its status as an Area of Outstanding Natural Beauty. There are no exceptional circumstances which outweigh the harm to the countryside.**

**The proposal is, therefore, contrary to Core Policies 1 and 2 (the settlement and delivery strategies) of the Wiltshire Core Strategy, Core Policy 51 (Landscape) of the Wiltshire Core Strategy, and guidance in the National Planning Policy Framework - paragraphs 109 and 115.**

- 2. The application site supports three holiday lodges. These lodges were given planning permission subject to conditions requiring**

**their removal in the event of Farmer Giles Farmstead Ltd ceasing to trade or operate from the land and/or ceasing to be open to the public. The description of development set out on the application forms is "Demolition of some existing buildings and cessation of business and erection of a dwelling all matters reserved save for access, scale and siting". The supporting Design and Access Statement further states that "the 'tourist' use cabins [the lodges] would remain on site".**

**Having regard to the conditions on the earlier permissions relating to the lodges it is considered to be unclear from the current application how the lodges can remain. Notwithstanding the additional statement received during the application from the applicant.**

#### 107 **Urgent Items**

There were no urgent items

(Duration of meeting: 6.00 - 8.40 pm)

The Officer who has produced these minutes is Lisa Moore, of Democratic Services, direct line (01722) 434560, e-mail [lisa.moore@wiltshire.gov.uk](mailto:lisa.moore@wiltshire.gov.uk)

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

WILTSHIRE COUNCIL

Report No. 6

SOUTHERN AREA PLANNING COMMITTEE

12 January 2017

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## **STEEPLE LANGFORD** **VILLAGE DESIGN STATEMENT**

### **Purpose of Report**

1. To consider the contents of, and approve as a material consideration, the Village Design Statement (VDS) for Steeple Langford .

A copy of this VDS is attached at **Appendix 1**.

### **Relevance to the Council's Business Plan**

2. Approval of the VDS will contribute towards the outcome for everyone in Wiltshire to live in a high quality environment.

### **Background**

3. In 1996 the Countryside Commission (now Natural England) launched the 'Design in the Countryside' initiative, and produced advisory packs to help villages understand the concept, process and method of producing a VDS.
4. VDSs are prepared by local communities. They offer a framework for engaging local people in constructive debate about defining the special character of their village, as a basis for ensuring that new development in their area fits its surroundings and is in keeping with that character. The VDS can help everyone involved in a development to understand local views and perceptions at the outset of the design process.
5. This helps new buildings to be designed in a way that is more likely to gain local support, rather than generate opposition. VDSs provide a tool to help manage long-term change, not prevent it.
6. A VDS contains a descriptive analysis of the relationship between landscape, settlement patterns and buildings. From the survey analysis, the VDS identifies principles to be applied to new developments such as the design of buildings and the spaces between them. The document should benefit local people, developers, new occupants and planners.
7. The Localism Act has provided a renewed impetus to community-led planning and documents such as VDSs play an important part in helping to deliver the Government's Localism agenda.

8. This paper considers and assesses the VDS for Steeple Langford which falls within Southern Wiltshire. The statutory development plan for southern Wiltshire is the Wiltshire Core Strategy, which was adopted in January 2015.

### **Village Design Statement Protocol**

9. The Council's approach towards endorsing VDSs is to approve them as material considerations in the determination of planning applications. The rationale for this is set out in the Council's Village Design Statement Protocol, attached at **Appendix 2**.
10. The Protocol sets out the validation checklist that is used to appraise each VDS to ensure it is fit for purpose and appropriate for the Council to approve as a material consideration. This checklist is based on the Countryside Commission's (now Natural England) advisory guidance referred to above and is set out in brief below:

Does the VDS:

- describe the distinctive character of the village and the surrounding countryside;
- show how character can be identified at three levels:
  - the landscape setting of the village,
  - the shape of the settlement,
  - the nature of the buildings themselves;
- draw up design principles based on the distinctive local character.

Has the process of developing the Village Design Guidance met the following objectives:

- worked in partnership with the local planning authority in the context of existing local planning policy and to influence future policies;
- been developed, researched, written and edited by local people? Is it representative of the views of the village as a whole? Has the process involved a wide section of the village community in its production?

### **Summary of Appraisal**

11. The VDS has been appraised against each of these objectives and the results of this assessment are presented in the template at **Appendix 3**.
12. To summarise, this VDS provides a comprehensive description of Steeple Langford and the environs. Throughout the VDS, a detailed description of the local character is provided and design principles are provided throughout the document based on this character.

### **Safeguarding Considerations**

13. There are no known implications at this time.



### **Public Health Implications**

14. There are no public health implications.

### **Environmental Impact of the Recommendation**

15. The VDS provides design guidance to help inform the determination of planning applications in Steeple Langford.

### **Risk Assessment**

16. There are no key risks identified in relation to the decision being considered.

### **Financial Implications**

17. There are no financial implications to the Council at this time.

### **Options Considered**

18. Approval of the VDS by committee gives the document weight in decision making. It will complement existing planning policy and guidance, strengthening the Council's position when advising or negotiating on design and allows local views to be taken into consideration early in the process.

### **Legal Implications**

19. Once a VDS has been approved by Committee, full regard must be had to its content in decision making.

### **Conclusion**

20. It is considered that the Steeple Langford VDS complies with the Council's protocol and should be approved as a material consideration to inform decisions on planning applications.

### **Recommendation**

21. It is recommended that the VDS for Steeple Langford be approved as a material consideration for the purposes of development management.

### **ALISTAIR CUNNINGHAM**

Associate Director, Economic Development and Planning

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Report Author:

**Judith Cameron**

Senior Planning Officer

Economic Development and Planning

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

None

### **Appendices:**

- |             |  |
|-------------|--|
| Appendix 1: | Steeple Langford Village Design Statement                        |
| Appendix 2: | Village Design Statement Protocol                                |
| Appendix 3: | Village Design Statement Validation Checklist – Steeple Langford |

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## Village Design Statement Validation Checklist

**Village Design Statement for:**

**Steeple Langford**

**(i) Does the VDS describe the distinctive character of the village and the surrounding countryside?**

The VDS provides a description of the natural and man-made features of Steeple Langford Parish.

Section 2.2 describes the key historic influences that have helped to shape the character of the parish.

Section 3.4 describes the key conservation characteristics of the parish which include:

- An attractive and tranquil riverside setting
- Extensive use of the local Chilmark type limestone
- Some mixed use of buff and red bricks in 18th century buildings
- Stone and cob boundary walls that tie groups of buildings together and define boundaries
- The distinctive regional vernacular tradition of chequer work walling; particularly stone and flint.
- Survival of key groups of historically important buildings: e.g. the churches, manor houses and former rectory, Little Langford Farm and mill houses.
- The visually striking lead broach spire to the All Saints Church which is seen from many views within the parish and surrounding countryside
- The churchyard at Saint Nicholas of Myra in Little Langford is managed as a wild flower meadow rather than simply cutting the grass
- Important groups of trees that penetrate and punctuate the built areas
- The ever present ridge lines to the south and particularly the north that give the valley the sense of enclosure
- Interesting and unusual groups of cottages such as Church Cottages in Steeple Langford
- The character of the surrounding countryside, which has been shaped by farming and the shooting estates that

	<p>have maintained wooded areas and hedgerows</p> <p>Section 3.5 goes on to refer to the many listed buildings and structures ranging from manor houses, farm buildings, walls and monuments in graveyards, which contribute to the character of the parish.</p> <p>Section 5.2 on Rights of Way describes how one of the characteristics of the Langfords and the areas of open countryside in which it sits, is the extensive myriad of Rights of Way that crisscross the parish and provide routes through and beyond to neighbouring parishes. The preservation of this network of routes to which the public have access is regarded as essential to retaining the character of the parish</p>
<p><b>(ii) Does the VDS show how character can be identified at three levels</b></p> <ul style="list-style-type: none"> <li>• <b>the landscape setting of the village</b></li> <li>• <b>the shape of the settlement</b></li> <li>• <b>the nature of the buildings themselves</b></li> </ul>	<p><b>Landscape setting</b></p> <p>Section 4 describes the wider conservation including and beyond Designated Conservation Areas.</p> <p>Section 4.1 in particular refers to the setting of the parish, and refers to the views and vistas from within the villages and the surrounding areas of the Wylve Valley and the high ground to the north and south form much of the valued character of the parish.</p> <hr/> <p><b>Shape of the Settlement(s)</b></p> <p>Section 3.1 provides a description of the dwellings and villages. It explains that the villages are all of mainly ribbon development In most parts of the villages the houses front on to the road and have open views across farmland to the rear. The settlement pattern of the villages is notable for being compact and contained within the valley resulting in an unobtrusive appearance within the overall setting.</p> <hr/> <p><b>Nature of the Buildings</b></p> <p>Section 3.1 explains that, with the exception of</p>

	<p>established manor houses, most dwellings are single or double story with pitched roofs of tiles, slates or thatch. The majority have enclosed gardens to the front and rear of the property with space to park a number of cars. Any new development should blend with the layout and height of existing buildings, window design and proportions and the use of appropriate materials for cladding buildings and roofs.</p>
<p><b>(iii) Does the VDS draw up design principles based on the distinctive local character?</b></p>	<p>Section 3.6 provides guidelines to preserve the character of the local surroundings.</p>
<p><b>(iv) Does the VDS work in partnership with the local planning authority in the context of existing local planning policy and influence future policies.</b></p>	<p>The VDS was prepared in partnership with the local planning authority and recognises that development must comply Wiltshire Council's policies (see paragraph 1.3).</p>
<p><b>(v) Has the VDS been developed, researched, written and edited by local people? Is it representative of the views of the village as a whole? Has the process involved a wide section of the village community in its production?</b></p>	<p>Section 1.2 explains how the VDS was produced and how this process involved the local community.</p>
<p><b>Other Comments:</b></p>	<p>No</p>
<p><b>Overall Conclusions:</b></p>	<p>The Village Design Statement is considered to meet the objectives set out in the validation checklist.</p>
<p><b>Recommendation:</b></p>	<p>It is recommended that the Village Design Statement for Steeple Langford be approved as a material planning consideration for the purposes of development management.</p>

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# Village Design Statement Protocol

November 2012

## 1.0 Introduction

- 1.1 In 1996 the Countryside Commission (now Natural England) launched the 'Design in the Countryside' initiative, and produced advisory packs to help villages understand the concept, process and method of producing a Village Design Statement (VDS).
- 1.2 The purpose of VDSs is to manage change, whether that change is major new development or just cumulative, small-scale additions and alterations. They are not about whether development should take place but about how planned development should be carried out, so that it is in harmony with its setting and contributes to the conservation and, where possible, enhancement, of the local environment.
- 1.3 VDSs are prepared by local communities. They offer a framework for engaging local people in constructive debate about defining the special character of their village, as a basis for ensuring that new development in their area fits its surroundings and is in keeping with that character. The VDS can help everyone involved in a development to understand local views and perceptions at the outset of the design process. This helps new buildings to be designed in a way that is more likely to gain local support, rather than generate opposition. VDSs provide a tool to help manage long-term change, not prevent it.
- 1.4 Some development in villages is both healthy and desirable to maintain thriving village communities. A VDS offers a positive way for local people to ensure that the nature and quality of development makes a natural progression from village past into village future. In particular, the VDS helps to manage change and demonstrate how new and locally distinctive design can add to the visual quality of the village.
- 1.5 A VDS contains a descriptive analysis of the relationship between landscape, settlement patterns and buildings and describes the qualities and characteristics that people value in their village and its surroundings. From the survey analysis the VDS identifies principles to be applied to new developments, such as the design of buildings and the spaces between them. The document should benefit local people, developers, new occupants and planners.
- 1.6 An effective VDS:
- is developed, researched, written and edited by local people;
  - is representative of the views of the village as a whole;
  - has involved a wide section of the village community in its production;
  - describes the visual character of the village;
  - demonstrates how local character and distinctiveness can be protected and enhanced in new development;
  - is compatible with the statutory planning system and the local planning context;
  - is applicable to all forms and scale of development;
  - is about managing change in the village, not preventing it.

## **2.0 What status should be given to VDSs?**

- 2.1 Many communities across Wiltshire have already prepared VDSs which are awaiting formal recognition and acknowledgement from the council.
- 2.2 The Planning and Compulsory Purchase Act 2004 has changed the way VDSs can be adopted by local planning authorities. Previously, they could be adopted as Supplementary Planning Guidance (as referred to in the Countryside Commission's guidance). However, this has been replaced by Supplementary Planning Documents which have more stringent and onerous requirements.
- 2.3 Currently, VDSs can either be approved by a local planning authority as a material planning consideration or adopted as Supplementary Planning Documents. Both material considerations and Supplementary Planning Documents must be considered for all planning applications along with all the other relevant planning guidance.
- 2.4 However, for a VDS to achieve status as a Supplementary Planning Document, the document must fulfil statutory requirements for public consultation and undergo rigorous consultation, and hence the process can be time consuming. It is therefore considered more appropriate to approve VDSs as material planning considerations, rather than adopting as Supplementary Planning Documents.
- 2.5 The wording of the council constitution allows for this, advising that one of the roles of the area committees is:
- “To consider matters of local importance within the area such as:*
- *VDSs and parish plans where council approval is required for them to be considered as material considerations in dealing with planning applications”*
- 2.6 Approving VDSs as material planning considerations is a much faster and simplified way forward. Their approval by committee, following an officer appraisal of the VDS including an assessment of the robustness of the consultation undertaken to inform its preparation, gives the documents weight in decision making. The council in approving VDSs as a material consideration will ensure that these are taken into account in determining planning applications.
- 2.7 It is also important to note that by approving VDSs as material planning considerations, the VDSs will also always be owned by the village or parish that undertakes the work.
- 2.8 If approved as a material planning consideration, the VDSs will assist in making decisions upon planning applications, through the Development Management process. VDSs have also been given weight by planning inspectors in individual planning appeal cases.

## **3.0 VDS Validation Checklist**

- 3.1 It would be unrealistic to expect the council to approve a VDS as a material consideration if the VDS did not fulfil the remit of a VDS, for example, if it conflicted with the council's own planning policies. The information contained within a VDS will need to be used by planners, designers and developers and should be straightforward, clear and unambiguous. To achieve this, the



production of the VDS has to be structured and well organised. While the document belongs to the local community, it is necessary to assess how they interpret relevant existing planning policies. They must be robust enough for planning officers to put them into active use in decisions on applications.

3.2 The VDSs will therefore need to be assessed against a validation checklist. This checklist is based on the former Countryside Commission's VDS guidance, and seeks to ensure that the VDSs are fit for purpose:

(i) **Does the VDS describe the distinctive character of the village and the surrounding countryside?**

For example, to meet this objective, the VDS could include:

- A brief description of geographical and historic background.
- A short description of the village as it is today.
- The people, economics and future prospects.
- Any special considerations that affect development pressures in the village, such as tourism or mineral extraction, etc.

(ii) **Does the VDS show how character can be identified at three levels?**

- The landscape setting of the village.
- The shape of the settlement.
- The nature of the buildings themselves.

#### **The character of the landscape setting**

- The visual character of the surrounding countryside.
- The relationship between the surrounding countryside and the village edges.
- The relationship between the village and any special landscape features, such as ancient monuments, woodlands or nature reserves.
- Buildings seen in the landscape, e.g. farm buildings.

#### **Settlement pattern character**

- Overall pattern of village, distinct zones and layouts.
- Character of streets and routes through the village.
- Character and pattern of open spaces in the village and connections with the wider countryside.
- The relationship between buildings and spaces.

#### **Buildings and spaces in the village**

- The character of distinct areas of building types in the village.
- The height, scale and density of buildings.
- The mixture of sizes, styles and types of buildings.
- Hedges, walls and fences.
- Distinctive village features, materials or building details.

(iii) **Does the VDS draw up design principles based on the distinctive local character?**

Are the design principles locally specific, rather than just repeating good practice/design principles?

(iv) **Does the VDS work in the context of existing local planning policy and influence future policies?**

The scope and content of the VDS must be both relevant and complementary to the local planning context.

The importance of compatibility between the VDS and the statutory planning process cannot be over estimated. A good working partnership with the local planning authority will be of particular value when the VDS is used in the planning process.

(v) **Has the VDS been developed, researched, written and edited by local people? Is it representative of the views of the village as a whole? Has the process involved a wide section of the village community in its production?**

It is important to ensure the council does not influence a VDS to the extent that it does not accurately represent the views of the community. The more people who are involved, and contribute to the production of the VDS, the better. It must not just represent the view of a single interest group; it has to be seen to be a shared and representative view of the village as a whole.

Consultation needs to be undertaken from the outset of the project and the programme of action and range of methods used should be well documented.

- Always try to stress that the VDS is the view of the village and not that of the local planning authority.

3.3 A template summarising these validation criteria will be used to assess each VDS to ensure it is fit for purpose. This is appended to this protocol.

**APPENDIX**  
**VILLAGE DESIGN STATEMENT VALIDATION CHECKLIST TEMPLATE**

## Village Design Statement Validation Checklist

<b>Village Design Statement for:</b>	
<b>(i) Does the VDS describe the distinctive character of the village and the surrounding countryside?</b>	
<b>(ii) Does the VDS show how character can be identified at three levels:</b> <ul style="list-style-type: none"> <li>• The landscape setting of the village</li> <li>• The shape of the settlement</li> <li>• The nature of the buildings themselves</li> </ul>	
<b>(iii) Does the VDS draw up design principles based on the distinctive local character?</b>	
<b>(iv) Does the VDS work in partnership with the local planning authority in the context of existing local planning policy and influence future policies.</b>	
<b>(v) Has the VDS been developed, researched, written and edited by local people? Is it representative of the views of the village as a whole? Has the process involved a wide section of the village community in its production?</b>	
<b>Other comments:</b>	
<b>Overall Conclusions:</b>	
<b>Recommendation:</b>	

# Village Design Statement for Steeple Langford Parish

comprising:

Villages of Steeple Langford, Hanging Langford & Little Langford  
& the Settlements at East Clyffe, Ballington and Bathampton

1<sup>st</sup> March 2016



*Looking north over Steeple Langford*

## Aim

The aim of this Village Design Statement is to provide a descriptive framework of the distinctive and important features of the Steeple Langford Parish in order to inform future planning decisions within the parish boundary.

**Review Date** It is recommended that Steeple Langford Parish Council review this Village Design Statement at 5 years from the date of its adoption

*This Village Design Statement (VDS) was produced at a point in time. Therefore, there may be references in it that are now superseded. However, the VDS is still considered to be compliant with local policy on design matters.*

*The production of the VDS has been guided by advice from the Wiltshire Council officers and considered up to-date and relevant, and has subsequently been approved at the Southern Area Planning Committee as a material planning consideration.*

## **Contents:**

### **1. Introduction:**

- 1.1 VDS, its Aim and Purpose
- 1.2 How it was produced
- 1.3 Context of the VDS within the Planning Process

### **2. History and Life in the Langfords**

- 2.1 Location
- 2.2 Historical Background and Archaeology
- 2.3 Recent History
- 2.4 Infrastructure – Churches, schools and other services
- 2.5 People and Employment

### **3. Conservation and Preserving the Character of the Villages**

- 3.1 Description of Dwellings and Villages
- 3.2 The Effects of Change and Development
- 3.3 Development on or Close to the Flood Plain
- 3.4 Designated Conservation Areas
- 3.5 Listed Buildings
- 3.6 Architecture and Materials

### **4. Wider Conservation including and beyond Designated Conservation Areas**

- 4.1 Setting

### **5. Amenities**

- 5.1 Recreation and Sports
- 5.2 Rights of Way
- 5.3 Open Spaces and Public Access
- 5.4 Allotments

### **6. Maps**

- 6.1 Rights of Way
- 6.2 Flood Risk and Conservation Areas
- 6.3 Areas of Outstanding Natural Beauty and Sites of Special Scientific Interest.

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### **7. Acknowledgements**

Photography - Noeline Smith ( [www.noelinesmith.com](http://www.noelinesmith.com) )

## 1. Introduction

### 1.1 VDS, its Aim and Purpose

**The aim of this VDS is to provide a descriptive framework of the distinctive and important features of the parish in order to inform future planning decisions within the parish boundary.**

This VDS provides a description of the natural and man-made features of Steeple Langford Parish. The document is a guide to ensure that future development and change is managed to respect and preserve the character and distinctiveness of the villages, settlements and countryside that make up the parish. It should contribute to protecting and enhancing the special nature and qualities of the community that is The Langfords. Any reference to “The Langfords” is inclusive of the three villages of Steeple Langford, Hanging Langford and Little Langford and the settlements at East Clyffe, Ballington and Bathampton.

As such it represents a distillation of the views of the residents of the Langfords that can be referred to by all, including architects, builders, those seeking planning permission, and Steeple Langford Parish Council and the Wiltshire Council’s Southern Area Planning Committee when considering planning applications. Although, Little Langford, East Clyffe, Ballington and Bathampton are considered countryside and the presumption is against development (paragraph 1.3 below), the residents in these locations were consulted fully thereby recognising their inclusion in the parish.

### 1.2 How the VDS was produced

During 2014 Steeple Langford Parish Council examined the case for and against producing a Neighbourhood Plan and decided against it because of the potential cost, the production time and the designation of the parish as a “small village”. In early 2015 the Parish Council invited the community to produce a VDS. A small team of four resident volunteers produced an outline structure of a draft VDS in the spring of 2015, which was delivered to every household at the beginning of June. The Parish Council funded the printing costs during the consultation.

All the residents of the parish were invited to contribute to the VDS production through public consultation exercise in June and July, including, draft copy through letter boxes, comment return sheets, 2 coffee mornings with the production team in the Parish Hall, colour copy display in the church, and a dedicated e-mail address for electronic feedback. All comment and feedback was captured and retained by the VDS team. The VDS was developed further by the VDS team to reflect the views expressed via the consultation process. The subsequent draft was sent to Wiltshire Council’s Development Services who advised on compliance with protocols and on detailed content. At all stages of the VDS development residents of the parish were advised of progress through the parish magazine.

At the beginning of February 2016 the proposed final copy of the VDS was published on the newly created parish website and in hard copy on display in the church, inviting further community comment. The final version was presented to the Parish Council at their meeting on the 1st of March 2016 prior to the VDS being forwarded to Wiltshire Council for adoption.

### 1.3 Context of the VDS within the Planning Process

The Wiltshire Council Core Strategy (WCS), which covers several subjects including housing, was adopted in January 2015, and is the statutory Local Plan for the whole of Wiltshire.

Core Policy 4 of the WCS places Steeple Langford and Hanging Langford in the category of a “small village”, which is suitable only for “infill” within the existing, built up area (Core Policy 2). Infill is defined in the WCS as the filling of a small gap within the village that is only large enough for not more than a few dwellings, generally only one dwelling. Little Langford, East Clyffe, Ballington and Bathampton are considered to be countryside for the purposes of planning policy. There is a general presumption against new development in the countryside, unless material considerations indicate otherwise. This VDS is consistent with and supports the Wiltshire Council Core Strategy.

## 2. History and Life in the Langfords

### 2.1 Location

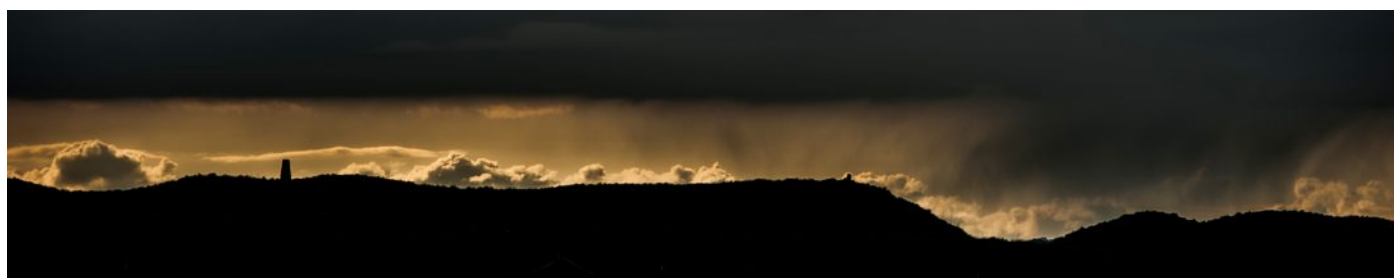
The Langfords lie in South Wiltshire in the picturesque Wylde Valley with the western boundary almost equidistant between Salisbury and Warminster. (See maps in Section 6). Steeple Langford is on the north side of the river with Hanging Langford and Little Langford on the south side. The great majority of existing development is between the line of the A36 to the north and the railway line to the south; however, the parish boundary as illustrated on the map, extends to include large areas of farm land and ancient archaeological sites.



*Beside the old A36 at East Clyffe*

### 2.2 Historical Background and Archaeology

Archaeological evidence for the occupation of the landscape, surrounding the villages and within parish boundaries, from the Neolithic period has been recovered from many sites within the parish. Neolithic stone tools, Bronze Age barrows, the Iron Age camp at Yarnbury Castle and field systems show that there was considerable prehistoric activity in the area. Grims' ditch is an important monument above the southern boundary. Yarnbury was occupied during the Roman period but it is likely that by this time most settlement was concentrated along the river valley, as it is today.



*Yarnbury Castle*

The earliest documentary evidence to Steeple Langford dates from 943AD and the Domesday Book (1086) provides the first specific reference to the then estate.

From the medieval period sheep and corn farming dominated the agriculture of the parish, in common with most chalk downland parishes. In the early 14th century the land of the manor was separated from that of the tenants whose arable strips were located in three open fields. As was the case on many chalk land manors across Wiltshire and Hampshire, large land holdings were being created as farms were amalgamated. This occurred largely in the parish in the early 19th century.





The key historic influences of the parish are summarised as:

- An important fording point of the river
- Medieval water management systems and the mill
- A series of farm complexes
- Regular plots, in part, denoting a planned settlement at least from the medieval period
- Amalgamation of farms in the 19th century which transformed the landscape and had a significant effect on the villages

### 2.3 Recent History

The parish's early existence was built on farming and employment on the land and trades supporting agricultural work. While agriculture and estate management continues to be important to the local economy and setting of the parish, it provides relatively little employment to today's parish community. As with similar parishes, employment patterns have changed with modern economic activity and a larger percentage of working people travel outside the parish to their employment.

Notable changes in more recent history have included:

- The opening of the railway in June 1856 resulted in a growth in population in Hanging Langford, although the halt closed in October 1857.
- Building the first bridge over the River Wylfe in Duck Street in the late 19th century.
- The Langfords Parish Hall at the junction of Duck Street and Wylfe Road was opened as a new reading room in 1915 to replace the reading rooms in Steeple Langford and Hanging Langford.



*New Bridge Construction 2016*



*Parish Hall*

- The extraction of gravel in the mid 20th century created the lakes in the valley bottom, much of which is now part of the Wildlife Reserve.
- The water table was lowered during WW2 by the dredging of parts of the River Wylfe as part of the nation's defences should Great Britain be invaded.



*Wiltshire Wild Life Reserve*



*River Wylfe*





*Cricket match on the Recreation Ground*



*A36 bypass*

- The recreation ground was opened as a sporting facility after WW2.
- The A36 bypass around Steeple Langford was opened in January 1989.

## 2.4 Infrastructure

At present there is little infrastructure within the parish. The last shop in Steeple Langford closed in the early 1990s and the primary school closed in 2010. The nearest shop is in Wylde some 1.5 miles away which is a small village shop and post office which is only open in the mornings; otherwise, apart from the garage shop in Stapleford, the nearest shop for daily needs is in Codford. The nearest primary schools are in Codford and Great Wishford some 5/6 miles away. The closest doctors' surgeries are in Codford and Wilton and a dental practice in Wilton. The nearest Veterinary Surgery is in Codford.

The Wiltshire Council Library van provides a regular service to the parish. The day centre in Edgars Close, Steeple Langford, provides a much valued facility for the elderly of the parish and neighbouring parishes.

The remaining Public House is the "Rainbow" in Steeple Langford, following the closure of the Railway Tavern in Hanging Langford in 1966 and the Bell Inn in Steeple Langford in the early 1990s.

All Saints Church in Steeple Langford was dedicated in 1326 and the Church of St Nicholas of Myra in Little Langford has features believed to date back to circa 550. The Methodist Chapel in Hanging Langford was closed in 1960 and is now



*All Saints Church  
Steeple Langford*



*Church of St. Nicholas of Myra  
Little Langford*

incorporated into a private house. Regular weekly services are held in All Saints Church and regular monthly services in St Nicholas of Myra

Salisbury and Warminster, which offer market town facilities, are some 10 and 11 miles away respectively.

The key components of the parish infrastructure are described in the table below:

Village	Church	Shop	School	Doctor Dentist	Bus	Rail	Pub
Steeple Langford	Yes	No	Private Nursery School	No	Hourly till 6pm to Salisbury & Warminster and Bath.	No	Yes
Hanging Langford	No	No	No	No	Regular 'Shopping bus' to Salisbury 3 times a week	No	No
Little Langford	Yes (Monthly)	No	No	No		No	No

## 2.5 People and Employment

*The evidence for this section of the VDS is drawn from the 2011 Census and the Housing Needs Survey conducted by Wiltshire Council in February 2015.*

### People

The population in 2011 was 515 comprised of 234 households. 99% of the population regard their homes as their main homes, from which it is possible to conclude that there are very few second homes or holiday lets in the parish.

The 2011 Census data for Steeple Langford indicates that 64.5% of households in the parish were owner-occupying with the remainder living in rented housing provided by social or private landlords. This pattern of owner-occupiers being in the majority is reversed in Little Langford where 3 houses are owner-occupied with the majority owned and let by Wilton Estate. The 2011 Census also recorded 34 affordable homes in the parish. Affordable homes being defined as properties available to rent at up to 80% of the market rate. However, the figure of 34 includes 19 properties in Edgars Close, which are restricted to those over 55 years of age. While the overall figure of affordable housing is in line with the County 2011 average, the 2015 housing needs survey identified a shortage of affordable housing and shared ownership starter homes. Residents have expressed a wish for some development to close the gap in identified need and a group of parishioners is working to realise that ambition.

The population has grown slowly over recent years as housing stock has increased by infill. Some 65% have lived in the Langfords for over 10 years. The age profile is mixed; however, 38% are aged 65 years and over, with 31% aged between 45 and 64 years suggesting an older age profile than the norm.

### Employment

Employment opportunities within the parish are limited and consist of farm and estate work, offices and light industrial units at the former farm buildings at East Clyffe and the properties at Ballington Manor. Working from home improved with the arrival of higher speed fibre optic broadband in 2014.



The distances travelled to work were surveyed in 2015. The following table summarises the results of that survey by showing how far people in the respondents' households travelled to work:

Persons in household	Distance to work in miles				
	Up to 2	3 to 10	11 to 50	Over 50	Total
Person 1	12	14	23	8	57
Person 2	5	13	18	2	38
Person 3	0	3	1	1	5
Person 4	0	0	0	0	0
Person 5	0	0	0	0	0
Total	17	30	42	11	100

Of the respondent households 47% of working members usually travel less than ten miles to their place of work, 53% travel more than that, suggesting a lack of local sources of employment.

### 3. Conservation and Preserving the Character of the Villages

#### 3.1 Description of the dwellings and villages

Although there are differences in the various villages they are all of mainly ribbon development with dwellings adjacent to the main access roads and, apart from the "Wirr" and Berwick Lane in Steeple Langford, with only a few houses in cul de sacs or short access roads. In most parts of the villages the houses front on to the road and have open views across farmland to the rear.

The settlement pattern of the villages is notable for being compact and contained within the valley resulting in an unobtrusive appearance within the overall setting. This preserves the views and vistas



across wide areas of attractive countryside from both within and outside the settlements. The intimate scale of the settlements, the quality of the houses (with only a few exceptions), the quiet tranquillity and semi-rural character all contribute to attractiveness of the parish.

With the exception of established manor houses, most dwellings are single or double story with pitched roofs of tiles, slates or thatch. The majority have enclosed gardens to the front and rear of the property with space to park a number of cars. Any new development should blend with the layout and height of existing buildings, window design and proportions and the use of appropriate materials for cladding buildings and roofs.

Although Steeple Langford has continuous pavements alongside the former A36 and The Wirr, the remaining roads do not have pavements. There is no street lighting.



### 3.2 The Effects of Change and Development



As the villages of the Langfords have developed and increased in size over past times, particularly in living memory, a diverse variety of design and building materials were introduced. This includes varieties of brick, stonework and roof cladding. Some of the past development has not been sympathetic to the overall character of the villages, although some buildings of considerable character and historical interest remain and continue to enhance the attractiveness and distinctiveness of the parish. Many of these buildings have been accorded listed status.

Future development in Steeple Langford and Hanging Langford will be controlled by policies in the WCS, which is the Local Plan adopted in 2015. Both Steeple Langford and Hanging Langford have designated conservation areas within the villages. Core Policy 58 of the WCS seeks to ensure that designated heritage assets, such as conservation areas, are conserved, and where appropriate, enhanced.

### 3.3 Development on or Close to the Flood Plain

During the winters 1999/2000 and more recently 2013/2014 Steeple Langford Parish suffered flooding as ground water levels rose through those wet winters. The meadows in the valley bottom were under water for long periods, as the River Wylfe overflowed its banks and the resulting water swept





down the valley. There was flooding in Duck Street (between Steeple Langford and Hanging Langford) and in Wylve Road in Hanging Langford, which resulted in their becoming impassable to some vehicles. Some properties were flooded, particularly in the 1999/2000 winter both in Steeple Langford and Hanging Langford. It was noted that, particularly in Hanging Langford, springs appeared as the hills to the south of the village became saturated.

The WCS (Core Policy 67) deals with flood risk issues and should be used as the appropriate policy reference document. One of the keys to managing the flood risk successfully is the maintenance of drainage systems throughout the parish to allow excess water to flow downstream. This is particularly important since the historical system of sluice gates and drainage channels which diverted water on to the meadows was abandoned as a means of medieval flood control.

A map of the Flood Plain is shown on Page 17.

### 3.4 Designated Conservation Areas

The Steeple Langford Conservation Area Appraisal and Management Plan 2009 explains that conservation areas are designated in recognition of an area's special qualities, which are to be safeguarded as an important part of the south Wiltshire's heritage through strengthened planning controls and guidance. It is the accumulation of an area's positive architectural or historic attributes, rather than just the quality of its individual buildings. The Conservation Area's attributes include the landscape setting of the area, the groupings of traditional and listed buildings (such as Little Langford Farm), the scale, design, type and materials of the buildings; historic boundaries; landmarks, views and vistas; and the present and former pattern of activities or land uses.

A map of the Designated Conservation Areas is on Page 17.

Key conservation characteristics of the parish are described as:

- An attractive and tranquil riverside setting
- Extensive use of the local Chilmark type limestone
- Some mixed use of buff and red bricks in 18<sup>th</sup> century buildings
- Stone and cob boundary walls that tie groups of buildings together and define boundaries
- The distinctive regional vernacular tradition of chequer work walling; particularly stone and flint.
- Survival of key groups of historically important buildings: e.g. the churches, manor houses and former rectory, Little Langford Farm and mill houses.
- The visually striking lead broach spire to the All Saints Church which is seen from many views within the parish and surrounding countryside
- The churchyard at Saint Nicholas of Myra in Little Langford is managed as a wild flower meadow rather than simply cutting the grass





- Important groups of trees that penetrate and punctuate the built areas
- The ever present ridge lines to the south and particularly the north that give the valley the sense of enclosure
- Interesting and unusual groups of cottages such as Church Cottages in Steeple Langford



- The character of the surrounding countryside, which has been shaped by farming and the shooting estates that have maintained wooded areas and hedgerows



There are no Scheduled Monuments in or immediately adjacent to the conservation areas.

### 3.5 Listed Buildings

The parish has many listed buildings and structures ranging from manor houses, farm buildings, walls and monuments in graveyards. Historic England maintains the record of listed buildings and structures, which can also be found at

[www.historicalengland.org.uk](http://www.historicalengland.org.uk).

The rules governing the management of listed buildings provide a further control mechanism when considering planning issues and hence helping to retain some of the character of the built environment and the conservation areas. The Planning (Listed Buildings and Conservation Areas) Act 1990 also sets out statutory



requirements for preservation of the character of listed buildings, and are separate from planning controls.

One of the most prominent and well known listed buildings is the All Saints Church, Steeple Langford, which has Grade I status and is in the heart of Steeple Langford village. The Church of Saint Nicholas of Myra in Little Langford is Grade II\* status. There are Grade II listed buildings and structures at Steeple Langford, Hanging Langford, Little Langford, Ballington and Bathampton.

The listed buildings status maintains the richness of the built environment through not only preserving the character and style of buildings but also the views and vistas enjoyed by the whole parish community and visitors. They are also a living memorial to our rich history.

### **3.6 Architecture and Materials**

The following are guidelines to preserve the character of the local surroundings which also help to protect the future without being too onerous in restricting innovation in energy efficiency and use of materials from sustainable resources.

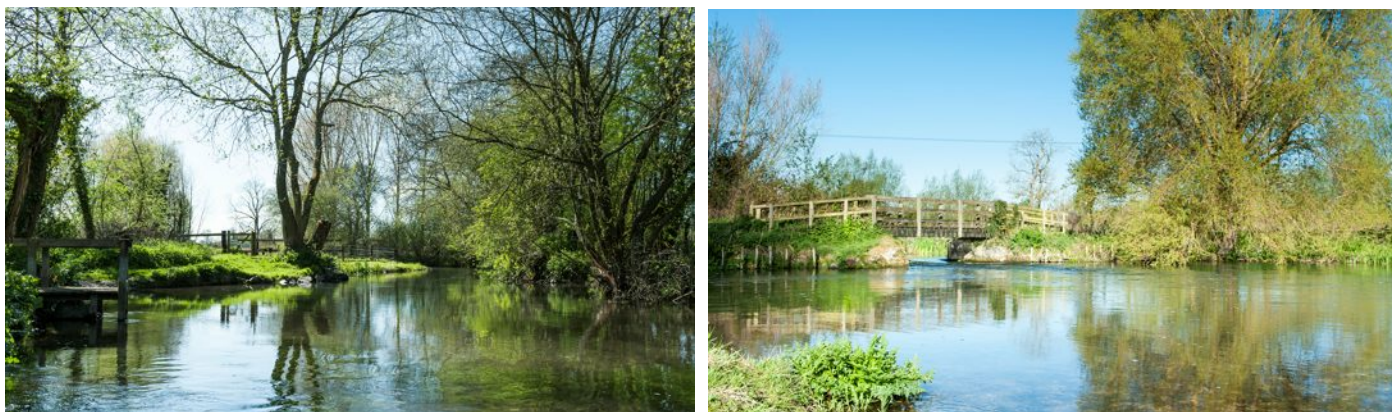
- Where development is permitted, either within or outside the conservation areas, the materials used to clad and roof buildings should match or at least blend in with neighbouring or nearby buildings. This is especially important in proximity to listed buildings. Recent examples of new houses using modern construction design, which have been clad in local limestone and flint, have successfully blended with older buildings without compromising the use of modern materials and building techniques that enhance energy efficiency.
- The underlying and ever present use of local Chilmark –type stone in houses, outbuildings, boundary walls, (examples being the former school and All Saints Church) is often combined with flint to form chequerwork.
- Roof lines should match the levels and material of neighbouring buildings.
- Any new development should include off road parking sufficient for the number of cars likely to be parked at properties of a particular size. (e.g. 4 bedroom 2/3 cars)
- Gardens that are fenced or hedged are preferred to open plan except in the Wirr, which has already been built as open plan frontage.
- Any new development should be designed to hide power and other cabling feeding into new properties thereby reducing the visible overhead network of cables.
- New housing should have pitched roofs rather than flat roofs.
- Windows should match the scale and proportion of neighbouring buildings.
- Buildings should be of similar size and spacing as existing dwellings (single, one point five and two storey buildings).
- New buildings should respect the existing townscape and layout of the villages.
- Consideration of the sewage and waste water disposal options and capacity since this has historically been a problem in the villages



## 4. Wider Conservation including and beyond Designated Conservation Areas

### 4.1 Setting

Most of the parish is in the Cranbourne Chase Area of Outstanding Natural Beauty (AONB), and much of the developed areas in the villages are within conservation areas. The River Wylde flows through the heart of the parish and with the meadows alongside the river form a flood plain, which is prone to flooding in wet winters as ground water levels rise. The flood plain provides a natural restriction on development in low lying areas and should not be built upon.



The River Wylde and its associated mill streams and carrier streams throughout the parish are designated as Sites of Special Scientific Interest (SSSI). The River Wylde is a chalk stream, which is largely spring fed and is not a spate river. Other SSSIs within the parish include Yarnbury Castle, Little Langford Nature Reserve (under Grovely Wood) and parts of the Ballington Estate.

There is a finely balanced ecosystem, particularly in the river valley, where the considerate management of public access alongside conservation and protection of the wildlife is critical to the value and character of the parish.

**No development should be permitted where the balance of this eco system may be damaged and lost forever.**

See the maps illustrating the AONB and SSSIs on Page 18 and the Flood Plain and Conservation Areas on Page 17.

The lakes that lie alongside the river, between Steeple Langford and Hanging Langford are former gravel pits which are spring fed. One of the lakes is used for coarse fishing while the remainder form the Langfords Nature Reserve owned by the Wiltshire Wildlife Trust.

There are areas of land and stretches of the river margins that are managed under the Countryside Stewardship Scheme. This scheme encourages conservation and the maintenance of delicate bio-diversity.

The views and vistas from within the villages and the surrounding areas of the Wylde Valley and the high ground to the north and south form much of the valued character of the parish. Wherever possible the compactness of the villages and settlements should be maintained and the surrounding countryside unspoilt by development.

## 5. Amenities

### 5.1 Recreation and Sports

The recreation ground in Steeple Langford is owned by the Parish Council on behalf of the parish and managed by the trustees of a registered charity for the provision and maintenance of sports and recreation facilities. There is a high quality cricket field, which attracts matches beyond the local leagues, space for a soccer pitch, a single tennis court, a children's play area and a sports club single storey building. The parish hall hosts table tennis and a youth club.

All of these sports and recreational activities are run by teams of very hard working volunteers who provide a service to the community, which is valued by the parish and beyond.

The River Wylde is recognised as a classic chalk stream with a good head of trout, grayling and other species of fish. There are several beats within the parish boundaries maintained by riparian owners. There is also the Langford Trust water (see 5.3) and the Wiltshire Wildlife Trust provides fishing on the river through their reserve.

The C10 road that runs through Little Langford and Hanging Langford is part of Route 24 of the National Cycleways.

### 5.2 Rights of Way

A feature of the Langfords and the areas of open countryside in which it sits is the extensive myriad of Rights of Way that crisscross the parish and provide routes through and beyond to neighbouring parishes. Many of these routes can be traced back into distant history. These include byways, restricted byways, bridle paths, footpaths and permissive paths.

The preservation of this network of routes to which the public have access is regarded as essential to retaining the character of the parish.

A map of these routes is shown on Page 16.





### 5.3 Open Spaces and Public Access

Most of the farmland and managed estates cannot be regarded as open spaces due to private ownership, farming activity and game shooting. However, as can be seen from the map of the rights of way the access through these areas is greater than in many similar sized parishes.

The Langford Trust owns and manages a section of land and the river in the middle of the parish (between Duck Street and Maskell's Bridge) with the dual aim of conservation and public access. This Trust also provides access to river fishing at a much reduced cost particularly for local youth wishing to learn the arts of fly fishing.

The Upper path alongside the river between Hanging Langford and Steeple Langford is a popular walking area.

The recreation ground is a much valued amenity for residents of all age groups, which is an open space except on the sports pitches during games.

Wiltshire Wildlife Trust owns and manages the nature reserve based on the spring fed lakes formed from the old gravel pits and Salisbury District Angling Club provide fishing on the other remaining lake.

### 5.4 Allotments

There are allotments in Steeple Langford and Hanging Langford.

The Steeple Langford allotments are on land bequeathed to the parish in the early 20<sup>th</sup> century for use in the relief of the poor and needy of the parish. These allotments are currently run as a charitable trust and the site is managed by trustees and includes individual allotment plots for residents to hire and a community orchard planted in 2013.



The Hanging Langford allotments are owned and managed by the Parish Council and plots are available through annual rent by residents of the parish and residents of neighbouring parishes should there be insufficient uptake from Langfords' residents.

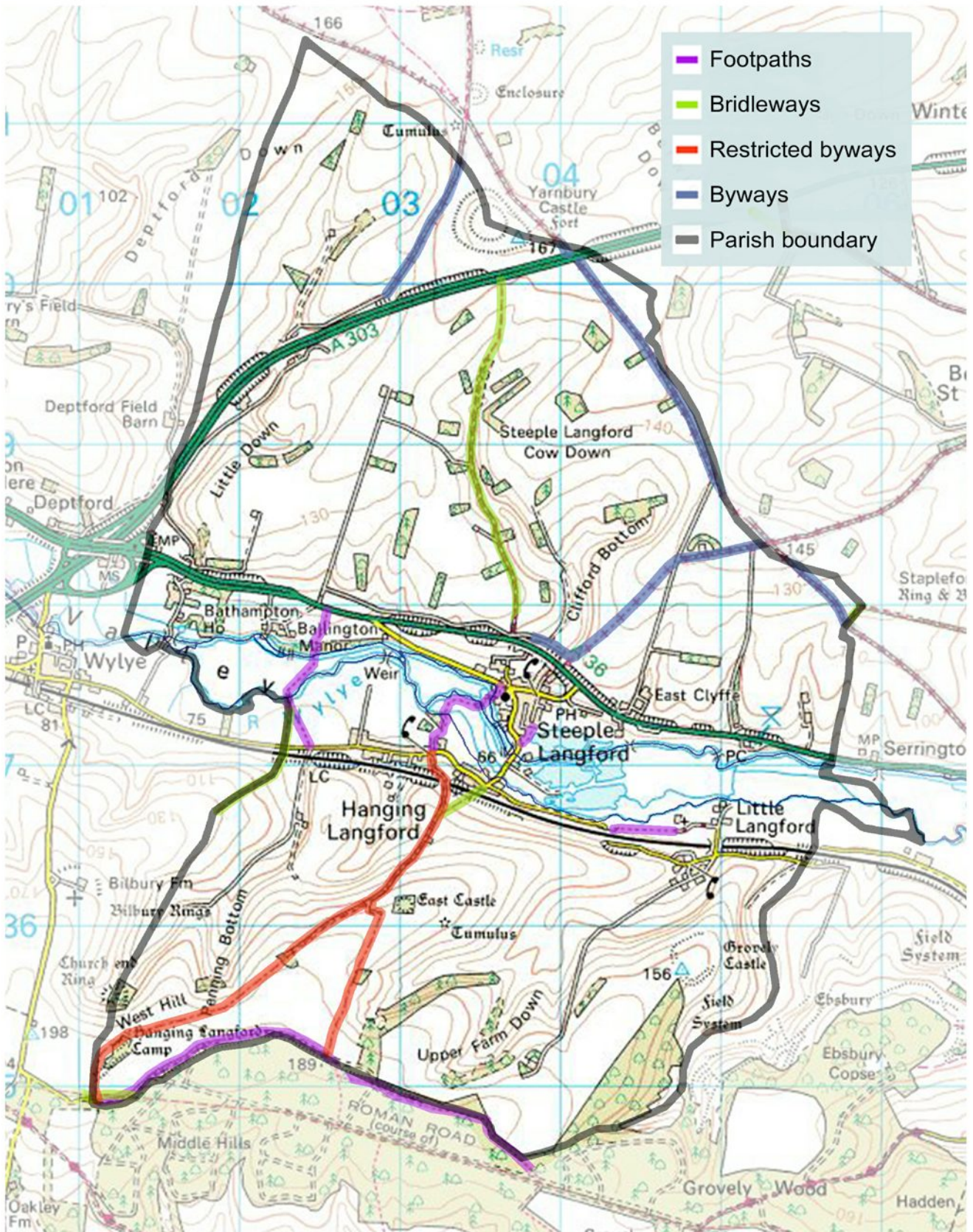
### Conclusion

This document should be used to help inform the development of the parish over the coming years with a view to enhancing the excellent features identified and encouraging change, which supports a viable and sustainable community.

The wish is to retain the best whilst improving the weaknesses.

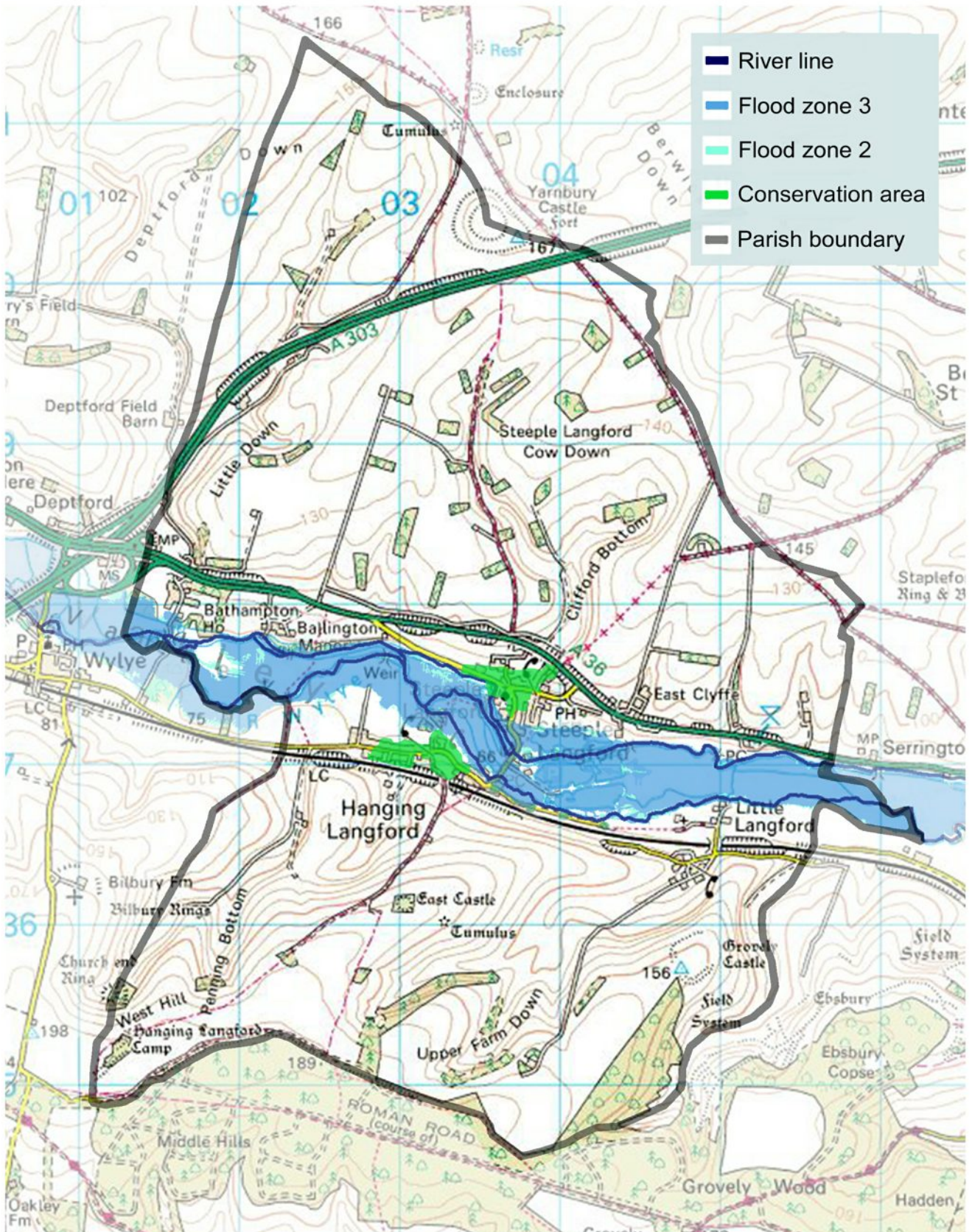


## 6.1 Rights of Way



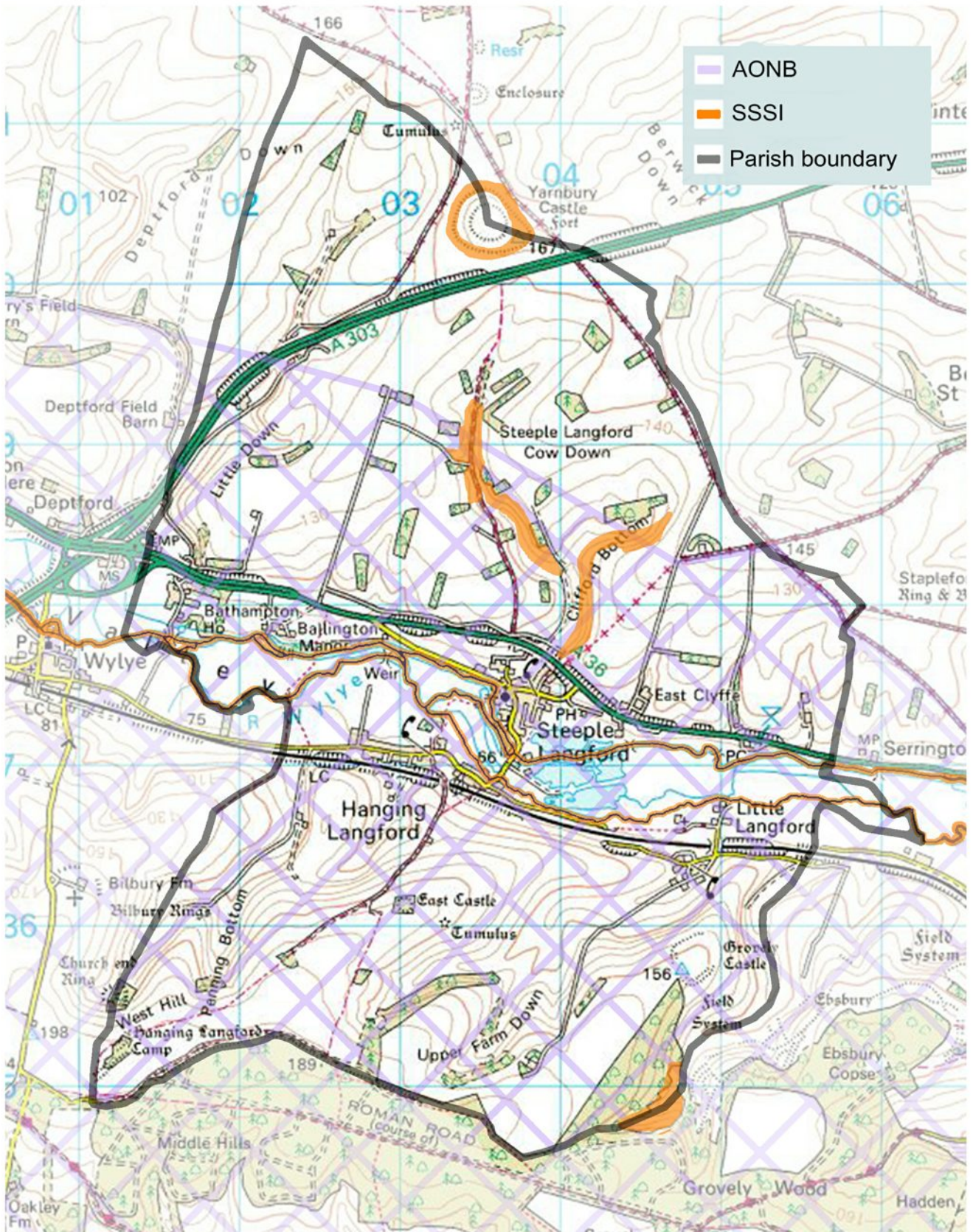


## 6.2 Flood Risk and Conservation Areas





### 6.3 Areas of Outstanding Natural Beauty and Sites of Special Scientific Interest



WILTSHIRE COUNCIL

AGENDA ITEM NO.7

SOUTHERN AREA PLANNING COMMITTEE

12 January 2017

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## WILDLIFE AND COUNTRYSIDE ACT 1981

### THE WILTSHIRE COUNCIL DURNFORD PATHS 8, 25 AND 26 RIGHTS OF WAY MODIFICATION ORDER 2016

#### Purpose of Report

1. To:
  - (i) Consider the one representation and one objection received to the making of The Wiltshire Council Durnford Paths 8, 25 and 26 Rights of Way Modification Order 2016 made under Section 53 of the Wildlife and Countryside Act 1981.
  - (ii) Recommend that the Order be forwarded to the Secretary of State for Environment, Food and Rural Affairs for determination and that Wiltshire Council supports the confirmation of the Order as made.

The Order is appended at **Appendix 1**.

#### Relevance to Council's Business Plan

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

#### Background

3. In August 2015 Wiltshire Council received an application for an Order to modify the definitive map and statement by adding a bridleway and upgrading a short section of footpath No. 8 to the bridleway at Great Durnford.
4. The application was supported by the evidence of twenty eight users of the entire route and four users of part of the route. Users had used the route variously on foot, on a horse, on a bicycle and in one case, with a pony and trap. The use extended back to 1957 in one instance and other users had used it for varying lengths of time since then. All users reported encountering other users of the path.
5. The claimed route is a well defined route that is used by the landowner and tenant with vehicles and links bridleway Durnford 4 (Woodway) with footpath Durnford 8 and bridleway Durnford 10. It is essentially a north south route linking other routes over land between Great Durnford and the A345. The route as a defined feature is not thought to have historic origins and is only recorded in part by the Ordnance Survey in 1939.

6. The land over which it passes is in the ownership of the Durnford Estate.
7. The application relies on the acquisition of public rights by uninterrupted use that is 'as of right' (that is, without force, permission or secrecy), more particularly by deemed dedication under s31(1) of the Highways Act 1980.
8. The land forms part of the Durnford Estate which has passed from one owner to another on three occasions since the end of the last century (1999). Although there is no evidence before the Council that any owner of the land undertook any overt acts to indicate to the public that they had no intention to dedicate public rights over the land before 2004, the owners of the land in 2004, Julian Properties Corporation and Woodhouse Properties Inc., deposited a statement and plan for the purposes of s31(6) of the Highways Act 1980 with the Council. In 2005 they deposited a statutory declaration to the effect that they had not dedicated any further rights of way.
9. The purpose of s.31(6) is that it enables the owner of land to deposit a statement with the Council declaring what rights of way do exist over the land and then to make a statutory declaration outlining whether any rights of way have been dedicated over the land since the deposit was made. In the usual course of events the landowner has not dedicated any further rights of way and the declaration that they have no intention to do so may be taken as a break in any 20 year period of use, or, 'a calling into question'.
10. Although the deposit and statutory declaration were not made strictly in accordance with the Regulations (the plan was at the incorrect scale and the deposit statements were not dated) officers have taken the view that they still took effect and accordingly the relevant date for considering the user evidence is from 1984 to 2004, though strictly, if the date of the declaration is considered to have taken effect, the period would be 1985 to 2005. If the deposits and declarations are held not to have taken effect then the relevant period for the consideration of evidence is to be taken as 1995 to 2015 with the posting of notices and locking of the gates being the events that called the use into question.
11. Twenty seven witnesses used the route during the period 1984 to 2004 on foot, cycle and horse-back and twenty reported seeing other walkers and riders and six of these also reported seeing cyclists. Four people used the route throughout the twenty year period, two on foot and two on horse-back.
12. No incontrovertible evidence was adduced to defeat the claim that this use had been 'as of right' (that is, without permission, force or secrecy) during this period and an Order to record the claimed route as a bridleway was made. For the Council's decision to make this Order please see **Appendix 2**.
13. The Order was duly advertised and one representation and one objection were received.



## **Main Considerations for the Council**

### **14. Representation Mr M Hazzard – witness No. 2**

#### **“The Wiltshire Council Durnford Paths Nos 8, 25 and 26 Rights of Way Modification Order 2016**

*With reference to the above footpaths, I would like it to be noted that I have not worked on Great Durnford Estate since 1980, but have continued to walk the paths regularly. Therefore I feel that my views should be given full consideration on this matter.”*

### **15. Objection Mr and Mrs R Turner – landowners**

#### **“Wildlife and Countryside Act 1981 s.53 The Wiltshire Council Durnford Paths Nos. 8, 25 and 26 Rights of Way Modification Order 2016**

*We act for Mr Ross James Turner and Gemma Louise Turner (‘the Objectors’), who are registered proprietors of the Great Durnford Estate (‘the Estate’) and refer to your letter dated 7 September 2016 enclosing notice of the above-named Order (‘the Order’). The Order would, if confirmed, modify the definitive map and statement for the area including the Estate by adding two lengths of bridleway and upgrading part of a path (as more particularly described in the Notice of Modification Order and the Order itself).*

*This letter constitutes our clients’ objection to the Order and we would be grateful for confirmation of receipt.*

*The Objectors agree that there is no evidence of any historic rights of way along the routes to which the Order relates.*

*The Council considered, by means of the decision report dated 23 March 2013 (‘the DR’), that the date for calling into question the rights referred to in the Order should be taken to be 2004 and that the relevant period is therefore 1984 to 2004. The Objectors agree, whilst considering that the date for calling into question should be more precisely be identified as 24 January 2005, when statutory declarations were submitted to the Council. 24 January 2005 is the strictly relevant date in this context whether pursuant to s.31(6) of the Highways Act 1980 (‘the Act’) or as a matter of fact, since the evidence amply demonstrates, as a matter of fact, that the existence of these rights was called into question at that date. This makes little or no difference overall, however, and the Objectors agree that the appropriate period for consideration of the evidence is, practically-speaking, 1985 – 2004 inclusive.*

*Consideration of the volume and consistency of the alleged user of these routes over the relevant period on horseback or cycle has been substantially compromised or undermined by the Council’s reliance on inappropriate user evidence forms. The forms were clearly intended to enable the assessment of evidence in relation to one route only, not three. Understanding some of the completed forms involves a quite inappropriate exercise of interpretation, which should not be necessary. It is also considered that the Council adopted an*

*overly broad-brush approach to the consideration of the evidence available over the period concerned, particularly having regard to the shortcomings of the evidence base.*

*Attention is drawn to the absence of support or evidence in support of the Order from any of the many bodies consulted. A more appropriate, forensic examination of the evidence available in respect of five year periods within the relevant period will show that the evidence of actual user by the very low number of persons concerned is insufficient, on the balance of probabilities, to demonstrate actual enjoyment by the public as of right without interruption for the full period of 20 years within s.31 of the Act. A presumption of dedication does not therefore arise. The shortcomings of the evidence are both quantitative (very low numbers, infrequent user) and qualitative (e.g. evidence referring to part(s) of the route and walking only, contradicting other evidence).*

*The objectors will be represented at a public inquiry in due course, when they will expand on these objections.*

*We look forward to hearing from you and to receiving details of procedural arrangements in due course.”*

### **Comments on the representation and objection**

16. Members of the Committee are now required to consider the representation and objection received.
17. The Order must be forwarded to the Secretary of State for the Environment, Food and Rural Affairs for determination and the Members of the Committee must decide the Wiltshire Council recommendation which is attached to the Order when it is forwarded to the Secretary of State, i.e.:
  - (i) that the Order be confirmed as made
  - (ii) that the Order be confirmed with modification
  - (iii) that the Order should not be confirmed

### **18. Representation**

The representation was made by Mr M Hazzard who provided evidence of his own use of the path from 1957 to 2015. During a previous consultation the landowner had pointed out to the Council that Mr Hazzard was a former estate worker and that, for the period of his employment, his evidence of use should be disregarded. The landowner had suggested that Mr Hazzard's employment ended in 1990 but Mr Hazzard has taken the opportunity of pointing out that it ended in 1980. Accordingly, all of his use within the relevant period (or indeed from 1980 onwards) may be considered not to be under any kind of licence (albeit an implied one) from his employer.

### **19. Objection**

The objector raises three areas of objections:

- (i) Lack of support or evidence from any of the bodies consulted.

- (ii) Use of inappropriate user evidence forms and interpretation by a 'broad brush' approach.
- (iii) An insufficiency of evidence.

20. (i) **Lack of support or evidence from any of the bodies consulted**

It is usual for consultations on applications that are based on user evidence to receive very little in the way of responses from any party other than the landowner and this is the case here. A response offering general support would be an irrelevant response that a consultee would be aware was inappropriate and therefore be unlikely to submit. It is also considered unlikely that an organisation that operates nationally with perhaps a Wiltshire branch would have any members within the area affected by the application. It is accepted that they may have, but it has a low probability. Applications such as this one are generally local matters and when the Council conducted the initial consultation, a number of additional user evidence forms were submitted. The original application was submitted with twenty five user evidence forms and a further seven were submitted after the consultation. Officers consider this to be a demonstration of local interest, support and use of the claimed route.

21. (ii) **Use of inappropriate user evidence forms and interpretation by a 'broad brush' approach**

It is noted that in August 2015 the applicant submitted a total of four applications for definitive map modification orders in Great Durnford and although the applications were separately made witnesses had used one evidence form to cover more than one route in cases where they had actually used more than one route. However, in cases where this had occurred, a separate map was submitted. The other three applications have been refused by the Council and it is clear that the application that gave rise to the Order before the Committee was the dominant application in terms of evidence and repute.

22. Of the thirty two user evidence forms submitted, all witnesses had used the Order route or in the case of four, part of it. Thirteen had only submitted evidence in support of the Order route and had not used the other claimed routes. All thirty two had detailed their route clearly on plans that they had annotated themselves and had gone to considerable lengths in their user evidence forms to describe precisely which path they were referring to at many points in the form.

*Examples include:*

**Witness 26** – describes the Order route as Path A "...a wide track which goes along the edge of the field. It is clearly used by farm vehicles..." and the other path as Path B "This is a track across an open field which links DURN 4 to the centre of the village. The path slopes down the hill towards the cricket pitch..." On the subject of use she records that she saw "horses and cyclists on Path A and only walkers on path B".

**Witness 3** – describes the Order routes as "1 and 2 are open farm tracks which are used for farm vehicles" and "4, 5 and 6 are paths across fields with gates and stiles...". On the subject of use she records that she saw walkers and on 1, 2 and 3 horses and on 6 people tobogganing.

**Witness 2** – describes the Order route as “Tracks no 1 and 2 on the map have always been open with no gates or barriers to prevent access” and that “3 and 4 are well used paths”. On the subject of use he records that he saw others “yes walking and horse riding on 1 – 2”.

23. Officers believe there is little or no ambiguity in the user evidence forms and although some of them require a careful analysis owing to the amount of information they contain, they test the matters arising as a result of the witnesses’ use. The user evidence forms have been in long term use by Wiltshire Council (for at least 15 years) and officers are not aware of any previous challenge to their propriety or interpretation, even including instances where users have provided evidence of having used multiple routes for a variety of uses.

24. **(iii) An insufficiency of evidence**

Officers are guided by the Planning Inspectorate’s Consistency Guidelines Section 5.

*“Sufficiency*

*There is no statutory minimum level of user required to show sufficient use to raise a presumption of dedication. Use should have been by a sufficient number of people to show that it was use by ‘the public’ and this may vary from case to case. Often the quantity of user evidence is less important in meeting these sufficiency tests than the quality (i.e. its cogency, honesty, accuracy, credibility and consistency with other evidence, etc.)”*

*“It was held in Mann v Brodie 1885 that the number of users must be such as might reasonably have been expected, if the way had been unquestionably a public highway. It is generally applicable that in remote areas the amount of use of a way may be less than a way in an urban area.”*

25. The user evidence forms submitted form a cogent, credible and consistent body of evidence when viewed in the context of the order route; that is, a rural route in an area of sparse habitation. The parish of Great Durnford had a population of 372 in 1981 and 348 in 2001. Given the rural spread of the parish the population of the village itself would inevitably have been even lower than that. In the event that users from outside of Durnford used the path (more likely with riders or cyclists) it would have been difficult for them to be identified or to have heard about the application.
26. Equally, the number of horse riders in the area will be substantially lower than the number of walkers and officers consider the equestrian use demonstrated by the user evidence forms is likely to represent the level of use for any accessible bridleway in the area.
27. Twenty four of the twenty seven users consider that the landowner was aware of their use and variously refer to, for example; “frequent meetings with previous owners”, “very often I would pass the previous owner”, “there are horse marks and droppings”, “there is evidence of horses”, “have met the previous owner on the path”, “hoof marks and droppings from horses are obvious”, “the

gamekeeper has seen me use it”, “frequently chatted to the keeper”, “yes often seen the game keeper”, “we would often ride along the track while the fields were being ploughed”, “have seen many workers and tractors working alongside the track whilst riding”.

### **Safeguarding Considerations**

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

### **Public Health Implications**

29. There are no identified public health implications which arise from the making of this Order.

### **Corporate Procurement Implications**

30. In the event this Order is forwarded to the Secretary of State there are a number of opportunities for expenditure that may occur and these are covered in paragraphs 34 to 37 of this report.

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

31. There are no environmental or climate change considerations associated with the making of this Order.

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

32. Matters relating to the equalities impact of the proposal are not relevant considerations under s.53 of the Wildlife and Countryside Act 1981.

### **Risk Assessment**

33. There are no identified risks which arise from the making of this Order. The financial and legal risks to the Council are outlined in the “Financial Implications” and “Legal Implications” sections below.

### **Financial Implications**

34. The making and determination of Orders under the Wildlife and Countryside Act 1981 is a statutory duty for Wiltshire Council for which financial provision has been made.
35. Where there are outstanding objections to the making of the Order, the Committee may resolve that Wiltshire Council continues to support the making and confirmation of the Order. The order will then be determined by written representations, local hearing or local public inquiry, all of which have a financial implication for the Council. If the case is determined by written representations the cost to the Council is £200 to £300; however, where a local hearing is held the costs to the Council are estimated at £300 to £500 and £1,000 to £3,000 where the case is determined by local public inquiry with legal representation (£300 to £500 without).

36. Where the Council objects to the Order, (i.e. it no longer supports making it) the Order must still be forwarded to the Secretary of State for determination. As in the case of a supported Order, the possible processes and costs range from £200 to £3,000 as detailed at paragraph 35 above.

### **Legal Implications**

37. Where the Council does not support the Order, clear reasons for this must be given and must relate to the evidence available. The applicant may seek judicial review of the Council's decision if this is seen as incorrect or unjust by them. The cost for defending this may be up to £50,000.

### **Options Considered**

38. Members may resolve that:
- (i) The Order should be forwarded to the Secretary of State for determination with a recommendation as follows:
    - (a) The Order be confirmed without modification
    - (b) The Order be confirmed with modification
    - (c) The Order not be confirmed.

### **Reason for Proposal**

39. Unless the objection and representation are withdrawn the Order must be forwarded to the Secretary of State for Environment Food and Rural Affairs for determination. The objection fails to adduce any further evidence for the Council to consider and relies instead upon challenging the interpretation of the evidence and of the sufficiency of use.
40. The Order was made on the grounds that the application showed that, on the balance of probabilities, public bridleway rights had been acquired over the claimed route and, in terms of the evidence before the Council, nothing has changed since that decision. Officers continue to say that in the context of a rural route some distance away from the main village settlement there is a sufficiency of evidence of use for the period 1984 – 2004 and, in the event that an Inspector considers that the s.31(6) deposit not made strictly in accordance with the Regulations had not taken effect, there is an even greater weight of evidence for the period 1995 to 2005.
41. It is usual in cases which rely upon user evidence that the Planning Inspectorate holds a public inquiry before determining the Order. This process allows evidence to be tested under cross examination to enable the Planning Inspector to form a view on its truthfulness, cogency and consistency.

## **Proposal**

42. That “The Wiltshire Council Durnford Paths Nos. 8, 25 and 26 Rights of Way Modification Order 2016” is forwarded to the Secretary of State for Environment, Food and Rural Affairs with the recommendation that it is confirmed as made.

### **Tracy Carter**

Associate Director – Waste and Environment

Report Author:

### **Sally Madgwick**

Rights of Way Officer – Definitive Map

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

None

### **Appendices:**

- Appendix 1 - Order and Plan
- Appendix 2 - Decision Report
- Appendix 2A - Summary of User Evidence

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**WILDLIFE AND COUNTRYSIDE ACT 1981**

**THE DEFINITIVE MAP AND STATEMENT FOR THE AMESBURY RURAL DISTRICT COUNCIL AREA DATED 1952 AS MODIFIED UNDER THE PROVISIONS OF THE WILDLIFE AND COUNTRYSIDE ACT 1981**

**THE WILTSHIRE COUNCIL DURNFORD PATHS Nos. 8, 25 and 26 RIGHTS OF WAY MODIFICATION ORDER 2016**

This order is made by Wiltshire Council under section 53(2)(b) of the Wildlife and Countryside Act 1981 ("the Act") because it appears to that authority that the Definitive Map and Statement for the Amesbury Rural District Council area dated 1952 as modified under the provisions of the Wildlife and Countryside Act 1981 require modification in consequence of the occurrence of events specified in section 53(3)(c)(i)(ii) & (iii) of the Act, namely the discovery by the authority of evidence which (when considered with all other relevant evidence available to them) shows –

- (i) that a right of way which is not shown in the map and statement subsists or is reasonably alleged to subsist over land in the area to which the map relates, being a right of way such that the land over which the right subsists is a public path, a restricted byway or, subject to section 54A, a byway open to all traffic;
- (ii) that a highway shown in the map and statement as a highway of a particular description ought to be there shown as a highway of a different description;
- (iii) that there is no public right of way over land shown in the map and statement as a highway of any description, or any other particulars contained in the map and statement require modification.

The Authority have consulted with every local authority whose area includes the land to which this order relates.

The Wiltshire Council hereby order that:

1. For the purposes of this Order the relevant date is the 24<sup>th</sup> August 2016
2. The Definitive Map and Statement for the Amesbury Rural District Council Area dated 1952 as modified under the provisions of the Wildlife and Countryside Act 1981 shall be modified as described in Parts I and II of the Schedule and shown on the plan attached to the Order.
3. This Order shall take effect on the date it is confirmed and may be cited as the Wiltshire Council Durnford Paths Nos. 8, 25 and 26 Rights of Way Modification Order 2016

**THE COMMON SEAL of  
WILTSHIRE COUNCIL was  
hereunto affixed this 1st day  
of September 2016** }

**in the presence of:**

*Kanulise*  
**Senior Solicitor**



## SCHEDULE

### PART I

#### MODIFICATION OF DEFINITIVE MAP

<b>Parish</b>	<b>Path No</b>	<b>Description of footpath to be upgraded to bridleway</b>	<b>Modified under Section 53(3) as specified</b>
Durnford	8	<p>That length of path leading from point B to point C as shown on the plan attached hereto by a broken line with cross bars in the intervals.</p> <p>Approx. length = 135 metres Width = 3.3 metres</p>	53(3)(c)(ii) & (iii)
<b>Parish</b>	<b>Path No</b>	<b>Description of bridleway to be added</b>	<b>Modified under Section 53(3) as specified</b>
Durnford	25	<p>That length of path leading from point A to point B as shown on the plan attached hereto by a broken line with cross bars in the intervals.</p> <p>Approx. length = 450 metres Width = 3.3 metres</p>	53(3)(c)(i)
Durnford	26	<p>That length of path leading from point C to point D as shown on the plan attached hereto by a broken line with cross bars in the intervals.</p> <p>Approx. length = 200 metres Width = 3.3 metres</p>	53(3)(c)(i)

## SCHEDULE

### PART II

#### MODIFICATION OF DEFINITIVE STATEMENT

Parish	Path No	Description of path	Modified under Section 53(3) as specified
Durnford	8	<u>FOOTPATH</u> from path No. 4 320 m south east of road U/C 10048, leading through Ogbury Camp and east-south-east to OS Grid ref. SU 1498 3850 where <u>BRIDLEWAY</u> for 135 metres to OS Grid ref. SU 1511 3855 and its junction with Durnford 26 continuing as <u>FOOTPATH</u> to the Salisbury – Amesbury road A.345.	53(3)(c)(ii) & (iii)

Width 1 metre except for: SU 1498 3850 to SU 1511 3855 where 3.3 metres

Limitations and Conditions: Part subject to ploughing

Approximate length 1920 metres

Durnford	25	<u>BRIDLEWAY</u> from path No. 4 at OS Grid ref. SU 1510 3807 leading north north west to its junction with path No. 8.	53(3)(c)(i)
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Width 3.3 metres  
Approximate length 450 metres

Durnford	26	<u>BRIDLEWAY</u> from path No. 8 at OS Grid ref. SU 1511 3875 leading north to its junction with path 10.	53(3)(c)(i)
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Width 3.3 metres  
Approximate length 200 metres



**WILDLIFE AND COUNTRYSIDE ACT 1981 Section 53**

**DECISION REPORT**

**APPLICATION FOR AN ORDER TO MODIFY THE DEFINITIVE MAP AND STATEMENT BY ADDING A BRIDLEWAY LINKING DURNFORD 4 WITH DURNFORD 10 AND UPGRADING A SECTION OF DURNFORD 8 TO BRIDLEWAY**

**NB** All documents (including user evidence forms, responses to consultations and correspondence) are available to be viewed at the Council's offices at Ascot Court, Aintree Avenue, White Horse Business Park, Trowbridge; please contact Sally Madgwick on 01225 713392.

**1.0 Application**

**Application number:** 2015/07

**Application date:** 24 August 2015

**Applicant:** Nicholas Gallop  
Woodrow Cottage  
Great Durnford  
SP4 6AZ

**Application to:** Add a bridleway leading from Durnford 4 near New Buildings, going North to join Durnford 8 which it uses for a short distance, and then continues north to join Durnford 10

**Width:** 4 metres

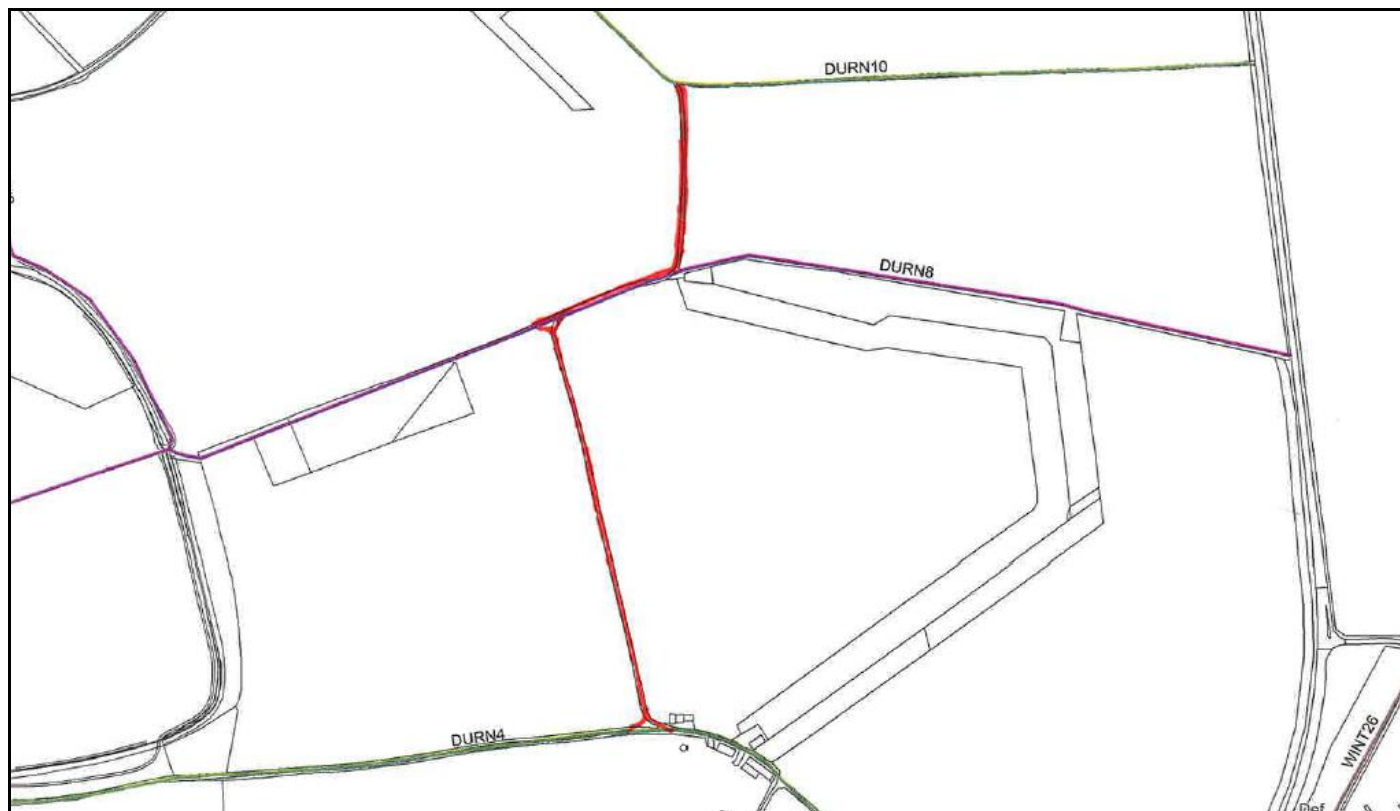
**Sch. 14 compliance:** Notice of Application for Modification Order (Form 1)  
Certificate of Service of Notice of Application (Form 3) served on Matt Gentle, Durnford Estate Manager  
Guy Rasch, Heale House, Middle Woodford  
Stephen Langdon, White Cottage, Salterton  
Plan at scale approx. 1:6000 showing claimed routes in red  
Aerial photographs showing tracks on the ground  
32 user evidence forms showing use of the route

**Basis of application:** That public bridleway rights subsist over the routes and should be added to the definitive map

**NB** This is one of four applications for DMMOs in Durnford relying on user evidence. 32 forms were adduced in total and all 32 claimed use of some or all of the claimed bridleway. See **Appendix A** for summary.



## 1.1 Extract from application map: Claimed route shown in red



## 2.0 Legal empowerment

2.1 The Wildlife and Countryside Act 1981 (c.69) s.53 (2)(b) applies:

*As regards every definitive map and statement the Surveying Authority shall-*

- (a) *as soon as reasonably practicable after the commencement date, by order make such modifications to the map and statement as appear to them to be requisite in consequence of the occurrence, before that date, of any of the events specified in subsection (3); and*
- (b) *as from that date, keep the map and statement under continuous review and as soon as reasonably practicable after the occurrence on or after that date, of any of the events, by order make such modifications to the map and statement as appear to them to be requisite in consequence of that event.*

The event referred to in subsection 2 above relevant to this case is either:

*(3)(b) the expiration, in relation to any way in the area to which the map relates, of any period such that the enjoyment by the public of the way during that period raises a presumption that the way has been dedicated as a public path or a restricted byway;*

or

*(3)(c) the discovery by the authority of evidence which (when considered with all other relevant evidence available to them) shows –*

*(i) that a right of way which is not shown in the map and statement subsists or is reasonably alleged to subsist over land in the area to which the map relates, being a right of way such that the land over which the right subsists is a public path, a restricted byway or, subject to section 54A, a byway open to all traffic.*

And/or

*(ii) that a highway shown in the map and statement as a highway of a particular description ought to be there shown as a highway of a different description;*

### **3.0 Compliance of the application**

3.1 Section 53 (5) of the Wildlife and Countryside Act 1981 (WCA81) allows:

*(5) any person may apply to the authority for an Order under subsection (2) which makes such modifications as appear to the authority to be requisite in consequence of the occurrence of one or more events falling within paragraph (b) or (c) of subsection (3); and the provisions of Schedule 14 shall have effect as to the making and determination of applications under this subsection.*

Schedule 14 to this Act states:

*Form of applications*

*An application shall be made in the prescribed form and shall be accompanied by –*

*(a) a map drawn to the prescribed scale and showing the way or ways to which the application relates and*

*(b) copies of any documentary evidence (including statements of witnesses) which the applicant wishes to adduce in support of the application.*

Schedule 14 (2) requires that notice is served on owners and occupiers of any land to which the application relates.

3.2 This application comprised the below and is considered to be compliant with the legislation.

Notice of Application for Modification Order (Form 1)  
Certificate of Service of Notice of Application (Form 3) served on  
Durnford Estate, Guy Rasch, Stephen Langdon  
Plan at scale c.1:6000 showing claimed route in red  
32 User evidence forms

### **4.0 Land ownership details**

4.1 The land over which the claimed route lies forms part of the Great Durnford Estate (around 1700 acres).

4.2 In the 20<sup>th</sup> century the land was owned by Lord Tryon being sold at the end of the century to Miles D'Arcy Irvine being registered to a number of Property Companies, namely Julian Properties Corporation, Hobson Properties SA, The Langtry International Trust Company Limited and Langtry Trust Corporation, Woodhouse Properties Inc and Great Durnford Properties.

4.3 The Estate was offered for sale again in 2013 and is now owned by Mr and Mrs R Turner. Mr and Mrs Turner are represented in the matter of this application for a DMMO by Rhoda Barnett, Countryside Access Consultant. All correspondence for Mr and Mr Turner is directed to Matt Gentle, Durnford Estate Manager, 3 The Drive, Great Durnford, Salisbury, SP4 6BA.

4.4 The land over which the claimed route leads is farmed by Heale Farms, Heale House, Middle Woodford, Salisbury, SP4 6NT and land to the east of the path linking Durnford 8 with Durnford 10 is farmed by R W Edwards and Son, Court Farm, Lower Woodford, Salisbury, SP4 6NQ.

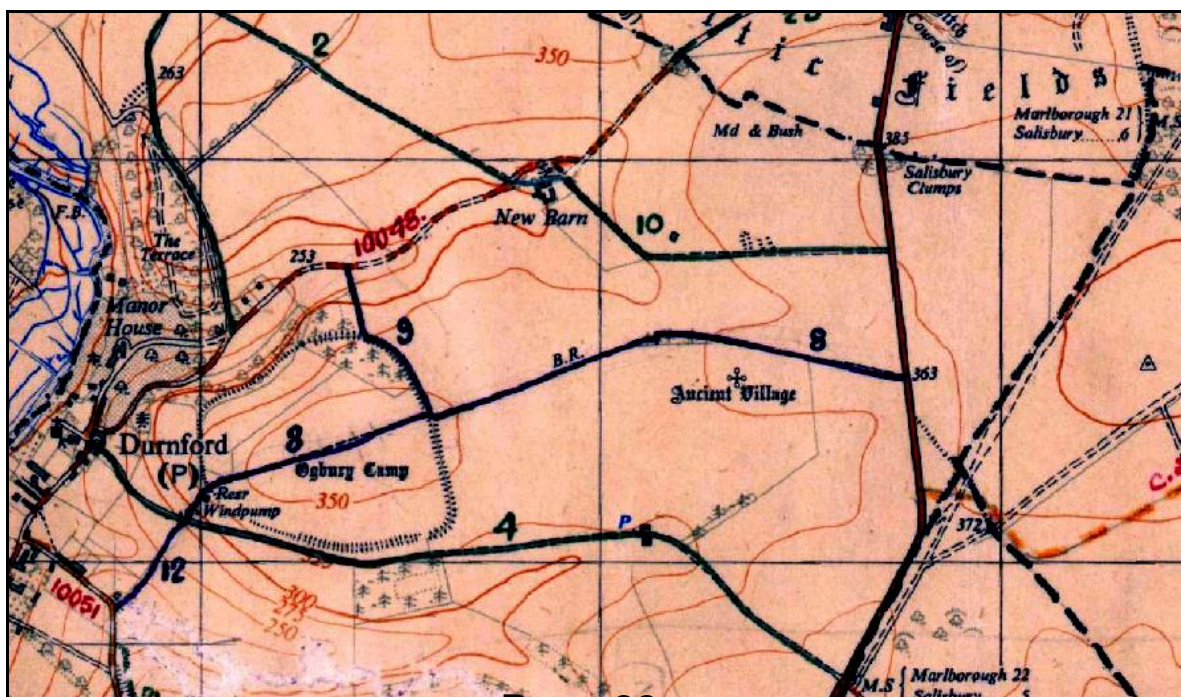
## 5.0 Description of route

5.1 The southern end of the claimed route is accessed from Bridleway Durnford 4 just west of New Buildings. The claimed route follows a well defined vehicular track leading alongside open arable land to its junction with footpath Durnford 8. This path at this point is wide and well used by farm vehicles. The claimed route leads along this footpath for approximately 140 metres (again a well used vehicular track) before leading north along another vehicular track between open arable land before joining bridleway Durnford 10. Small deviations in the route are shown at either end of the southern leg (links 4 to 8) where it is clear that access has been obtained slightly differently by vehicles depending from which direction they was travelling (see application map at 1.1 and aerial photographs at 6.2 & 6.3).

5.2 The route formed an accessible link in the bridleway network in this area (allowing users to avoid the A345) until 2015 when gates were erected across it and locked. Signage was also erected at this time ("Private Property No Public Right of Way").

## 6.0 Current Records – Definitive Map and aerial photographs

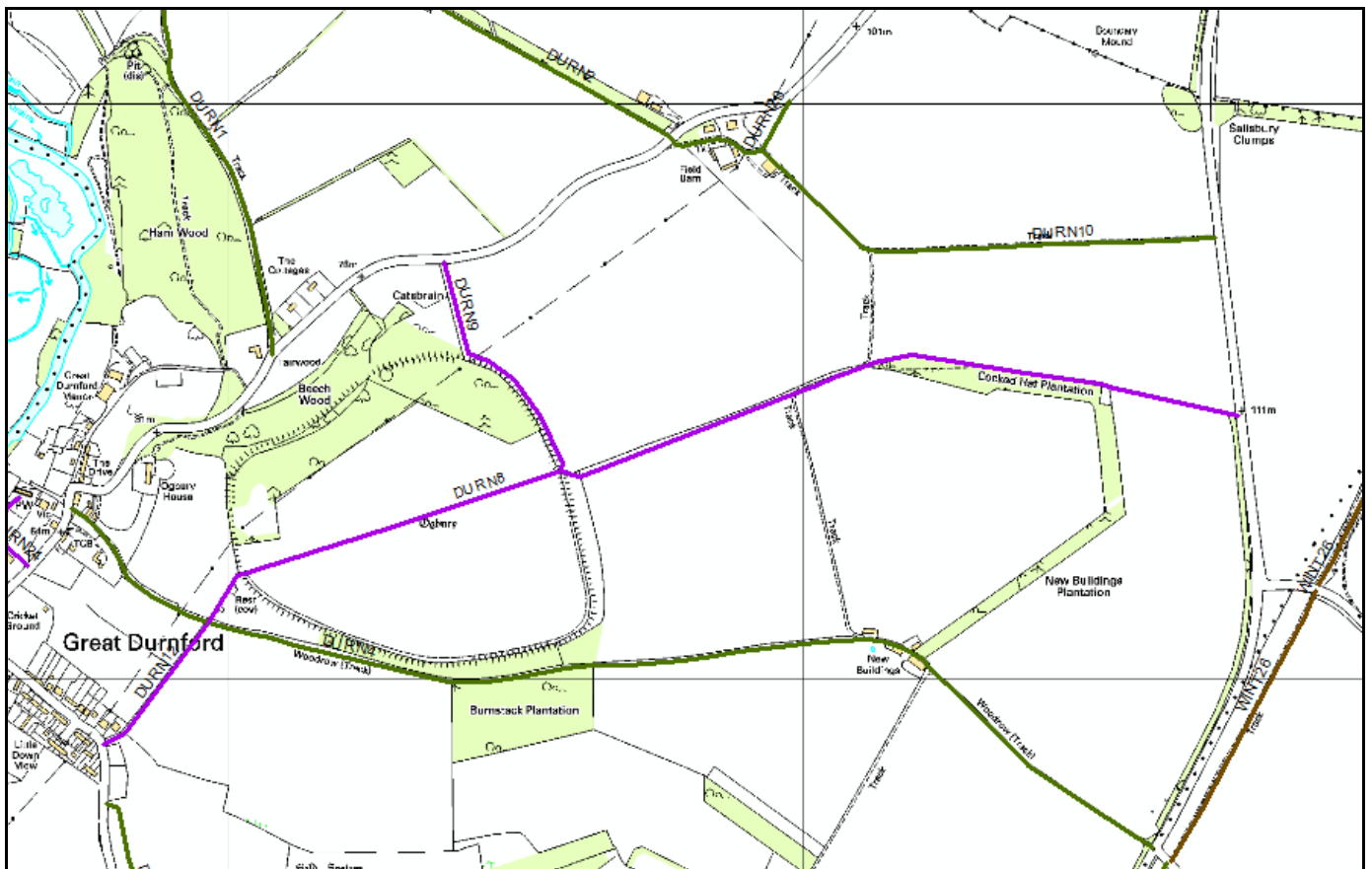
The Amesbury Rural District Council Area definitive map and statement dated 1952 shows Durnford 4 (Woodrow) in green as a bridleway (this is the subject of an Order made on 15 March 2016 to upgrade it to a restricted byway based on historical evidence), Durnford 10 in green as a bridleway and Durnford 8 in purple as a footpath.





Durnford	4	<b>BRIDLEWAY.</b> From road U/C 10048 at Durnford Church leading south-east, east and south-east to the Salisbury - Amesbury road, A.345. Approximate length 2158 m. Width 3 m.	relevant date 29th June 1993
Durnford	8	<b>FOOTPATH.</b> From path No.4, 320 m south-east of road U/C 10048, leading north-east through Ogbury Camp and east-south-east to the Salisbury - Amesbury road, A.345. Approximate length 1920 m. Width 1 m.	relevant date 29th June 1993 Part subject to ploughing
Durnford	10	<b>BRIDLEWAY.</b> From road southern end of Bridleway 2 at New Barn with a width of 4 metres leading east then south east to join Bridleway 23. The path continues with a width of 3 metres leading south east then east to the Salisbury-Amesbury road, A.345. Approximate length 1025 metres. Width 3-4 metres.	relevant date 25th September 1996

6.1 Other than a small diversion of Durnford 10 at New Barn in 1996 the routes have remained unchanged in the definitive map since 1952 (notwithstanding the March 2016 Order upgrading Durnford 4). An extract from the working copy is shown below:



6.2 Aerial photograph 2001 with rights of way overlaid: purple = footpath green = bridleway





6.3 Aerial photograph 2006 with rights of way overlaid: purple = footpath green = bridleway





6.4 Aerial photograph 2014





7.0 Site visit 24 September 2015











Claimed route towards Durnford 10



Durnford 10 at junction with claimed route looking towards New Barn





**8.0 Context of application and historical evidence** *Notes taken from Victoria County History Vol 15 (1993)*

- 8.1 Durnford is a civil parish in the Woodford Valley bounded by the River Avon in the west and the A345 in the east. Today, Durnford includes the settlements of Great Durnford, Netton, Salterton and Little Durnford. Prior to 1885, Normanton, a settlement on the west bank of the Avon formed a part of Durnford but was transferred to Wilsford in 1885. In 1986 a small part of Durnford was transferred to Woodford and land at Laverstock was added.
- 8.2 The population of Durnford was 553 in 1861 falling to 380 by 1891. In 2011 the population was 368.
- 8.3 The demesne lands of Great Durnford manor appear to have lain in severalty south and east of Ogbury Camp. There were three open fields (in 1412 there was East (later called Woodrow), Middle and North, all of about 100 acres. Additionally there was a cow down and a sheep down, possibly including Ogbury Camp and Catsbrain Hill. This land was inclosed by Private Act dated 1793.
- 8.4 The right of way now recorded as Durnford 4 (Woodrow) appears to have been in existence since at least 1675 and was awarded to the public as a Public Carriage Road and Driftway at the Inclosure of Durnford North End tything and formed a route linking the village centre of Great Durnford with the road linking Salisbury and Marlborough. The rights of way Durnford 8 and 10 do not appear to have been historically significant at that time.

**Historical Documents**

- 8.5 Regardless of the application being based on recent evidence of use the council must consider all available evidence relating to a route and this may relate to a dedication at common law or by statute law at some time in the past. Historical evidence may be considered by virtue of Section 32 of The Highways Act 1980 (below):

*A court or tribunal, before determining whether a way has or has not been dedicated as a highway, or the date on which such dedication, if any, took place, shall take into*



*consideration any map, plan or history of the locality or other relevant document which is tendered in evidence, and shall give such weight thereto as the court or tribunal considers justified by the circumstances, including the antiquity of the tendered document, the status of the person by whom and the purpose for which it was made or compiled, and the custody in which it has been kept and from which it is produced.*

## 8.6 Inclosure

Between 1545 and 1880 the old system of farming scattered arable strips of land and grazing animals on common pasture was gradually replaced as landowners sought to improve the productivity of their land. The process of inclosure began by agreement between the parties concerned, although locally powerful landowners may have had significant influence on the outcome. By the early eighteenth century, a process developed by which a Private Act of Parliament could be promoted to authorise inclosure where the consent of all those with an interest was not forthcoming. The process was further refined at the beginning of the nineteenth century with the passing of two main general acts, bringing together the most commonly used clauses and applying these to each local act unless otherwise stated.

8.7 Land at Durnford Northend was enclosed by a private act made in 1793 entitled “An Act for dividing and allotting Certain open and Common Fields, Downs and other Commonable Lands and Grounds in the Parish of Durnford in the County of Wilts”. 33 George III, C.43 (The National Archive HL/PO/PB/1/1793/33G3n139). The award viewed is held by Wiltshire and Swindon History Centre Catalogue reference EA36

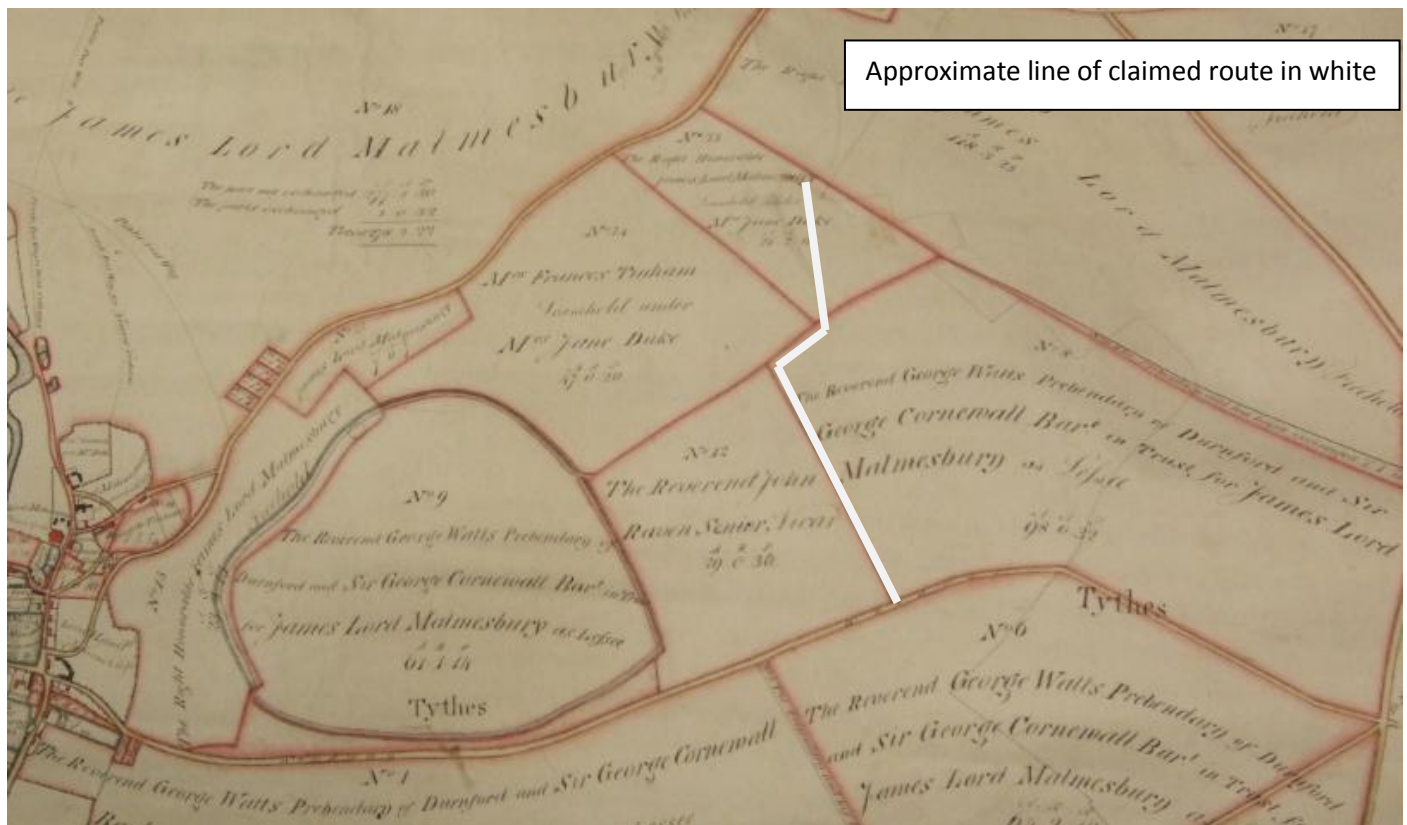
8.8 The award is dated 1794 and has a map dated 1793 attached. The map is entitled “A Map of the North End Tything and Manor of Hungerford Durnford in the County of Wilts as divided and allotted 1793”. It is drawn to the scale of 6 chains to one inch.

8.9 The map has a key:

*“The boundaries of the Allotments of the several Proprietors are coloured Red; Those of the Old Inclosures exchanged, Blue; the Roads, Brown; The Houses Deep Red; and the Outbuildings Black: The Numbers in the several Allotments and exchanged Premises, refer to the Numbers in the Margin of the Award.”*

8.10 The claimed route is not shown on the map or mentioned in the award. The line of the claimed route appears to run along the boundary of newly created fields No12 (The Reverend John Raven Senior) and No 8 (The Reverend George Watts Prebendary of Durnford and Sir George Cornwall Baronet in trust for James Lord Malmesbury) along another allotment boundary (which appears to have later become footpath Durnford 8) to cross allotment No 33 to join another allotment boundary the line of which corresponds to Bridleway Durnford 10.

### 8.11 Extract from Award map:



8.12 The only other large scale map of Durnford relating to the period before 1850 is the tithe Map. However, this does not cover the North End tything (as tithes here were commuted at inclosure).

### 8.13 Ordnance Survey 1:2500 Maps

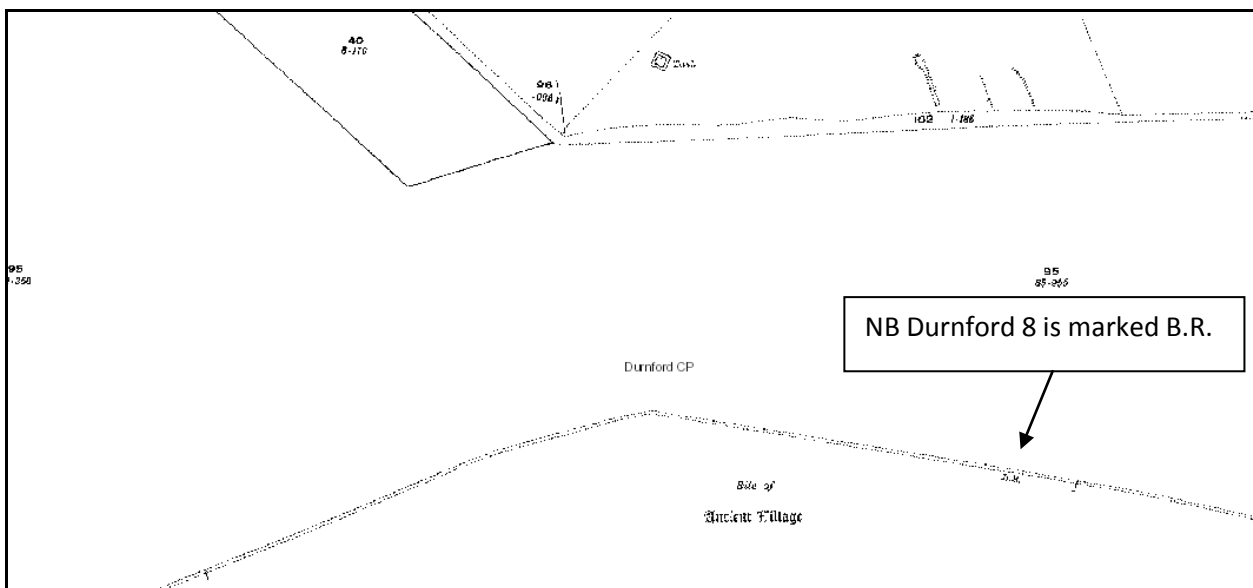
The 1:2500 scale was introduced in 1853-4 and by 1896 it covered the whole of what were considered the cultivated parts of Britain. Sheets 60.7 and 60.8 cover the applicant route. J B Harley, historian of the Ordnance Survey, records that “the maps delineate the landscape with great detail and accuracy. In fact practically all the significant man made features to be found on the ground are depicted. Many phenomena make their debut on the printed map and as a topographical record the series transcends all previous maps. Every road....., field....., stream and building are shown; non-agricultural land is distinguished...quarries, sand, gravel and clay pits are depicted separately; all administrative boundaries..are shown;....hundreds of minor place names...appear on the map for the first time. Where appropriate, all topographical features are shown to scale. The series is thus a standard topographical authority”.

8.14 Richard Oliver in his book “Ordnance Survey Maps a complete guide for historians” recognises that surveying errors (and paper distortion during printing) cannot be ruled out, particularly where detail is sparse, but in practice such errors are likely to be very hard to demonstrate, because of a general paucity of suitable sources rivalling or bettering the OS in planimetric accuracy and completeness of depiction.”

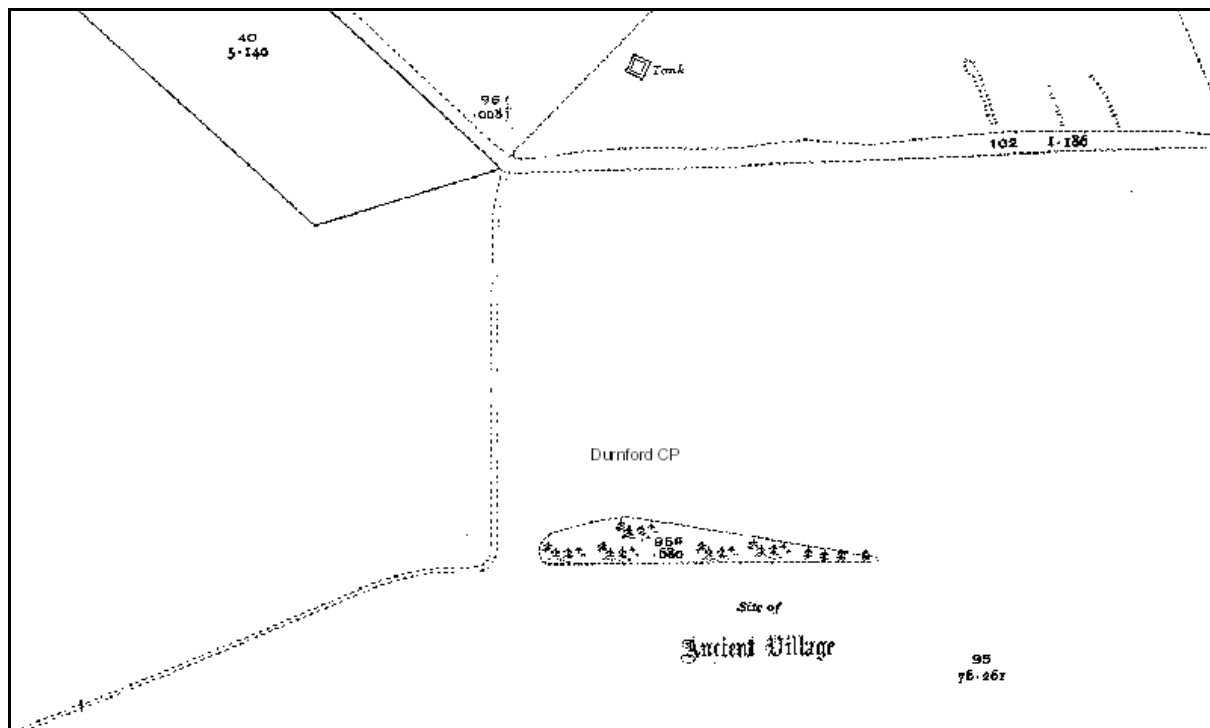
8.15 Ordnance Survey maps from 1888, although presenting an accurate representation of the landscape and its features do carry a disclaimer to the effect that the representation of any road or track is no evidence of a public right of way.

- 8.16 The claimed route, as a physical feature does not appear on Editions from 1877 to 1924 inclusive. The northern leg of the route linking Durnford 8 and 10 appears as an unfenced track on an Edition published in 1939 and its appearance coincides with the disappearance of the continuation east of the path that is now Durnford 8 (shown from 1877 onwards):.

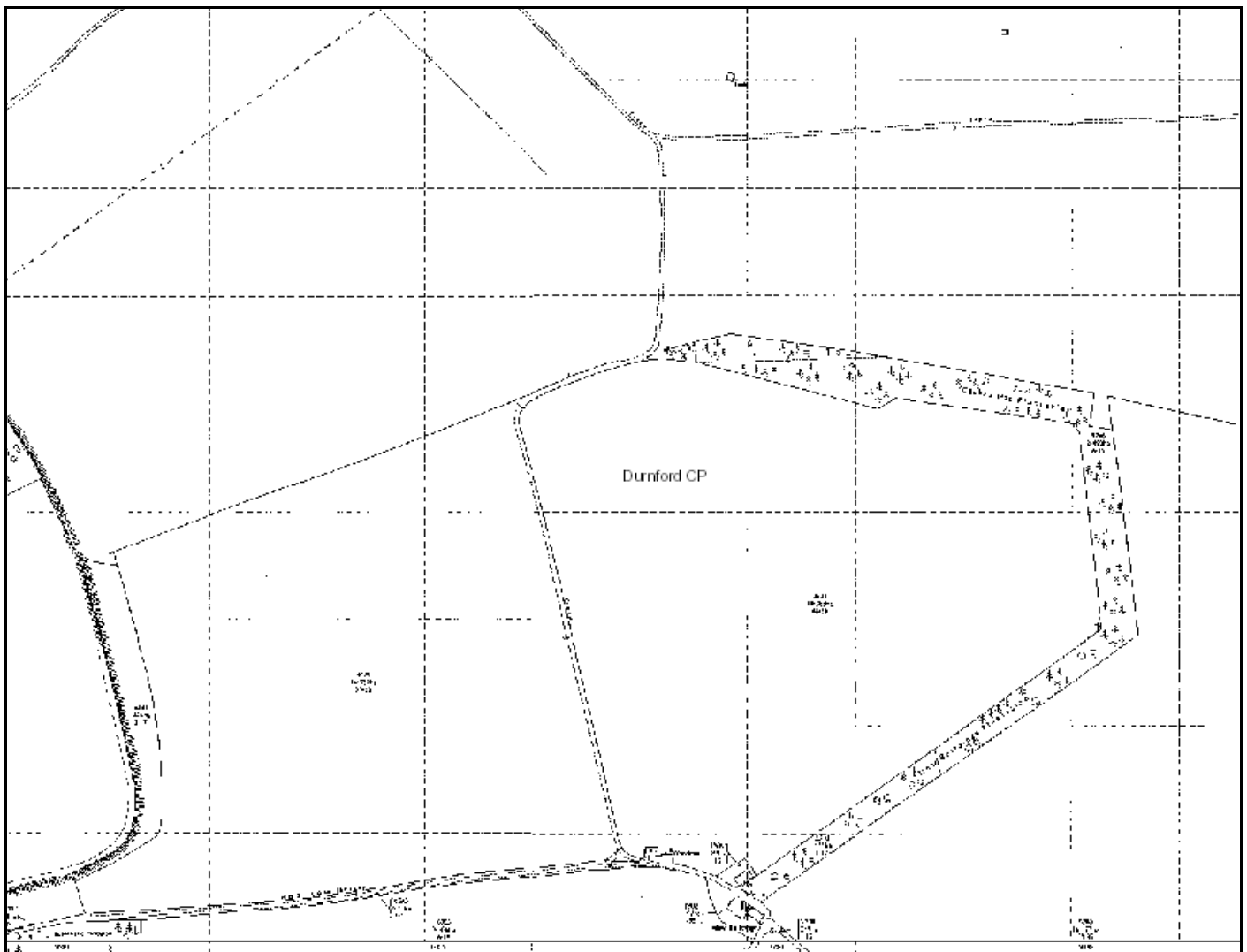
**1924**



**1939**



- 8.17 The next dated map available for viewing (c.1970s) shows the claimed route in its entirety as an unfenced track.



- 8.18 It is noted that on the early maps the route now recorded as footpath Durnford 8 is recorded as B.R. i.e. Bridle Road and not F.P. (footpath).
- 8.19 It would appear that the claimed route is not of great antiquity and seems to have been formed in two parts – the northern leg between 1924 and 1939 and the southern leg between 1939 and around 1970. That part of the claimed route that is now Durnford Footpath no. 8 was recorded as a Bridle Road by the Ordnance Survey in 1901 and 1924.
- 8.20 From Ordnance Survey Maps A Concise Guide for Historians by Richard Oliver:

*Bridle Roads were regarded as passable on horseback. From 1884 they were shown by B.R. They are sometimes the width of the cart-tracks, sometimes only of footpaths'...' A Bridle road is generally a footpath but the initials B.R. take precedence over the initials F.P.' ...The OS abandoned the use of the term in the 1940s.....As with footpaths it should be noted that the description Bridle Road is a physical description.*

## 9.0 Consultation

9.1 On 2nd October 2015 Wiltshire Council carried out an initial consultation into the four applications received to record paths based on user evidence. The letter stated:

***“Wildlife and Countryside Act 1981 s.53***

***Applications for Orders to record public footpaths and a bridleway in Great Durnford to the definitive map and statement***

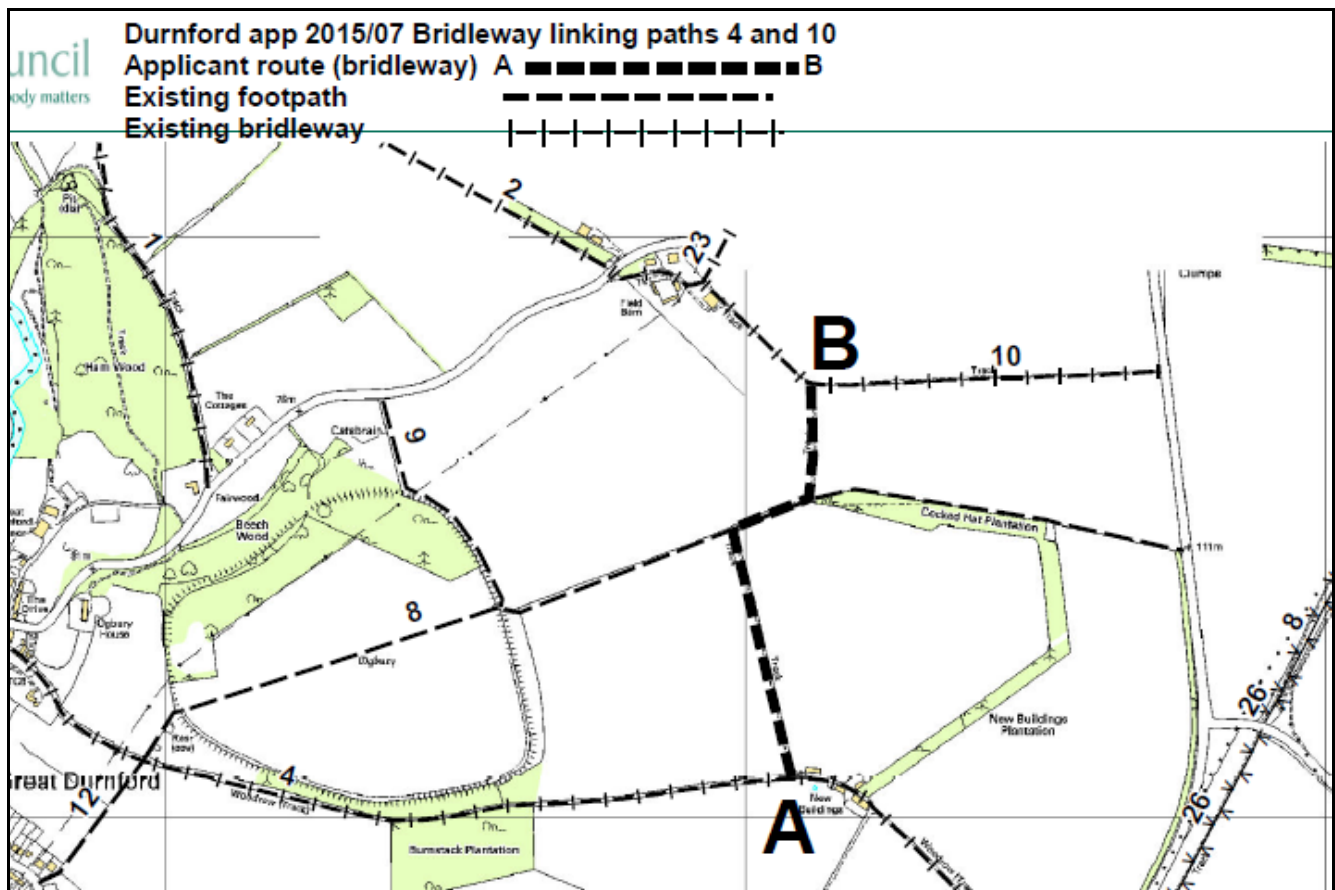
*Wiltshire Council has received applications for Orders to record public footpaths and a bridleway in Great Durnford to the definitive map and statement. The applications are based on evidence of use and are supported by evidence given by 26 users. A plan is enclosed showing all four application routes and the reference number they have been given. Additionally individual plans of the routes are also enclosed.*

*The Council must now investigate all relevant available evidence and invites any further evidence, either in support of, or in objection to these applications. Evidence relating to any signs, obstructions, statutory deposits, challenges or permissions is especially invited as are any photographs that can be dated showing the routes, any signs and so forth.*

*I would be grateful to receive responses by Friday 20<sup>th</sup> November 2015.”*

NB A further 6 user evidence forms were submitted after the 2<sup>nd</sup> October.

9.2 Officers included a map showing the claimed route which was derived from the original application plan (it being on a clearer base map). The splays at A and the junction with Durnford 8 are not shown.





9.3 The consultation period was extended until the 31<sup>st</sup> December 2015 and then again to the 29<sup>th</sup> February 2016 at the request of the landowner.

9.4 The following were consulted:

The Auto Cycle Union	Commons Open Spaces and Footpaths Society
Wiltshire Bridleways Association	Cycling Touring Club
British Horse Society	Durnford Parish Council
Wiltshire Councillor M Hewitt	British Horse Society Wiltshire
Byways and Bridleways Trust	British Driving Society
Wiltshire Council Rights of Way Warden	The Ramblers Wiltshire
The Ramblers South Wiltshire	Trail Riders Fellowship
N Gallop (applicant and witness)	G Rasch (landowner and tenant)
Stephen Langdon (tenant)	Durnford Estate (landowner)
F Patterson (witness)	J Stringer (witness)
M Hazzard (witness)	E Ward (witness)
J Blanshard Ward (witness)	J Gallop (witness)
F Curtis (witness)	J Jones (witness)
L Trehwitt (witness)	M Snell (witness)
J Rasch (witness)	N Blackwood (witness)
J Blackwood (witness)	J C Blackwood (witness)
N Pownall (witness)	L Pownall (witness)
A Wells (witness)	Mr J Wells (witness)
A Watson Wells (witness)	Mrs J Wells (witness)
L March (witness)	T March (witness)
J March (witness)	S March (witness)
G Gallop (witness)	Great Durnford Properties (former landowner)
Julian Properties (former landowner)	Woodhouse Properties (former landowner)

## 10 Consultation Responses

*NB Responses related to all or any of the 4 applicant routes.*

### 10.1 Anthony Wells 11.10.15

*“Further to your letter of 2 October 2015, I have pleasure in confirming*

- I have lived at North Farm House (junction of paths 2, 23 and 10) for over 20 years.*
- From this property immediately bordering bridleway 10 I have observed a steady flow of principally walkers but also horseback riders and some cyclists passing at the bottom of my garden. Since they do not return, I am sure that they use all or some of the 'applicant route' marked A-B on the plan enclosed with your letter.*
- I have used the same applicant route myself to walk my dogs for over 20 years, on average 2-3 times/week and regularly met other users - principally walkers but also horseback riders and some cyclists.*
- I have used this route during the Durnford Estate ownership of Lord Tryon, Mr d'Arcy Irvine and until recently Mr Ross Turner. During this time the estate has been 'policed' by a number of gamekeepers and I have never encountered any sign or word of restriction on my use of the route, until 'No public right of way' signs were erected earlier this year.*

- *I regret that I do not have any evidence to support this other than the statements of those users which have already been supplied to you."*

## 10.2 **Graham Bennett, British Horse Society 18.10.15**

*"I would refer to the recent DMMO submitted in respect of the above. I would confirm that we will, in our capacity as ABO's for the BHS, be taking forward the interests of the BHS on this one and would be grateful if you could arrange to place us on the consultation list and list for general circulation of information.*

*I understand that a s31(6) HA Map and Statement has been deposited for this estate which affects the DMMO. I should be grateful if you could email each of:*

1. *The relevant map and statement*
2. *Evidence of the display by WC of the resulting Notices and copies of the Notices in question following receipt by WC of the application under s31(6) from the Durnford Estate, with confirmation that no objections were received following the resulting display of notices or full details of any objections/representations received with details of any subsequent action taken;*
3. *A copy of the Statutory Declaration first made following submission of the Map and Statement, together with a copy of any subsequent Statutory Declaration that has been submitted as contemplated by s31(6). I have asked for this latter element because, at this stage I do not know when the first statutory Declaration was submitted."*

Officer's note: The s.31(6) deposits made in respect of this land pre-date the statutory requirement to display notices of them. As a result paragraph 2 of Mr Bennett's request is not relevant.

## 10.3 **Stephen Langdon 14.10.15**

*"I am writing in reply to your letter of 02/10/2015 concerning the application to record public footpaths in Great Durnford.*

*Applicant 2015/06 – Mill Race Path is wholly contained in a Meadow of permanent pasture, on which I have been renting the Grazing rights since 1995, from both of the previous owners. This means that I have had cattle in the Meadow from May to September each year, except this year when it was cut for hay.*

*My understanding has always been that there is no Public Right of Way in the Meadow. Point A on the Plan is the entrance to the Meadow, but there has never in that time been a proper gate until this year. The gap has always been closed with two wooden rails, nailed to the posts and with two strands of barbed wire also attached to the posts.*

*The fence between point C and A is a post and rail fence with additional barbed wire, but for at least the last ten years, and possibly longer (except for this year), I have erected an electric fence parallel to the permanent fence, as the occupant of the Mill was concerned that cattle may break the rails and enter his garden. This was an additional barrier to anyone trying to access the Meadow.*

*I am able to state that in all the time I have been Renting the Grazing, I have not met a single person using the proposed footpath, and no person has complained either verbally or in writing, that I am obstructing a right of way.*

*There is still a stile at point C. this was made to give the Fishermen access to the River Bank, but they still had to cross my electric fence to do so.”*

**10.4 Julia Wells 15.11.16**

*“Thank you for your letter of 2nd October regarding footpath and bridleways in Great Durnford. I have already filled out forms on this subject but would just like to reiterate that I and my family have been walking and riding horses on the track A to B of Durnford app2015/07 bridleway linking paths 4 and 10 for 20 years and until a few months ago there have never been any signs or obstructions stopping us being there and nor have the game keepers and previous owners of the land ever asked us not to walk there even though they have seen us on the track many times.*

*These are very short tracks linking established bridleways and as there is activity on the established bridleways it is hard to see any good reason why these links should be closed.”*

**10.5 Durnford Parish Council 17.11.16**

*“Wildlife and Countryside Act 1981 s.53 with reference to footpaths/bridleway in Great Durnford*

*I refer to your letter of 2 October 2015 re the dispute over footpaths in the parish of Great Durnford.*

*To the best of the Council’s knowledge, all the identified footpaths and bridleway have never been statutory or permissive rights of way. Former landowners have, on occasion, permitted walkers to cross their land. The last two landowners, however, have challenged walkers pointing out they were on private ground.*

*We have no evidence to put forward in this dispute other than verbal submissions by former employees of Great Durnford Estate, who state that none of the queried routes were ever footpaths.*

*The Great Durnford Parish Council are therefore unable to support the application for Orders to record public footpaths and a bridleway in Great Durnford to the definitive map and statement.”*

**10.6 David Southey 26.11.15**

*“I have a few comments to be put forward to the Wiltshire Council on the claimed footpaths. As I understand a footpath runs from point A to point B not just to join 2 existing footpaths to make a circuit to walk a dog or bridleway to exercise a horse.*

*All the claimed footpaths & bridleways shown have never been a right of way.*

*Just because the former landowner has given permission for people to cross their land does not mean it is a right to carry on using the path as a right of way.*

*I know that people using these crossings have been challenged by the last 2 landowners & told that they are on private property.*

*Path 21 jubilee hill to cricket ground is a dogwalk link from 2 existing paths.*

*Millrace path goes nowhere just a loop that dog walkers have used.*

*Cricket ground to path 4 is just a link used by walker as a short cut.*

*Bridleway linking paths 4 & 10 this has always been a farm track for farm vehicles to transit around the farm.”*

## 10.7 The Great Durnford Estate 03.03.16

### **“BACKGROUND**

1 On 24 August 2015, Nicholas Gallop made four applications to Wiltshire Council for modification orders to be made to add public footpaths and bridleways to the definitive map and statement of public rights of way, and to upgrade a section of a definitive footpath to a bridleway. These routes run over land owned by Mr and Mrs Turner ("the Landowners") which forms part of The Great Durnford Estate; they are shown on the map in Appendix 1, prepared by the Council, with the reference numbers given to them by the Council. In this report, they will be referred to as the "claimed routes".

2 Notice of the making of the applications was served by the applicant on the Great Durnford Estate Manager as the representative of the Landowners, as a result of which the Landowners began their own investigation into the evidence for the existence of the alleged public rights. The purpose of this report is to (a) make legal submissions that the applicant is not able to rely section 31(1) of the Highways Act 1980, as the proviso to that section is satisfied in favour of the Landowners, and (b) without prejudice to the legal submissions, to present an assessment of this evidence to the Council.

3 The Council has a duty under s53 Wildlife and Countryside Act 1981 (the 1981 Act) to investigate the evidence provided with the applications, and that subsequently discovered by the Council, in order to determine if the rights alleged in the applications exist. If it is decided by the Council that the alleged rights do exist, then it must make one or more modification orders to add these rights to the definitive map and statement.

### **LEGAL CONSIDERATIONS**

4 The evidence supplied by the applicant is solely evidence of use of the claimed routes. It is understood that the Council will be investigating the existence of historical documentary evidence, and the Landowners reserve the right to comment on the findings in due course. However, since it is not currently known if any relevant historical documentary evidence will be found, in this report, in the context of s53 of the 1981 Act, only the requirements of s31 Highways Act 1980 (the 1980 Act), and of common law, which govern the assessment of user evidence, will be considered.

5 The applicant will be relying on s31(1) of the 1980 Act:

*“Where a way over any land, other than a way of such character that use of it by the public could not give rise at common law to any presumption of dedication, has been actually enjoyed by the public as of right and without interruption for a full period of 20 years, the way is to be deemed to have been dedicated as a highway unless there is sufficient evidence that there was no intention during that period to dedicate it”.*

6 But, that sub-section raises the following questions:

(a) *is the way of such a character that use of it by the public could not give rise at common law to any presumption of dedication?*

(b) *has the way been actually enjoyed by the public as of right and without interruption for a full period of 20 years?*

(c) *is there sufficient evidence that there was no intention during that 20-year period to dedicate the way as a highway?*

7 *Representations are made later in this report in relation to the first two questions. The third question is considered first because the landowners have made deposits and declarations under s31(6) of the 1980 Act, and will rely on these as the sufficient evidence that there was no intention during the 20-year period to dedicate the routes the subject of the application as public highways.*

8 *In relation to the proper meaning of the words in s31(1) “there is sufficient evidence that there was no intention ... to dedicate ...”, the leading decision is that of the House of Lords in R (Godmanchester Town Council) v Secretary of State for the Environment, Food and Rural Affairs [2007] UKHL 28, [2008] 1 AC 221. Lord Hoffmann said (para 32):*

*“... ‘intention’ means what the relevant audience, namely users of the way, would reasonably have understood the landowner’s intention to be”.*

*Lord Hoffmann then said (para 33):*

*“[section 31(1)] requires ‘sufficient evidence’ that there was no such intention [to dedicate]. In other words, the evidence must be inconsistent with an intention to dedicate. That seems to me to contemplate evidence of objective acts, existing and perceptible outside the landowner’s consciousness ... the objective acts must be perceptible by the relevant audience”.*

9 *In the same case Lord Hope said (para 57) that:*

*“[the landowner] must take steps to disabuse the public of the belief that the way has been dedicated to public use. ... the landowner must communicate his intention to the public in some way if he is to satisfy the requirements of the proviso”.*

10 *Lord Scott, also in the same case, said (para 68) that:*

*“Evidence ‘sufficient’ to displace the statutory deemed conclusion of dedication should at least establish a positive intention”.*

11 *The Landowners say that there is sufficient evidence here that satisfies the tests of proof of contrary intention set out above. s31(6) of the 1980 Act provides a procedure by which a landowner may express his contrary intention to dedicate, as expressly recognised in the Godmanchester case, but as s31 and the decision in the Godmanchester case make clear, there are other, objective, ways of manifesting an intention not to dedicate provided the landowner’s intention is put, in some way, to the notice of the public.*

12 *s31(5) also provides that where an owner of land has displayed a notice indicating an intention not to dedicate a way as a highway, but it is subsequently torn down or defaced, then “a notice given by the owner of the land to the appropriate council that the way is not dedicated as a highway is, in the absence of proof of a contrary intention, sufficient evidence to negative the intention of the owner of the land to dedicate the way as a highway”.*

13 *s31(6) makes provision for the deposit of maps and statements indicating what ways (if any) over land the landowner admits to have been dedicated as highway, and statutory declarations made by the owner to the effect that no additional way over the delineated land has been dedicated as a highway is “in the absence of proof of a contrary intention, sufficient evidence to negative the intention of the owner or his successors in title to dedicate any such additional way as a highway”.*



14 These provisions were considered by Lord Hoffmann in the Godmanchester case as confirmation that notices, maps, statements and statutory declarations, whether under s31(5) or (6) are capable of constituting evidence that a landowner is not intending to dedicate ways. He said (para 34):

*“A well advised defender of rights of way, such as the Ramblers Association, will know where to look and be able to draw such notices to the attention of users. The fact that in certain defined circumstances one can resort to a method less likely to come to the attention of users of the way is no basis for concluding that in general it does not matter whether the landowner’s intention can come to their attention or not”.*

15 It is also clear, that the steps that a landowner may take to negative the intention to dedicate are not limited to the procedures in s31(5) and (6). In the Godmanchester case, Lord Hope said (para 54):

*“... if there is a challenge, the right of the public to use the way will be taken to have been brought into question as soon as the landowner seeks in the ways the statute mentions to negative the intention to dedicate. The same will be true of other acts, or of some other course of conduct, by which the landowner seeks to exclude the public. The steps which the statute mentions are not to be taken as exhaustive of those that may be taken for this purpose: see the words ‘or otherwise’ at the end of section 31(2). Whatever he does, time will have begun to run against the landowner from the beginning of the period of 20 years calculated backwards from the first such act or from the start of that course of conduct”.*

16 Any of the documents mentioned above, in relation to deposits under section 31(6) of the 1980 Act, sent to the local highway authority would be retained, and members of the public would be permitted to inspect them: see per Lord Neuberger in Godmanchester at para 79. Since the 1 October 2007, local authorities have had a duty to keep a register of documents received under s31(6) of the 1980 Act and to allow public inspection at all reasonable hours: see s 31A of the 1980 Act.

17 It is clear from the opinion of Lord Hope, mentioned above, that the necessary expression of intention not to dedicate is sufficient to end a 20-year period. Lord Hoffman in Godmanchester at para 37 stated in relation to the act of bringing the public’s right to use a route into question: *“I do not say that all acts which count as negating an intention to dedicate will also inevitably bring the right into question. For example, I would leave open the question of whether notices or declarations under s31(5) or (6) will always have this effect. I should think that they probably would, because their purpose is to give notice to the public that no right of way is acknowledged”* (para 37). These comments were *obiter dicta*, but have been given weight by Inspectors at inquiries (e.g. Order Decision FPS/Q1770/7/80).

18 Lord Hoffmann in Godmanchester said (para 39) that:

*“The [submission of counsel that] the intention not to dedicate had to be continuously manifested ... I do not think that it can possibly be right. The proviso [in s31(1)] negatives the effect of the enjoyment of the right for the period during which there was no intention to dedicate. If that leaves less than 20 years of unrebutted enjoyment, the claim [to public rights of way] fails”.*

Lord Neuberger said (para 90) that:

*“It is conceivable that one day in 20 years would be enough in a particular case, and it even may be the case, I suppose, that it would be enough as a matter of principle ...”.*

19 s31(9) of the 1980 Act specifically preserved the possibility of dedication of public rights of way taking place at common law. The relevant requirements are the dedication of public rights by the landowner and acceptance by the public. Dedication may be express or implied; dedication is

*inferred where the acts of the landowner point to an intention to dedicate. Cogent evidence is needed of any such acts to discharge the burden of proof on those seeking to establish that the rights have been dedicated.*

## **LANDOWNER DEPOSITS AND DECLARATIONS MADE UNDER s31(6) OF THE 1980 ACT**

20 *Three sets of documents prepared under s31(6) of the 1980 Act were sent to the Council by owners of the land crossed by the claimed routes and adjacent land. These were:*

- *4 sets of maps and statements deposited by Julian Properties Corporation, Hobson Properties SA, the Langtry International Trust Company Limited and Langtry Trust Corporation, and Woodhouse Properties Inc; all acknowledged the existence of a number of definitive public rights of way across their respective landholdings and stated that no other ways had been dedicated as highways. Receipt of these documents was acknowledged in a letter dated 6 January 2005 by the Council's Senior Rights of Way Officer, and it was stated in the letter that the documents had been checked and were "in order". No maps and statements were deposited for the land crossed by claimed routes 2015/08 (northern part) and 2015/09*
- *4 statutory declarations made on 24 January 2005, declaring that no additional ways had been dedicated, relating to the maps and statements acknowledged by the Council on 6 January 2005, and giving the date of deposit of the maps and statements as 30 November 2004. No declarations were made for the land crossed by claimed routes 2015/08 (northern part) and 2015/09*
- *5 sets of maps and statements deposited by Julian Properties Corporation, Hobson Properties SA, the Langtry International Trust Company Limited and Langtry Trust Corporation, Great Durnford Properties, and Woodhouse Properties Inc dated 22 July 2010; all acknowledged the existence of a number of definitive public rights of way across their respective landholdings and stated that no other ways had been dedicated as highways. Receipt of these documents was acknowledged by the Council's Definitive Map Technical Support Officer on 11 August 2010, with confirmation that they were "correct". The register of s31(6) documents on the Council's web site includes copies of all these deposits. No subsequent statutory declarations were made. Maps and statements were deposited for all the land over which all the claimed routes run.*

*Copies of these documents are not appended to this report since the originals are in the possession of the Council.*

21 *Without prejudice to any claims that the statements and plans and statutory declarations meet the requirements of s31(6) of the 1980 Act or are otherwise effective, in the event that they are not, the legal position described in paragraphs 8 to 18 above must be recognised. In particular, the documents were unequivocally and positively inconsistent with an intention to dedicate; the submissions of the documents were objective acts, existing and perceptible outside the landowners' consciousness; and Lords Hoffman and Neuberger considered that the s31(6) documents were perceptible by the relevant audience i.e. the users, and were probably effective in bringing the right to use claimed routes into question. In addition, the Council specifically stated that the deposits of the maps and statements in both 2004 and 2010 were "in order" and "correct" and included the 2010 documents in its on-line register of such documents, open to inspection by the public. The 2004 and 2005 statements and plans and statutory declarations were also available for inspection at the Council's offices. The current Landowners and predecessors in title therefore very reasonably concluded that they were protected from public use of the claimed routes being evidence of dedication of public rights.* **Page 88**

*It can therefore be concluded that:*

- the right of the public to use the claimed routes was brought into question on 30 November 2004 (except for 2015/08 northern part and 2015/09) and on 22 July 2010 (all claimed routes), so two 20-year periods of use to be considered under s31 of the 1980 Act are 1984 to 2004 (except for 2015/08 northern part and 2015/09) and 1990 to 2010 (all claimed routes)*
- the landowners provided sufficient evidence of a lack of intention to dedicate new public rights starting on 20 November 2004 (except for 2015/08 northern part and 2015/09) and 22 July 2010 (all claimed routes).*

*22 The Landowners submit that the maps and statements deposited, as described above, were in compliance with, or substantially in compliance with, the requirements from time to time of s31(6) of the 1980 Act. Even if, which is not accepted, there was any infelicity in relation to any of the technical requirements of these deposits, in substance they constituted clear and incontrovertible evidence of the intention of the Landowner not to dedicate as public highways routes over the land concerned not otherwise identified on the maps; this position is fully supported by the decision of the House of Lords in the Godmanchester case.*

*23 The Landowners submit that the aforementioned deposits satisfy the proviso in s31(6), that there is sufficient evidence that there was no intention during the relevant 20-year period to dedicate the routes claimed by the applicant, and that the tests in the Godmanchester case were satisfied.*

*24 Further, and applying the decision in the Godmanchester case, on each occasion in 2004 and 2010, when documents were deposited with the local highway authority and entered into the register kept for the purpose, as the case may be, any rights sought to be claimed by the public were brought into question, and the 20-year period relied on by the applicant stopped running.*

*25 The Landowners say that the proviso in s31(1) of the 1980 Act is satisfied, and no rights of way as claimed by the Applicant can have arisen.*

#### **ASSESSMENT OF THE EVIDENCE FOR THE EXISTENCE OF PUBLIC RIGHTS OVER THE CLAIMED ROUTE 2015/07 (BRIDLEWAY LINKING BRIDLEWAYS 4 AND 10)**

*41 A copy of the map showing the location of this claimed route included in the application for a modification order, and a copy of the map showing the Council officer's interpretation of this route, are in Appendix 5. It should be noted that the depictions of the route on the two maps are not exactly the same: at the northern and southern ends of the section of the claimed route which joins Bridleway 4 and Footpath 8, the Council's map does not include the short forks shown on the applicant's map. Only a very few of the users included both these forks on their maps; generally the users indicated their use only of the more easterly forks, shown on the base map as continuations of the main double-fenced track. It is therefore sensible to consider use of the easterly forks only.*

*42 Photographs of the route taken on 19 November 2015 are included in Appendix 6. Notable comments are (lettered points as on the Council's map):*

- the gate at point A was locked (photo 1)*
- a prohibitory notice was displayed by the side of the track north of point A (photo 2)*
- there was a locked gate just south of the junction of the claimed route with Footpath 8 (photo 4), and there were prohibitory notices on the gate post and by the side of the track south of the gate (photo 5)*
- there were prohibitory notices on the track north of its junction with Footpath 8 (on the ground at the time, photo 8), and south of point B at the junction of the track with Bridleway 10 (photo 9).*

43 The claimed route is of such character that its use could give rise at common law to a presumption of dedication (s31(1)).

44 As discussed above in paragraph 24, the right of the public to use the claimed route was brought into question in 2004 and 2010, so two periods of use to be considered under s31 of the 1980 Act are 1984 to 2004 and 1990 to 2010.

45 The display in April 2015 of the prohibitory notices at various locations on the claimed route (see photos in Appendix 6), and the installation in June 2015 of the locked gates at point A (photo 1) and at the junction of the claimed route with Footpath 8 (photo 5), called the public's right to use the route into question. Another 20-year period of use to be considered is therefore 1995 to 2015.

46 On Boxing Day 2008 a group of five walkers on the claimed route was challenged by the then Landowner and then Estate gamekeeper; the walkers turned round and left the claimed route. This successful challenge was both a calling into question and an act showing to the users a lack of intention to dedicate the route for public use. Another 20-year period of use to be considered is therefore 1988 to 2008.

47 User evidence: the evidence provided by the applicant is assessed in the tables in Appendix 7. For each of the relevant 20-year periods, the numbers of users during those periods were:

#### **Walking:**

1984 to 2004: 2 for the whole of the period; 18 for part of the period - but for 3 years at the start of the this period, only 2 people, of whom one (no. 27) only used the route 6 times a year, and some of this use was on horseback

1988 to 2008: 3 for the whole of the period; 22 for part of the period - but for 2-3 years at the start of this period there were only 3 users (nos. 8, 12 and 27), with most of this use probably being on horseback

1990 to 2010: 5 for the whole of the period; 20 for part of the period

1995 to 2015: 13 for the whole of the period; 14 for part of the period

#### **Cycling:**

1984 to 2004: 1 for the whole of the period; 2 for part of the period

1988 to 2008: 1 for the whole of the period; 2 for part of the period

1990 to 2010: 1 for the whole of the period; 2 for part of the period

1995 to 2015: 3 for the whole of the period; 0 for part of the period

#### **Horse riding:**

1984 to 2004: 2 for the whole of the period; 3 for part of the period

1988 to 2008: 2 for the whole of the period; 3 for part of the period

1990 to 2010: 2 for the whole of the period; 3 for part of the period

1995 to 2015: 3 for the whole of the period; 4 for part of the period

It is disputed by the Landowners that this level of alleged use by the public had taken place, since the employees, tenants and leasees, and their workers, who were frequently near the claimed route, saw only occasional use of the route by members of the public on foot and horseback, and very rarely by cyclists.



48 *It is possible that this amount of walking use, if it indeed took place, is sufficient to raise a presumption of dedication of public rights on foot during the two 20-year periods 1990 to 2010 and 1995 to 2015 over the sections of the claimed route which are not already recognised as public footpath. No presumptions of dedication arose during the 1984 to 2004 and 1988 to 2008 periods.*

49 *The amount of horse riding use, if it took place, is possibly sufficient to raise a presumption of dedication of public rights on horseback during the 1995 to 2015 period, over the whole of the claimed route, but not during the 1984 to 2004, 1988 to 2008, and 1990 to 2010 periods.*

50 *The amount of cycling use on its own is not sufficient to raise any presumption of dedication of public rights on bicycles (if it had, it could be possible for the route to be a public bridleway or a restricted byway, but in the event this does not need further consideration).*

51 *One user, no. 11, stated that she had used the route in a pony trap, but this use is insufficient to raise a presumption of dedication of public rights in non-motorised vehicles.*

52 *However, these possible presumptions of dedication of public rights during the 1990 to 2010 and 1995 to 2015 periods, if they arose, would be rebutted by the evidence of a lack of intention to dedicate new public rights provided on 20 November 2004 and 22 July 2010 by the s31(6) documents discussed above. They are also rebutted by the evidence of a lack of intention to dedicate new public rights provided on 26 December 2008 by the successful challenge to users.*

53 *Two tenancy agreements are also relevant:*

- *a tenancy relating to the section of the claimed route from Footpath 8 north to point B, dated 18 April 2008: this contained a clause requiring the tenant to "prevent any new footpaths or other encroachments or easements from being made in or acquired over any part of the Holding"*
- *a tenancy relating to the section of the claimed route from point A on Bridleway 4 north to Footpath 8, dated 12 July 2013: this contained clauses requiring the tenant to "not permit upon the Holding any campers or gypsies caravans picnicking parties sales advertising signs hoardings or any other non-agricultural use" and "not to assign underlet or part with possession or occupation of the Holding or any part thereof"*

*These agreements add weight to the rebuttal of the allegation that the public use could be evidence of dedication of public rights.*

54 *There have been no acts on the part of any landowner which point to an intention to dedicate public rights, so dedication at common law cannot have taken place.*

### *Conclusion*

55 (a) *It might be alleged that presumptions of dedication of public rights on foot arose during the 1990 to 2010 and 1995 to 2015 periods, and of public rights on horseback during the 1995 to 2015 period. No presumptions arose during the other periods because the amount of public use was insufficient.*

(b) *However, even if these presumptions did arise, which is denied, sufficient evidence of a lack of intention to dedicate public rights to rebut these presumptions has been provided by (i) the documents submitted under s13(6) of the 1980 Act, and (ii) the successful challenge on 26 December 2008.*

56 Therefore, on the balance of probabilities, no event has taken place which could lead to the making of a modification order under s53(3)(b) or s53(c)(ii) of the 1981 Act, and also no reasonable allegation that public rights subsist on the claimed route can be made, so no event has taken place which could lead to the making of a modification order under s53(3)(c)(i) of the 1981 Act. The application should therefore be refused.

## **11.0 Considerations**

### **11.1 Statutory Presumed Dedication – Highways Act 1980 Section 31**

In full Section 31 of The Highways Act 1980 states:

#### *31. Dedication of way as highway presumed after public use of 20 years*

*(1) Where a way over any land, other than a way of such a character that use of it by the public could not give rise at common law to any presumption of dedication, has been actually enjoyed by the public as of right without interruption for a full period of 20 years, the way is to be deemed to have been dedicated as a highway unless there is sufficient evidence that there was no intention during that period to dedicate it.*

*(2) The period of 20 years referred to in subsection (1) above is to be calculated retrospectively from the date when the right of the public to use the way is brought into question, whether by a notice such as is mentioned in subsection (3) below or otherwise.*

*(3) Where the owner of the land over which any such way as aforesaid passes –*

*(a) has erected in such a manner as to be visible by persons using the way a notice inconsistent with the dedication of the way as a highway; and*

*(b) has maintained the notice after the 1<sup>st</sup> January 1934, or any later date on which it was erected the notice, in the absence of proof of any contrary intention, is sufficient evidence to negative the intention to dedicate the way as a highway.*

*(4) In the case of land in the possession of a tenant for a term of years, or from year to year, any person for the time being entitled in reversion to the land shall, notwithstanding the existence of the tenancy, have the right to place and maintain such a notice as is mentioned in subsection (3) above, so however, that no injury is done thereby to the business or occupation of the tenant.*

*(5) Where a notice erected as mentioned in subsection (3) above is subsequently torn down or defaced, a notice given by the owner of the land to the appropriate council that the way is not dedicated as highway is, in the absence of proof of a contrary intention, sufficient evidence to negative the intention of the owner of the land to dedicate the way as highway.*

*(6) An owner of land may at any time deposit with the appropriate council-*

*(a) a map of the land on a scale of not less than 6 inches to 1 mile and*

*(b) a statement indicating what ways (if any) over the land he admits to have been dedicated as highways;*

*And, in any case in which such a deposit has been made, statutory declarations made by that owner or by his successors in title and lodged by him or them with the appropriate council at any time –*

- (i) within ten years from the date of deposit*
- (ii) within ten years from the date on which any previous declaration was last lodged under this section,*

*to the effect that no additional way (other than any specifically indicated in the declaration) over the land delineated on the said map has been dedicated as a highway since the date of the deposit, or since the date of the lodgement of such previous declaration, as the case may be, are, in the absence of proof of a contrary intention, sufficient evidence to negative the intention of the owner or his successors in title to dedicate any such additional way as a highway.*

*(7) For the purpose of the foregoing provisions of this section, ‘owner’, in relation to any land, means a person who is for the time being entitled to dispose of the fee simple in the land; and for the purposes of subsections (5) and (6) above ‘the appropriate council’ means the council of the county, metropolitan district or London Borough in which the way (in the case of subsection (5)) or the land (in the case of subsection (6)) is situated or, where the land is situated in the City, the Common Council.*

*(7A) Subsection (7B) applies where the matter bringing the right of the public to use a way into question is an application under section 53(5) of the Wildlife and Countryside Act 1981 for an Order making modifications so as to show the right on the definitive map and statement.*

*(7B) The date mentioned in subsection (2) is to be treated as being the date on which the application is made in accordance with paragraph 1 of Schedule 14 to the 1981 Act.*

*(8) Nothing in this section affects any incapacity of a corporation or other body or person in possession of land for public or statutory purposes to dedicate a way over the land as a highway if the existence of a highway would be incompatible with those purposes.*

NB The Growth and Infrastructure Act 2013 brought about alterations to s.31(6) extending the length of time that a deposit remains valid for from 10 years to 20 years.

Section 31(1) requires that the use by the public must have been as of right without interruption for a full period of 20 years.

The term ‘as of right’ is considered to mean without force (*nec vi*), without secrecy (*nec clam*) and without permission (*nec precario*).

## **11.2 The date when use was brought into question**

There appears to be three possible dates for the calling into question of this route (and hence the date before which twenty years use must be considered for the purposes of applying s.31(1) HA80.

- 11.3 **2004** Pursuant to s.31(6) HA80 the landowners (Julian Properties Corporation for the southern leg and part of Durnford 8 and Woodhouse Properties Inc. for the northern leg) deposited plans and statements with Wiltshire Council. In 2005 Statutory Declarations were made to accompany them.
- 2010** Pursuant to s.31(6) HA80 the landowners (Julian Properties Corporation for the southern leg and part of Durnford 8 and Woodhouse Properties Inc.) deposited a plan and statement with Wiltshire Council.
- 2015** New gates and signs saying “Private Property No Right of Way” were erected on the route.
- 2015** This application was made for an Order to record a public bridleway.
- 11.4 A duly made deposit under s.31(6) HA80 is, in the absence of proof of a contrary intention, sufficient evidence to negative the intention of the owner or his successors in title to dedicate any such additional way as a highway. It is therefore an incontrovertible calling into question - for that is the purpose of it.
- 11.5 However, the deposits at Durnford were not duly made and were not made in strict accordance to the Act. The Act requires that the maps of the land are on a scale of not less than 6 inches to 1 mile (1:10560) but the maps deposited were clearly at a smaller scale despite the fact that the map key claimed them to be 1:6000. Measurements show that they are actually at a scale of 1:12200. The error was repeated when the statutory declaration was made a year later.
- 11.6 Likewise in 2010, maps and statements were deposited with the Council but these maps were at an even smaller scale, the scale on the key had been blacked out by the applicant and they appear to be around 1:25000.
- 11.7 Officers of Wiltshire Council, in 2004, 2005 and 2010, failed to spot this and accepted the deposits as if they were Section 31(6) HA80 compliant. Accordingly the documents were held for public viewing with other s.31(6) deposits and additionally in 2007 they were added to the Council’s online Register of Deposits which is available on the Council’s website (as required by Sch 6 para 4 Countryside and Rights of Way Act 2000).
- 11.8 It is therefore a logical step to say that it is clear that the maps, although incorrectly scaled, were not misleading in any respect. Had they have been unclear as a result of the scale it is considered likely that officers would have noticed in 2004, 2005 or 2010.
- 11.9 Accordingly officers consider that the deposits should be considered to have the same effect as if they were duly made.
- 11.10 The cases of *R (on the application of Godmanchester Town Council)(Appellants) v. Secretary of State for the Environment, Food and Rural Affairs (Respondent)* and *R (on the application of Drain)(Appellant) v. Secretary of State for the Environment, food and Rural affairs (Respondent)* were considered in the House of Lords in 2007 [2007] UKHL 28 and form the leading authority in this matter – the main issue in both appeals being the nature of the evidence which will be sufficient to demonstrate that there was no intention to dedicate.



- 11.11 Lord Hoffman considers at paragraph 32 “...”*intention*” means what the relevant audience, namely the users of the way, would reasonably have understood the landowner’s intention to be”.
- 11.12 And at paragraph 33 “It should first be noted that section 31(1) does not require the tribunal of fact simply to be satisfied that there was no intention to dedicate. As I have said, there would seldom be any difficulty in satisfying such a requirement without any evidence at all. It require “sufficient evidence” that there was no such intention. In other words, the evidence must be inconsistent with an intention to dedicate. That seems to me to contemplate evidence of objective acts, existing and perceptible outside the landowner’s consciousness, rather than simply proof of a state of mind. And once one introduces that element of objectivity (which was the position favoured by Sullivan J in Billson’s case) it is an easy step to say that, in the context, the objective acts must be perceptible by the relevant audience.”
- 11.13 Lord Neuberger at paragraph 79 considers the provisions of s.31(6) HA80:
- First, the whole tenor of section 31, whether it is dealing with establishing presumed dedication (enjoyment as of right) or rebutting presumed dedication (without interruption and the provisions of subsections (3) to (6) ) is directed towards observable actions from which presumptions may be made or rebutted. It is true that communications with the local authority under s. 31(5) and (6) are not with members of the public, but a local authority would be obliged to retain the documents there referred to, and to permit members of the public to inspect them.”*
- 11.14 He further considers the purpose of s.31(6) at paragraph 91.
- ...As to section 31(6), it appears to be aimed primarily at large estates, and enables a landowner to protect himself, inter alia, in relation to potential rights of way which he may not even know are in the process of being acquired under section 31(1).”*
- 11.15 It would therefore seem that The Durnford Estate made their deposits because they were a large estate wishing to protect themselves in relation to potential rights of way claims and that regardless of the strict compliance of the deposit, Wiltshire Council treated them exactly in the manner as for duly made deposits and that the public had access to them through routes laid down in the legislation.

11.16 The date for calling into question is hence taken as 2004 and the relevant period is 1984 to 2004.

## **12.0 Is there a route or path and did the public use it?**

### **12.1 Is there a route?**

To satisfy section 31 (1) ‘a way of such a character’ the route must be definable. In Oxfordshire County Council v Oxford City council [2004] Ch 253 Lightman J said that the true meaning and effect of the exception of “a way of such character that use of it by the public could not give rise at common law to any presumption of dedication” is that “the user must be as a right of passage over a more or less defined route and not a mere or indefinite passing over land”.

- 12.2 The route is very clearly defined and is of such character that its use could give rise to a presumption of dedication.
- 12.3 Although it is noted that the applicant claimed small splays at either end of the southern leg – and that these splays at the Durnford 4 junction are noticeable on aerial photographs witnesses do not appear to have made this distinction and indeed may not have used these ‘short cuts’ over rougher ground defaulting to using the main track instead. Their use would also have been dependent on direction of travel.
- 12.4 In summary: the splays claimed are not supported by evidence of use, only the main track is.
- 12.3 Have the public used the route?**
- 12.4 32 people have submitted evidence that they have used the claimed route, or parts of it during the period 1960 to 2015 and have known people who have used it before this time.
- 12.5 Evidence has been submitted of use by walkers, riders, cyclists and someone who drove a horse during this period.
- 12.6 Aerial photographs viewed online (but unable to be reproduced here for copyright reasons) see [http://www.ukaerialphotos.com/viewer.asp?X=413500&Y=138500&name=Great Durnford, Wiltshire&town=Great Durnford, Wiltshire&county=.](http://www.ukaerialphotos.com/viewer.asp?X=413500&Y=138500&name=Great Durnford, Wiltshire&town=Great Durnford, Wiltshire&county=) Show that the claimed route as a track and a distinct landscape feature from 1945 – 1950 onwards.
- 12.7 The application demonstrates that on the balance of probability the public have used the route.
- 13.0 Whether use was for the full period of 20 years**
- 13.1 The relevant period 1984 to 2004 has been considered.
- 13.2 During this period a total of 27 people submitted evidence of use for all or part of the claimed route. Of these witnesses 4 people had used the route for the full 20 years. The landowner claims that witness number 2 was employed by and related to a tenant of the land until 1990. Although the UEF does not make this apparent if he was employed by the tenant during this period then his own evidence would be reduced from 20 to 14 years (though his longstanding evidence of seeing others would still stand). Additionally the landowner claims that witness number 10 had only used a part of the route. This is not the case as although her UEF map shows one part of the path in the text in her form she states that she had used the other part of the path (but appears reluctant to claim it because it is field edge). The remaining two, witnesses no 12 and 27 both walked and rode the claimed route for the full period.
- 13.3 20 of the 27 users report seeing other walkers and horse riders using the route between 1984 and 2004. 6 users report seeing cyclists using the route in that period.
- 13.4 8 people rode horses in the period 1984 and 2004 and 3 people rode bicycles during that period.
- 13.5 Census information for Durnford reveals that in 1981 the population was 372, in 1991 405 and in 2001 348. The claimed route is largely served by Great Durnford which although

the largest settlement in Durnford has a population lower than these figures for Durnford show.

- 13.6 The application demonstrates that use occurred during the period 1984 to 2004 though the landowner considers that there is an insufficiency of evidence to raise a presumption of dedication.
- 13.7 The Council is guided by the Planning Inspectorate's Consistency Guidelines (8<sup>th</sup> Revision July 2013 Section 5):

*"Sufficiency*

*There is no statutory minimum level of user required to show sufficient use to raise a presumption of dedication. Use should have been by a sufficient number of people to show that it was use by 'the public' and this may vary from case to case. Often the quantity of user evidence is less important in meeting these sufficiency tests than the quality (i.e., its cogency, honesty, accuracy, credibility and consistency with other evidence, etc.)"*

*"It was held in Mann v Brodie 1885 that the number of users must be such as might reasonably have been expected, if the way had been unquestionably a public highway. It is generally applicable that in remote areas the amount of use of a way may be less than a way in an urban area."*

*"In R (Lewis v Redcar and Cleveland Borough Council UKSC 11 (03 March 2010) Lord Walker said that if the public is to acquire a right by prescription, they must bring home to the landowner that a right is being asserted against him. Lord Walker accepts the view of Lord Hoffman in Sunningwell that the English theory of prescription is concerned with how the matter would have appeared to the owner of the land or, if there was an absentee owner, to a reasonable owner who was on the spot. The presumption of dedication arises from acquiescence in the use. Again in Redcar, in the Court of Appeal Dyson LJ refers to Hollins and Verney and the words of Lindley LJ.*

***"No actual user can be sufficient to satisfy the statute, unless during the whole of the statutory term...the user is enough at any rate to carry to the mind of a reasonable person...the fact that a continuous right to enjoyment is being asserted, and ought to be resisted if such a right is not recognised, and if resistance is intended."***

- 13.8 Not only did 27 people use the route in the relevant period, 20 of them reported seeing others walking and riding. Of the four 20 year users all of them saw other walkers and riders during the full period.
- 13.9 Additionally horses leave hoof prints where the ground is soft and cycles leave tyre marks. Horse riders are high on the horizon and readily visible and all users bar 3 considered that the landowner was aware of their use; many had seen vehicles working the fields and had seen other people listed as gamekeeper, estate manager and owner.
- 13.10 In addition to the above, the claimed route forms an easily accessible and logical link in the network, especially for horse riders as it allows them to avoid the main road, adding credibility to the claims that people used the route as they say they did. It is credible that they did so.

13.11 Evidence has clearly been individually given and forms a consistent, cogent body of evidence from a small rural community stretching back a considerable length of time. It is an inevitable fact that the number of people who used the route over 30 years ago in a small community is going to be small but officers feel that on the balance of probability the evidence adduced, and the evidence of what they observed, would be sufficient to satisfy s.31 of the Highways Act 1980 and to raise the presumption of dedication.

#### **14.0 Whether use was interrupted**

14.1 Use was interrupted by the deposit made under s.31(6) HA80 in 2004.

14.2 If this interruption is subsequently found to be insufficient to negative the intention to dedicate then officers consider that the deposit made in 2010 would be insufficient for the same reasons. Use was therefore next interrupted in 2015 by the locking of the gates on the southern leg and the signage on both legs (though not on footpath Durnford 8).

#### **15.0 Whether use was as of right – without secrecy, force or permission**

##### **15.1 Secrecy**

Use has not been in secret. Use has been daily, weekly, monthly and less than monthly from 32 users with evidence of others having been seen (though it is not known whether these people have also submitted UEFs).

##### **15.5 Force**

No users report the need to use force and the way appears to have been open and accessible until being gated in 2015.

##### **15.6 Permission**

One user, witness no 25, reports being challenged once while on horseback and was then given permission to use the claimed route by a previous owner “a few years ago”. No other users claim to have had permission though the landowner raises the possibility of witness no. 2 using the route by implied permission (as an employee of the tenant) up to 1990.

#### **16.0 The intention of the landowners**

The intention of the landowners from 2004 onwards has clearly been that they have no intention to dedicate any rights of way over their land. They took reasonable steps to convey this to the public with statements, maps and statutory declarations made with Wiltshire Council who kept and displayed them in a manner consistent with the requirements of s.31(6) HA80.

16.1 The intention of Mr and Mrs Turner was made even more clear to all users of the path (and not just those who may have looked for s.31(6) HA80 deposits) in 2015 when locked gates and signs were erected.

16.2 The landowner claims that estate staff would always challenge users when they saw them though almost no witnesses record being challenged though do, on occasions refer to passing the time of day or acknowledgement. In the event that all parties have been truthful in their recollections, only a relatively high footfall could explain this.



- 16.3 There are two tenancy agreements which further support the landowner's lack of intention to dedicate public rights. Details have been provided by the current landowner:

*"A tenancy relating to the section of the claimed route from Footpath 8 north to point B, dated 18 April 2008: this contained a clause requiring the tenant to "prevent any new footpaths or other encroachments or easements from being made in or acquired over any part of the Holding."*

*"A tenancy relating to the section of the claimed route from point A on Bridleway 4 north to footpath 8, dated 12 July 2013: this contained clauses requiring the tenant to "not permit upon the Holding any campers or gypsies caravans picnicking parties sales advertising signs hoardings or other non-agricultural use" and "not to assign underlet or part with possession or occupation of the Holding or any part thereof."*

- 16.4 It is noted that the clauses in the tenancy agreements may not be taken into account as an event that called the public use into question. In considering the effect of such a clause in *R (Godmanchester and Drain) v SoSeFRA* [2007] UKHL 28 Lord Hoffman stated at para. 47:

*"I rather doubt whether, even on the principle applied by the Court of Appeal, the clause could be regarded as sufficient. The fact that landlord and tenant have signed a common form agreement containing such a clause says very little about their actual states of mind. But I think that it was wrong in principle to take the tenancy agreement into account, because it would not have been available to users of the right of way. The Yattendon decision must therefore be quashed."*

## **17.0 Subjective belief**

It does not matter what is in the mind of the user of the way or whether he believes it to be a public right of way or not; it is the nature of his actual use that is the consideration.

Lord Hoffman in *R v Oxfordshire CC Ex p. Sunningwell Parish Council* [2000] A.C. 335 at 356:

*"In the case of public rights, evidence of reputation of the existence of the right was always admissible and formed the subject of a special exception to the hearsay rule. But that is not at all the same thing as evidence of the individual states of mind of people who used the way. In the normal case, of course, outward appearance and inward belief will coincide. A person who believes he has the right to use a footpath will use in the way in which a person having such a right would use it. But user which is apparently as of right cannot be discounted merely because, as will often be the case, many of the users over a long period were subjectively indifferent as to whether a right existed, or even had private knowledge that it did not. Where Parliament has provided for the creation of rights by 20 years user, it is almost inevitable that user in the earlier years will have been without any very confident belief in the existence of a legal right. But that does not mean that it must be ignored."*

## **18.0 The common law test**

In the absence of evidence of actual express dedication by a landowner, proof of a past dedication is inevitably achieved by looking at the character and extent of use of the way

using the principles of “*nec clam, nec vi and nec precario*” i.e. ‘as of right’ and as discussed at section 15 of this report.

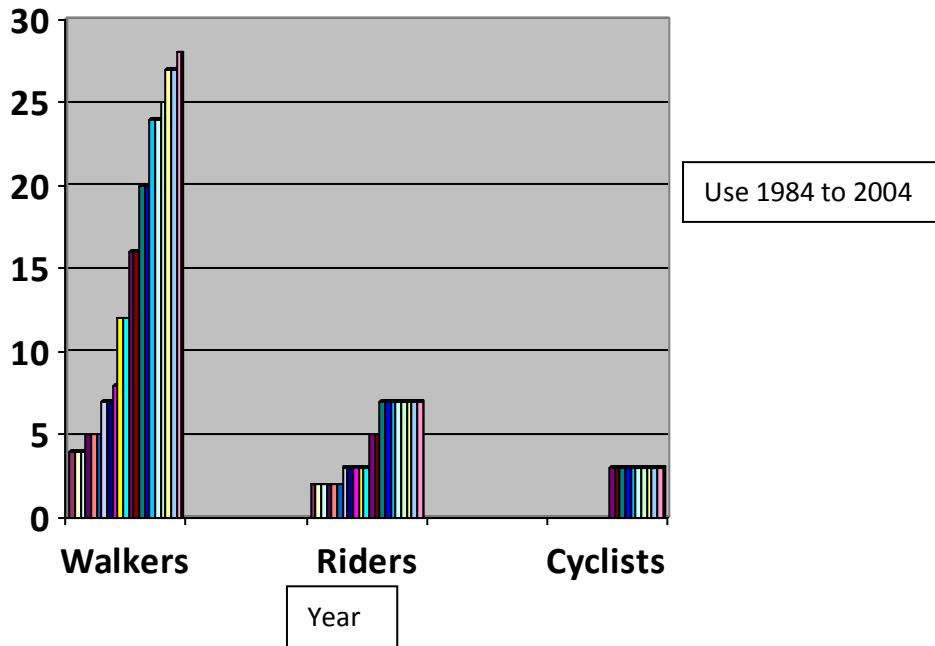
- 18.1 The common law test does not require a period of time to be satisfied (unlike the 20 years specified in s.31 Highways Act 1980) but use would be expected to be of such frequency so as for the owner of the land to be aware of the use and sufficiently used to demonstrate acceptance by the public.
- 18.2 It is clear that since 2004 there has been no act of dedication by the landowner though prior to 2004 the user evidence suggests that there had been acquiescence to public use of the path. The current landowner’s submission identifies challenges to use by estate staff but is non specific about dates beyond the successful challenge to 5 walkers on Boxing Day 2008.
- 18.3 Given the size of Great Durnford a considerable body of evidence of use of the claimed route has been adduced that no landowner would reasonably not have been aware of.
- 18.4 Witness number 1 states that she was shown the claimed route (between Durnford 8 and 10) by an elderly neighbour in 1999. He had called it “the back route to Amesbury” and had drawn a sketch. He had lived in the area all of his life and had walked the path since being a boy. This is supportive of a longstanding assertion by the public of a right.
- 18.5 Additionally it is noted that witness number 11 who has lived in the area since birth (1955) and who has used the path on horseback, walking and driving a pony trap recalls using it in the period 1960 to 1962, then intermittently and then regularly 2011 to 2015. Because of the term ‘intermittently’ in her evidence this witness does not appear in the statistics as it is not possible to say during which years she used it, however, her evidence is also supportive of a longstanding local use of the route.

## **19.0 Conclusions on the statutory test**

- 19.1 To re-cap, Section 31(1) of the Highways Act 1980 states:

*(1) Where a way over any land, other than a way of such character that use of it by the public could not give rise at common law to any presumption of dedication, has been actually enjoyed by the public as of right and without interruption for a full period of 20 years, the way is to be deemed to have been dedicated as a highway unless there is sufficient evidence that there was no intention during that period to dedicate it.*

- 19.2 The way is of such character as to be able to give rise to a presumption of dedication. Public use of the way was interrupted by deposits made with the Council and treated as if they were s.31(6) deposits in 2004 requiring that the public needed to demonstrate that they had used the way ‘as of right’ between the years 1984 and 2004.
- 19.3 There is no evidence of lack of intention to dedicate before the Council for the period 1984 to 2004. Use has been as of right. There is little or no evidence of challenge or permission during this period, in any event, even if estate staff had challenged users on occasion this does not seem to have come to the notice of the substantive body of people using the path. Profiles of use from **Page 100** depicted below:



## 20.0 Conclusions on the common law test

It is clear that no dedication at common law has occurred since 2004 since the landowners intention not to dedicate has been clearly made out.

20.1 It is however necessary to consider the period before 2000 when the land was owned by Lord Tryon.

20.2 Lord Hoffman highlighted the difficulties associated with identifying a qualifying act for a dedication at common law in paragraph 6 of *Godmanchester* [2007] UKHL 28:

*“As a matter of experience and common sense, however, dedication is not usually the most likely explanation for long user by the public, any more that a lost modern grant is the most likely explanation for long user of a private right of way. People do dedicate land as public highways, particularly in laying out building schemes. It is however hard to believe that many of the cartways, bridle paths and footpaths in rural areas owe their origin to a conscious act of dedication. Tolerance, good nature, ignorance or inertia on the part of the landowners over many years are more likely explanations...”*

20.3 It appears that in Durnford, during the time Lord Tryon owned the estate, that there was a greater tolerance to public access. However, for a right of way to be established at common law the use should be of such a level that it was clear a right was being asserted against the landowner.

20.4 It is a possibility that a right was acquired under common law for the period that Lord Tryon owned the land. There is no evidence of signage, deposits (deposits dating back to the 1932 Act have been checked), interruption or challenge for this period and use appears to have taken place alongside the activities of the landowner and his tenants, having the appearance of acquiescence to the public.

20.5 Whilst a dedication at common law remains a possibility, officers consider that the application of s.31 of the Highways Act 1980 is the correct approach for this application.

## **21.0 Legal and financial considerations and risk assessment**

If Wiltshire Council refuses to make an order the applicant may lodge an appeal with the Secretary of State who will consider the evidence and may direct the Council to make the order. If the Council is directed to make an Order it must do so.

- 21.1 Failure to progress this case to determination within a year of application may result in the applicant seeking a direction from the Secretary of State. As Wiltshire Council prioritises user based applications it is likely that the Council would be directed to make a determination.
- 21.2 If the Council is directed to make an Order, and when made and advertised it receives objections which are duly made it must be forwarded to the Secretary of State for determination. Through their agent, the Planning Inspectorate (PINS), the order may be determined by way of written representations (no additional cost to the Council), a local hearing (cost £200 to £500) or a public inquiry (cost £3500 - £5000 if Wiltshire Council supports the order; around £300 if it does not). The Council may support the Order, object to it or where directed to make it, may take a neutral stance.
- 21.3 Statute is clear as to the Council's duty in this matter and financial provision has been made to pursue this duty. It is considered unlikely that judicial review would be sought by any party if the statute is adhered to. Costs arising from judicial review of the Council's processes or decision making can be high (in the region of £20,000 to £50,000).
- 21.4 There is a risk attached to the Council's interpretation of the effect of the deposits made in 2004 and 2010. If they are subsequently found to have no effect, or perhaps only the 2010 deposit has an effect (owing to the additional requirement to make it available online) then it would be necessary to consider different relevant periods. However, there is a greater amount of evidence for any relevant period from the one considered (1984 – 2004) onwards.

## **22.0 Equality impact**

- 22.1 Consideration of the Equality Act 2010 is not relevant to the application of s.53 of the Wildlife and Countryside Act 1981. If the path is recorded in the definitive map and statement it must be as used and accepted by the public though any further improvements to access could be pursued by negotiation with the landowner as appropriate.

## **23.0 Relationship to Council's business plan**

- 23.1 Consideration of the Council's Business Plan is not relevant to the application of s.53 of the Wildlife and Countryside Act 1981.

## **24.0 Safeguarding considerations**

- 24.1 Consideration of Safeguarding matters is not relevant to the application of s.53 of the Wildlife and Countryside Act 1981.

## 25.0 Public Health Implications

25.1 Consideration of public health implications is not relevant to the application of s.53 of the Wildlife and Countryside Act 1981.

## 26.0 Options to consider

- 26.1
- i) To make an order to record a bridleway under s.53(3)(c)(i) and (ii) of the Wildlife and Countryside Act 1981.
  - ii) To make an order to record a footpath under s.53(3)(c)(i) and (ii) of the Wildlife and Countryside Act 1981.
  - iii) Not make an order under s.53(3)(c)(i) and (ii) of the Wildlife and Countryside Act 1981 and to refuse the application.

## 27.0 Reasons for recommendation .

Section 53(3)(c)(i) of the Wildlife and Countryside Act 1981 provides that an order should be made if the Authority discovers evidence, which, when considered with all other relevant evidence available to them, shows that, on the balance of probabilities, a right of way subsists or is reasonably alleged to subsist over land in the area to which the map relates. Section 53(3)(c)(ii) of the 1981 Act allows for the alteration of the description of a highway (i.e. the upgrading of a section of Durnford 8 to be recorded as a bridleway).

27.1 In considering the evidence under section 53(3)(c)(i) there are two tests which need to be applied, as set out in the case of *R v Secretary of State ex parte Mrs J Norton and Mr R Bagshaw*(1994) 68P & CR 402 (*Bagshaw*):

Test A: Does a right of way subsist on the balance of probabilities? This requires the authority to be satisfied that there is clear evidence in favour of public rights and no credible evidence to the contrary.

Test B: Is it reasonable to allege that on the balance of probabilities a right of way subsists? If the evidence in support of the claimed paths is finely balanced but there is no incontrovertible evidence that a right of way cannot be reasonably alleged to subsist, then the authority should find that a public right of way has been reasonably alleged.

27.2 To confirm the Order, a stronger test needs to be applied; that is, essentially that contained within Test A. In *Todd and Bradley v SoSEFRA [2004] EWHC 1450 (Admin)*. Evans-Lombe J found that the appropriate test for confirmation is the normal civil burden of proof that such a way subsists on the balance of probabilities.

NB – The weaker test of ‘reasonably alleged’ may only apply for those parts of the claimed route affected by sec. 53(3)(c)(i) – that is the previously unrecorded parts. For an Order to be made under sec. 53(3)(c)(ii) to upgrade the section of Durnford 8 from footpath to bridleway the stronger test of ‘balance of probabilities’ must be applied. Only if an Order to record only the unrecorded sections as footpaths were to be made would it be correct to consider only the ‘reasonably alleged’ test.

27.3 Test B is the weaker test and only requires that on the balance of probabilities it is reasonably alleged that public rights subsist. This allegation may only be defeated at the



order making stage by incontrovertible evidence. Incontrovertible evidence is that contained within s.31(3)(4)(5) and (6) of the Highways Act 1980.

- 27.4 The deposited plan and statement made in 2004 provides incontrovertible evidence of the landowner's lack of intention to dedicate additional rights of way to the public and calls into question the public's right.
- 27.5 This being the case the 20 years period for the application of s.31(1) HA80 is 1984 to 2004 and it is considered that there is no incontrovertible evidence within this period.
- 27.6 The landowner considers that there is a paucity of evidence to support the making of an Order but officers consider that the UEFs form a consistent and cohesive body of evidence demonstrating use of the route by walkers and riders dating back to the 1960s and that in a rural setting like Great Durnford that the levels of use demonstrated and reported on are, on the balance of probabilities, sufficient to satisfy s.31(1) of the Highways Act 1980 on all parts of the claimed route.
- 27.7 The width of claimed route, from the mean of responses is 3.3 metres.

## **28.0 Recommendation**

**That Wiltshire Council makes an Order under s.53(3)(c)(i)(ii) & (iii) of the Wildlife and Countryside Act 1981 to record a public bridleway leading from Durnford 4 to Durnford 8 and from Durnford 8 to Durnford 10 with an upgrade to bridleway of the linking section of Durnford 8. In the event that no objections or representations are received that the Order should be confirmed.**

Sally Madgwick

Rights of Way Officer – definitive map

23 March 2016

## **Appendix A Summary of user evidence**

User Evidence Forms Great Durnford Applications – Summaries

APPENDIX 2.A

No	Name	Address	2015/06	2015/07	2015/08	2015/09
1	Jan Stringer	Jasmine Cottage Netton Salisbury SP4 6AW		Part		
2	Michael Hazzard	Celtic Fields Great Durnford Salisbury		Yes	Yes	
3	Elizabeth Ward	Swans Drift Great Durnford Salisbury SP4 6AY	Yes	Yes	Yes	Yes
4	Jonathan Ward	Swans Drift Great Durnford Salisbury SP4 6AY	Yes	Yes	Yes	Yes
5	Julia Gallop	Woodrow Cottage Great Durnford Salisbury SP4 6AZ		Yes	Part	Yes
6	Nicholas Gallop	Woodrow Cottage Great Durnford SP4 6AZ		Yes	Yes	Yes
7	Fiona Curtis	Ogbury House Great Durnford SP4 6AZ		Yes	Yes	Yes
8	Jill Jones	Hillbrow Great Durnford Salisbury SP4 6AY	Yes	Yes		
9	Linda Trehitt	Pi Cottage Great Durnford Salisbury	Yes	Yes		
10	Margaret Snell	Old Hall Great Durnford Salisbury		Part		
11	Jane Rasch	The Round House Netton Salisbury SP4 6AW		Yes		
12	Fiona Patterson	Dukes Place Middle Woodford Salisbury SP4 6NP		Yes	Part	Yes
13	Nicole Blackwood	Dairy House Great Durnford Salisbury SP4 2AZ		Yes	Part	Yes
14	James Blackwood	Dairy House Great Durnford Salisbury SP4 6AZ	Yes	Yes	Part	Yes
15	Jonathan Blackwood	The Red House Southview Road Crowborough TN6 1HF	Yes	Yes	Part	Yes
16	Nick Pownall	Stravon Farmhouse Great Durnford Salisbury SP4 6AY	Yes	Yes	Yes	Yes
17	Loll Pownall	Strathavon Farmhouse Great Durnford Salisbury SP4 6AY	Yes	Yes	Yes	Yes

No	Name	Address	2015/06	2015/07	2015/08	2015/09
18	Anthony Wells	North Fram House Great Durnford Salisbury SP4 6AZ		Yes		
19	James Wells	Flat 3 Seville House 118 Hale Wapping High Street E1W 1NX		Yes		
20	Alexandra Wells	North Farm House Great Durnford Salisbury SP4 6AZ		Yes		
21	Julia Wells	North Farm House Great Durnford Salisbury SP4 6AZ		Yes		
22	Luke March	St Andrews Farmhouse Great Durnford Salisbury SP4 6AZ	Part	Yes	Part	Yes
23	Thomas March	St Andrews Farmhouse Great Durnford Salisbury SP4 6AZ	Part	Yes	Part	Yes
24	James March	St Andrews Farmhouse Great Durnford Salisbury SP4 6AZ	Part	Yes	Part	Yes
25	Sarah March	St Andrews Farmhouse Great Durnford Salisbury SP4 6AZ	Part	Yes	Part	Yes
26	Georgina Gallop	Flat A 50 Manor Road London N16 5BG		Yes	Yes	Yes
27	Celia Berkeley	Salterton House Salterton Salisbury SP4 6AN		Yes		
28	Vanessa Hawkings	Riverfield House Great Durnford Salisbury		Yes part	Yes	Yes
29	Aloysia Daros	16 Middleton Road Salisbury SP2 7AY		Yes		
30	Claire Lester	65 Barnard Field Amesbury SP4 7FF		Yes		
31	Marilyn Aram	36 Victoria Road Wilton SP2 0DY		Yes		
32	John Brunton	Orchard Cottage Great Durnford SP4 6AY	Yes	Yes part		Yes

**2015/06 witnesses 3,4,8,9,15,16,17,22,23,24,25,32**

**13 in total**

**2015/07 witnesses 1 to 32 inclusive**

**32 in total**

**2015/08 witnesses 2,3,4,5,6,7,12,13,14,15,16,17,22,23,24,25,26,28**

**18 in total**

**2015/09 witnesses 2,3,4,5,6,7,12,13,14,15,16,17,22,23,24,25,26,28,32**

**19 in total**

**2015/07 Period of Use – Relevant period applied 1984 - 2004**

*NB The relevant period is subject to review and possible alteration in the event the Order is referred to the Secretary of State for Environment, Food and Rural Affairs.*

<b>Witness no</b>	<b>Period of Use</b>	<b>Years in Relevant Period</b>	<b>Means of Use</b>	<b>Frequency of use</b>	<b>Other users seen?</b>
1	1999 - 2015	5	Walking and cycling (occ)	15 + times per annum (part only)	Horses and cyclists
2	1957 – 2015	20	Walking	Many times per year	Walkers and horse riders
3	1999 – 2015	5	Walking	8 times per year	Walkers and horses
4	1999 – 2015	5	Walking	Monthly	Walkers and horses
5	2002 – 2015	2	Walking	Several times per week	Walkers, riders and cyclist
6	2002 – 2015	2	Walking	Weekly or more often	Horse riders and walkers
7	1990 – 2015	14	Walking and riding a horse	Daily	Walkers and riders
8	1987 – 2011	17	Walking dogs	Once a week	Horse riders and walkers
9	1992 – 1998	5	Walking	Most weeks	Walkers
10	1979 – 2015	20	Walking	Monthly	Walkers occasional cyclist and horse rider
11	1960 – 1962 2011 – 2015	See para. 18.5 in Decision report	Riding and driving a horse and walking	1960s 12 X per annum then 6 X per annum	Other riders
12	1964 – 2015	20	Walking and riding	1 to 2 per week	Walkers, cyclists and riders
13	2001 – 2015	3	Walking	3-4 month	Walkers

<b>Witness no</b>	<b>Period of Use</b>	<b>Years in Relevant Period</b>	<b>Means of Use</b>	<b>Frequency of use</b>	<b>Other users seen?</b>
14	1993 – 2015	11	Walking	3 times per month	Other walkers
15	1993 – 2011	11	Walking	At least 20 per annum	Walkers
16	1993 – 2015	11	Walking	Weekly several times	Walkers
17	1993 – 2015	11	Walking	Most of the week	Walkers
18	1995 – 2015	9	Walking	2 to 3 times per week	Walkers and horse riders
19	1995 – 2015	9	Walking running and cycling	Once a month	Walkers, runners, cyclists and horse riders
20	1995 – 2015	9	Walking and riding a horse sometimes cycling	Daily now weekly or fortnightly	Yes
21	1995 – 2015	9	Walking and riding horses	Weekly as a walker	Walkers and riders
22	1997 – 2015	7	Walking	At least weekly	Walkers, horse riders and cyclists
23	1997 – 2015	7	Walking and running	At least monthly	Walkers and horse riders
24	1997 – 2015	7	Walking, running and riding a horse	At least monthly	Walkers and horses and cyclists
25	1997 – 2015	7	Walking and riding a horse	Almost daily	Walkers and horse riders
26	2004 – 2015	1	Walking/running	10 – 12 per year	Horses, walkers/cycles
27	1976 – 2013	20	Walking/riding	6 + per year	Horses and



					walkers
<b>Witness no</b>	<b>Period of Use</b>	<b>Years in Relevant Period</b>	<b>Means of Use</b>	<b>Frequency of use</b>	<b>Other users seen?</b>
28	1999 – 2015	5	Walking	c.8 per year	Walkers
29	2008 – 2015	0	Riding a horse	Est weekly	Walkers and other riders
30	2008 – 2015	0	Riding a horse	Twice a week	Riders and dog walkers
31	2012 – 2014	0	Riding a horse	At least twice a week	Horses, cyclists, dog walkers and walkers
32	1990 – 2015	14	Walking	Weekly	Walkers and horses

**2015/07 – Bridleway path 4 to 10**

<b>Witness no</b>	<b>Signs?</b>	<b>Gates or stiles?</b>	<b>Permission ?</b>	<b>Challenge?</b>	<b>Was the owner or occupier aware?</b>	<b>Notes</b>
1	Only around March/April 2015	No	No	No	Yes because it joins two bridleways it is the obvious path to follow and the alternatives are so overgrown that I didn't know they existed until the path in question was closed	We were shown the route by an elderly neighbour when we first moved here. He called it the "back route to Amesbury" and drew us a sketch. He had lived in the area all of his life and had walked the path since being a boy.
2	No	No	No	No	Yes. No objection was raised	
3	No	No	No	No	Yes. It is an open path with no restrictions. There are horse marks and droppings	
4	No	No	No	No	Yes – it is an open path with no restrictions plus there is evidence of horses	
5	No	No	No	No	Yes – it's open countryside so easy to see walkers and riders. On muddy days horses, dogs and people leave footprints. Horse manure on tracks. Have met the previous owner on the path.	
6	No	No	No	No	Yes open and visible from a distance. Hoof marks and droppings from horses are obvious	Some paths visible on satellite views

<b>Witness no</b>	<b>Signs?</b>	<b>Gates or stiles?</b>	<b>Permission ?</b>	<b>Challenge?</b>	<b>Was the owner or occupier aware?</b>	<b>Notes</b>
7	No	No	No	No	Yes – it was a well used route and very open and I would pass the previous owner often	Never stopped or turned back before June 2015
8	No	No	No	No	Yes – apart from the present owner we were to walk freely as long as we respected the countryside	
9	No	No	No	No	Yes – these routes have been frequently used by various people over the years. The matter cannot have gone unnoticed by the landowners, it certainly hasn't to the new landowner.	Difficulties have only arisen over the last couple of months
10	No	No	No	No	Yes – the keeper of the Great Durnford Estate would have seen regular walkers and reported back to the Estate Office. He would just be doing his job thoroughly.	
11	No	No	No	No	Yes – path in regular use by myself and others; hoofprints	
12	New signs	New gate	No	No	Yes – have spoken to Lord Tryon while I was riding it many years ago. The keepers over the years have also never tried to stop me using it.	I have also ridden Durnford 8 for 25 to 30 years.

<b>Witness no</b>	<b>Signs?</b>	<b>Gates or stiles?</b>	<b>Permission ?</b>	<b>Challenge?</b>	<b>Was the owner or occupier aware?</b>	<b>Notes</b>
13	No	No	No	No	Do not know	
14	No	No	No	No	Do not know	I have always been led to believe that all these routes were accessible to the public for walking. This is a general consensus for the many who use the paths that are resident in the village.
15	No	No	No	No	Yes. Great Durnford is a small village with community who most people know, so it would have been made very clear if you were walking on private land or somewhere that you should not have been.	
16	No	No	No	No	Yes, frequent meetings with previous owners over many years. Access never a topic.	
17	No	No	No	No	Yes, he took on the previous gamekeeper and estate manager the former I have met on numerous occasions on the footpaths in question.	
18	'No public right of way' summer 2015	Locked gate summer 2015	No	No	Yes – on occasions I met the keeper on the route who issued no objection	

<b>Witness no</b>	<b>Signs?</b>	<b>Gates or stiles?</b>	<b>Permission ?</b>	<b>Challenge?</b>	<b>Was the owner or occupier aware?</b>	<b>Notes</b>
19	No	No	No	No	Yes – the route is used by numerous people and they can't have failed to notice. The game keeper (who works for the owner) has seen me use it before	Has photographs
20	May 2015	May 2015	No	No	Yes certainly I have frequently chatted to keeper and others who work on estate.	I have frequently chatted to keeper or others who work on estate and never been told I'm not on a public right of way on horse and foot.
21	Summer 2015	Summer 2015	No	No	Yes often seen the game keeper when walking on path who never objected to my being there	I didn't know it wasn't a right of way as it links others
22	June 2015	No	No	No	Yes these paths and tracks have been used by generations of local people and this has been well known by previous owners of the Great Durnford Estate	Never been stopped but am aware of a rider who has been challenged
23	June 2015	No	No	No	Yes these paths and tracks have been used by generations of local people and this has been well known by previous owners of the Great Durnford Estate	



<b>Witness no</b>	<b>Signs?</b>	<b>Gates or stiles?</b>	<b>Permission ?</b>	<b>Challenge?</b>	<b>Was the owner or occupier aware?</b>	<b>Notes</b>
24	June 2015	No	No	No	Yes these paths and tracks have been used by generations of local people and this has been well known by previous owners of the Great Durnford Estate	
25	June 2015	No	No	No	Yes these paths and tracks have been used by generations of local people and this has been well known by previous owners of the Great Durnford Estate	
26	Not until mid 2015	No	No	No	Yes it's clear everyone in the village enjoys the surrounding countryside. On a nice day you'll pass people on the path walking dogs/riding. There is no way anyone living here could assume that the public wasn't freely enjoying the way	
27	No	No	No	No	I was never challenged and I would have expected the owner and his staff to know of the public access	
28	No	Kissing gate alongside Woodrow	No	No	Walkers/horse riders would be visible on the land by the owner. Also from general local conversation	
29	This year	No	No	No	Yes we would often ride along when they were working in the fields adjacent	
30	This year signs saying private		No	No	We would ride along the track while the fields were being ploughed	
31	This year signs saying private	No	No	No	Have seen many workers and tractors working the fields alongside the track whilst riding	

Witness no	Signs?	Gates or stiles?	Permission ?	Challenge?	Was the owner or occupier aware?	Notes
32	No	No	No	No	Don't know	Used southern part only

**Widths in metres (where stated)**

2015/07 4,4,4,3 to 4,4,3 to 4,4,2,2,2 to 3, 4,1 to 5, 1 to 5, 1to 4, 1 to 4, 3, 3,3,3,4,4,4,4,3.5,3,4,tractor tyre width,2.5,2.5, 1.5

Data taken from User evidence forms by Sally Madgwick September to December 2015

31 December 2015

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**Wiltshire Council**  
**Southern Area Planning Committee**  
**12<sup>th</sup> January 2017**

Planning Appeals Received between 21/10/2016 and 20/12/2016

Application No	Site Location	Parish	Proposal	DEL or COMM	Appeal Type	Officer Recommend	Appeal Start Date	Overturn at Cttee
15/10837/CLE	Long Meadow Nurseries Breamore Road Downton, Salisbury SP5 3HW	DOWNTON	The use of land for a mixed use comprising of a residential dwelling, retail, the stationing of caravans for residential purposes and the use of land for horticulture/agriculture.	DEL	Inquiry	Split Decision	14/11/2016	No
16/02778/FUL	22 Grateley Road Cholderton Wiltshire, SP4 0DL	CHOLDERTON	Single storey rear extension (resubmission of 14/11591/FUL)	COMM	House Holder Appeal	Approve with Conditions	07/11/2016	Yes
16/03464/ADV	Lloyds Pharmacy 4 Minster Street Salisbury, Wilts SP1 1TF	SALISBURY CITY	3 x externally illuminated fascia signs, 2 x internally illuminated projecting signs and 5 x non-illuminated vinyl graphics	DEL	Written Representations	Refuse	14/11/2016	No
16/03702/LBC	Lloyds Pharmacy 4 Minster Street Salisbury, Wilts SP1 1TF	SALISBURY CITY	3 x externally illuminated fascia signs, 2 x internally illuminated projecting signs and 5 x non-illuminated vinyl graphics	DEL	Written Representations	Refuse	14/11/2016	No
16/05994/FUL	8 Philip Road Wilton, Salisbury Wiltshire, SP2 0JJ	WILTON	Two storey side and single storey rear extensions and alterations	DEL	House Holder Appeal	Refuse	03/11/2016	No
16/06703/FUL	92A Queen Alexandra Road, Salisbury Wiltshire, SP2 9LB	SALISBURY CITY	Demolition of existing dwelling & erection of five dwellings with associated access, parking and landscaping	DEL	Written Representations	Refuse	28/11/2016	No
16/07378/FUL	Yew Tree House Church Lane, Amesbury Salisbury, Wiltshire SP4 7HA	AMESBURY	Replace Hedge & Fencing with 1.8m Brick Wall.	DEL	House Holder Appeal	Refuse	02/12/2016	No
16/08770/FUL	Land off Butler Close, Rear of 81 Downton Road, Salisbury SP2 8AT	SALISBURY CITY	Erection of three bed dwelling with first floor terrace, associated parking and demolition of existing garage.	DEL	Written Representations	Refuse	28/11/2016	No
15/00313/ENF	Little Acre, Main Road, Winterbourne Earls, Salisbury	LAVERSTOCK	Caravan being used as permanent residential accommodation	DEL	Inquiry	-	08/12/2016	No

Application No	Site Location	Parish	Proposal	DEL or COMM	Appeal Type	Officer Recommend	Appeal Decision	Decision Date	Costs Awarded ?
15/02806/LBC	Garden Cottage Penruddocke Arms Hindon Road Dinton, Wiltshire SP3 5EL	DINTON	Extension to form a kitchen and additional bed rooms	DEL	Hearing	Refuse	Dismissed	02/11/2016	No
15/06643/FUL	Garden Cottage Penruddocke Arms Hindon Road Dinton, Wiltshire SP3 5EL	DINTON	Extension to form a kitchen and additional bed rooms	DEL	Hearing	Refuse	Dismissed	02/11/2016	No
16/03129/FUL	22 Glebe Road Durrington Salisbury, SP4 8AY	DURRINGTON	Proposed new detached dwelling with associated dropped kerb.	DEL	Written Reps	Refuse	Dismissed	09/11/2016	No
16/02778/FUL	22 Grateley Road Cholderton Wiltshire, SP4 0DL	CHOLDERTON	Single storey rear extension (resubmission of 14/11591/FUL)	COMM	House Holder Appeal	Approve with Conditions	Allowed with Conditions	16/12/2016	Costs Refused
16/04775/FUL	Land rear of Wagtails Southampton Road Alderbury, Wiltshire SP5 3AF	ALDERBURY	Demolition of Wagtails and Erection of 3 Dwellings and Associated Works (Revision to 15/11933/FUL)	DEL	Written Reps	Refuse	Allowed with Conditions	06/12/2016	No



**REPORT FOR SOUTHERN AREA PLANNING COMMITTEE**

**Report No.**

<b>Date of Meeting</b>	12 <sup>th</sup> January 2017
<b>Application Number</b>	14/01986/FUL
<b>Site Address</b>	The White Hart St. John Street Salisbury SP1 2SD
<b>Proposal</b>	Alterations and extensions to existing rear extension/courtyard buildings, to provide function rooms, entrance, and 28 guest bedrooms. Internal changes and refurbishment, with enhancement of existing parking area.
<b>Applicant</b>	White Hart Hotel Salisbury Ltd
<b>Town/Parish Council</b>	SALISBURY CITY
<b>Electoral Division</b>	ST MARTINS AND CATHEDRAL – Cllr Ian Tomes
<b>Grid Ref</b>	414569 129722
<b>Type of application</b>	Full Planning
<b>Case Officer</b>	Tim Pizzey

**1. REASON FOR THE APPLICATION BEING CONSIDERED BY COMMITTEE**

Cllr Ian Tomes wishes the matter to be considered by Committee given the continuing local concerns expressed and the previous history of this project.

**2. PURPOSE OF REPORT**

The purpose of this report is to assess the merits of the proposed development against the policies of the development plan and other material considerations. Having reached a balanced conclusion, the report recommends that planning permission be APPROVED subject to conditions.

**3. REPORT SUMMARY**

The main issues to consider are:

1. Principle of the Development
2. Scale and Design
3. Impact on the Historic Environment.
4. Residential Amenity
5. Highway / Transport considerations
6. Drainage / Flood Risk

## 7. CIL

The application as originally submitted generated 7 letters of objection from local residents, related mainly to amenity issues (noise, overlooking, and loss of light), increased traffic, parking, scale, design, views and listed building / heritage issues. Concern over noise has been expressed in particular in relation to the proposed new functions rooms, use of the rear service access and intensification of use. Revisions to the proposed scheme and noise mitigation measures have subsequently been submitted following discussions with the Council's Public Protection Team. Some minor revisions to the design have taken place in response to other amenity concerns.

The Civic Society and Ancient Monuments Society have raised concerns, including the introduction of a new reception at the rear of the building. Historic England has raised various concerns to the plans as originally submitted and has been party to discussions on revisions to the scheme. The most appropriate approach and treatment to the 1970s extension has been the subject of considerable discussion. Following the submission of revised proposals, a further 3 letters of objection have been received from local residents. Historic England continues to have an issue with the mansard roof addition but acknowledges the improvements to the scheme and recommends that the application be determined on the basis of the LPA's own expert conservation advice. The Council's Conservation Officer has no objections to the revised proposals, subject to conditions.

With the improvements brought about through revisions to the scheme, it is considered that, on balance, the proposed scale, design and impact on the historic environment is acceptable and the harm to the occupiers of adjacent residential properties has been mitigated to a point where it is considered that a refusal of permission would not be justified on the ground of the adverse impact on residential amenity.

Flood risk and drainage has been addressed by the applicant and / or can be controlled through the use of conditions. The hotel is located in an accessible location and would not give rise to harmful traffic / transportation or pollution issues. The Highways Officer has raised no objection on highways safety or to reduced levels of parking, given its location.

This application has evolved from previous unsuccessful schemes (including a more contemporary design) over a number of years and has resulted in the current scheme to address previous concerns. In principle, it is considered that the improvement to the hotel accommodation would be beneficial to economic development and tourism in the city. The proposal would result in some reasonably substantial changes and additions to this listed building and it will inevitably have some impact on the environment of the site and on the occupiers of surrounding properties. However, having regard to the development plan and other relevant material considerations, it is judged that the balance of the considerations weighs in favour of granting planning permission.

## 4. MAIN POLICIES

Wiltshire Core Strategy (adopted January 2015):

Core Policy 1: Settlement strategy  
Core Policy 2: Delivery strategy  
Core Policy 3: Infrastructure requirements  
Core Policy 20: Spatial Strategy: Salisbury Community Area  
Core Policy 22: Salisbury Skyline  
Core Policy 35: Economic regeneration  
Core Policy 38: Retail and leisure  
Core Policy 39: Tourist development

Core Policy 40: Hotels, bed and breakfast, guest houses and conferences  
Core Policy 41: Sustainable construction and low carbon energy  
Core Policy 50: Biodiversity and geodiversity  
Core Policy 55: Air quality  
Core Policy 57: Ensuring high quality design and place shaping  
Core Policy 58: Ensuring the conservation of the historic environment  
Core Policy 60: Sustainable transport  
Core Policy 61: Transport and development  
Core Policy 62: Development impacts on the transport network  
Core Policy 63: Transport strategies  
Core Policy 64: Demand management  
Core Policy 67: Flood risk  
Core Policy 68: Water resources  
Saved Salisbury District Local Plan policies: D4 (Salisbury Townscape /Chequers)

Supplementary Planning Guidance:

Creating Places Design Guide SPG (Adopted April 2006) Creating Places Design Guide SPG (Adopted April 2006).

National Planning Policy Framework (March 2012), in particular paragraphs 14 and 17, Section 1 (Building a Strong Economy), Section 2 (Ensuring the Vitality and Viability of Town Centres), Section 4 (Promoting Sustainable Transport), Section 7 (Requiring Good Design), Section 10 (Meeting the Challenge of Climate Change, Flooding and Coastal Change), Section 12 (Conserving and Enhancing the Historic Environment).

National Planning Policy Guidance (March 2014)

Sections 16 Planning (Listed Building and Conservation Areas) Act 1990

Section 72 Planning (Listed Building and Conservation Areas) Act 1990

Other documents: Salisbury City Conservation Area Appraisal, Tourism Strategy for South Wiltshire

## **5. SITE AND SURROUNDINGS**

The White Hart Hotel is located at the junction of St John Street and Ivy Street in Salisbury. It is a relatively extensive site within the historic Eastern Chequers area of the city, occupying a significant part of the 'White Hart' Chequer. The main public facing frontage of the hotel building is to St Johns Street (the main entrance) and Ivy Street but it has a vehicular entrance to Brown Street that serves the hotel and car park. The car park extends to St Ann's Street, which forms the southern side of the Chequer. The hotel is a Grade II\* listed building and located within the Salisbury Conservation Area. Although a few commercial uses, there are mainly residential properties which back on to the site in Ivy Street, either side of the access in Brown Street, and St Ann's Street and St John Street on the south side of the site. The Cathedral Close is located within close proximity to the south west on the west side of Exeter Street and St John's Street.

## **6. THE PROPOSAL**

The proposal is mainly for an extension and alterations to provide an additional 28 guest bedrooms and new function rooms, with associated works and alterations. The application scheme involves expansion and remodelling of the hotel's 1970s bedroom wing, with an upward third floor extension (mansard roof) to provide an additional accommodation together with the replacement of a collection of single storey buildings, which currently includes back-of-house accommodation, on the north side of this wing, with a new extension, stepped up to

three storeys high, with a mansard roof at third floor level which joins that proposed above the 1970s wing at the same height. A new covered refuse storage area is also proposed at the rear. The also seeks to refurbish the public areas within the hotel and re-landscape the car park. The proposal also includes re-facing the 1970's façade to part of St John's Street. The proposals are discussed further below.

A listed building application 14/01990/LBC for associated works has been submitted and is being considered concurrently with this application.



## 7. RECENT PLANNING HISTORY

14/01990/LBC	Proposed alterations to existing 1970s block including conversion of the parking under-croft, stepped four storey extension including an upward extension to form new level, providing function rooms and a new hotel entrance on the ground floor with 28 No new guest bedrooms above. Proposed internal refurbishment and alterations to existing public areas with associated landscaping. <b>UNDETERMINED /CONCURRENT.</b>
S/2013/0061	Proposed alterations to existing 1970s block including conversion of parking under croft, stepped four storey extension including an upward extension to form new level, providing function rooms and a new hotel entrance on the ground floor with 29 No new guest bedrooms above. Proposed internal refurbishment and alterations to existing public areas with associated landscaping. <b>WITHDRAWN 16.01.13.</b>
S/2013/0060	Proposed alterations to existing 1970s block including conversion of parking under-croft, stepped four storey extension including an upward extension to form new level, providing function rooms and a new hotel entrance on the ground floor with 29 No new guest bedrooms above. Proposed internal refurbishment and alterations to existing public areas with associated landscaping. <b>WITHDRAWN 16.01.13</b>
S/2012/0770	Proposed repair works to section of boundary wall. <b>APPROVED 30/05/12.</b>
S/2011/1861	Proposed demolition of existing wall. <b>WITHDRAWN</b>

	14/12/11
S/2011/1841	Proposed demolition of existing wall and construction of five dwellings, within the curtilage of a listed building. WITHDRAWN 07/12/11
S/2011/1840	Proposed demolition of existing wall and construction of five dwellings, within the curtilage of a listed building. WITHDRAWN 07/12/11.
S/2009/1313	Internal alterations to existing meeting room to create DDA compliant WC facility. APPROVED 10.09.09.
S/2009/0740	Conversion of staff accommodation for the white hart hotel to provide 4 no individual houses, no's 86, 88, 90 & 92 brown street. APPROVED 28/05/09.
S/2009/0741	Conversion of staff accommodation for the white hart hotel to provide 4no individual houses, no's 86, 88, 90 & 92 brown street. APPROVED 28/05/09.
S/2008/0266	Maintenance to stone portico installation of air conditioning / condense units and bedroom plus corridor decorations. APPROVED 12/02/08.
S/2008/0037	Installation of external air conditioning condenser units and steel work platform. APPROVED 14/01/08.
S/2003/2089	L/B application. Construction of a pair of brick piers to support a damaged concrete beam. APPROVED 23/12/03.
S/2003/2088	Construction of a pair of brick piers to support a concrete beam. APPROVED 28/11/03.
S/2003/0704	L/B application. Extension to existing hotel to include health and fitness centre a further 14 bedrooms to the upper floors and new roof to court yard and associated alterations. REFUSED 07/07/03.
S/2003/0703	Extension to existing hotel to include health and fitness centre a further 14 bedrooms to the upper floors and new roof to court yard and associated alterations. REFUSED 07/07/03.
S/2002/1422	Extension to existing hotel to include health and fitness centre a further 32 / 33 bedrooms to the upper floors and new roof to courtyard. REFUSED 04/09/02.
S/2002/1423	L/B application. Extension to existing hotel to include health and fitness centre a further 32 / 33 bedrooms to the upper floors and new roof to courtyard. REFUSED 04/09/02.
S/2000/2133	Erect external porch. APPROVED 03/01/00.
S/2000/2072	Convert 2 rooms into 1 meeting room and erect external covered area. APPROVED 29/12/00.
S/2000/1827	L/B application. Proposed new entrance door to front elevation with minor internal alterations. APPROVED 12/12/00.
S/2000/1826	Proposed new entrance door to front elevation with minor internal alterations. APPROVED 16/11/00.
S/2000/0525	Infill open area to the front elevation. APPROVED 19/05/00.
S/2000/0526	Infill existing open area to the front elevation. APPROVED 28/06/00.
S/1996/1020	L/B application. Erection of new decorative iron gates and improvements to underside of bedroom block. APPROVED 05/09/96.



S/1996/1019	Erection of new decorative iron gates (St John Street). APPROVED 22/08/96.
S/1995/0882	Reduction in length of existing flagpole from 4.2m long to 3m long. APPROVED 16/08/95.
S/1995/0330	L/B application - relocation of flagpole from roof of portico to portico gable to enable flag to be taken down occasionally for cleaning etc. REFUSED 19/05/95.
S/1992/1553	L/B application - new signage to replace existing and additional signs. APPROVED 08/06/92.
S/1992/1392	L/B application - fit traditional awnings to ground floor windows and door on the St. John street elevation. REFUSED 02/11/92.
S/1989/0537	Re-roofing with non-asbestos slates or alternatively with non-asbestos slates on rear and second-hand slates on front elevation. REFUSED 10/05/89.
S/1988/0403	L/B application - erection of wall and block up doorway. APPROVED 20/04/88.
S/1988/0402	Alterations to lounge etc. APPROVED 20/04/88.
S/1986/1000	L/B application - to erect and paint 15 sets of shutters to ground floor windows along St. John street elevation of hotel. WITHDRAWN.
S/1985/0674	L/B application - re-decoration of sash windows on all elevations and redecoration of brickwork on ivy street. REFUSED 26.06.85.
S/1985/0215	Demolition of existing garage erection of store and formation of conference room. APPROVED 03/04/85.
S/1985/0216	L/B application - demolition of existing garage, erection of store and formation of conference room. APPROVED 03/04/85.
S/1984/1696	L/B application - erection of flagpole atop the balustrade and removal of two in the portico. APPROVED 30/01/85.
S/1983/0779	L/B application - erection of flag pole at top balustrade of hotel. REFUSED 03/08/83.
S/1983/0618	L/B application - erection of a canopy over the door leading to new "wavells" bar. APPROVED 22/06/83.
S/1983/0157	L/B application - (a) to erect 9 hanging basket holders (b) to remove glass from lanterns on portico & replace. APPROVED 11/04/83.

## 8. REPRESENTATIONS

The application was publicised through site notice, neighbour notification and newspaper advertisement.

7 letters of objections from neighbouring properties. Summary of main points raised:

- Concern regarding height
- Massing, overbearing impact
- Don't want upward extension
- Use of access way and right of way at rear of hotel
- Reduction in width of access way
- Parking / obstruction of access way
- Reduction in parking

- Impact of noise from use of functions rooms
- Openable windows / noise breakout
- Noise report needs to address issues to contain noise
- Noise from staff, deliveries and function rooms and use of car park
- No guarantee that management procedures / mitigation will work
- Activities will be concentrated to a much smaller area to the rear
- More likely to cause a statutory nuisance
- Loss of daylight
- Loss of privacy / overlooking from proposed extension
- Increase in size intrudes on privacy
- Upward extension would be an eyesore
- Not in keeping with surrounding medieval buildings which would be overshadowed
- Will necessitate increased traffic into car park
- Insufficient parking on site for size of development
- Increased pressure on on-street parking in Residents Parking Zone E
- Increased traffic congestion and highway danger / safety issues in Brown Street
- Noise and disturbance from users / vehicles in early morning
- Noise and disturbance from construction work
- Previous objections to use of rear entrance as main entrance
- Increase in of traffic using only entrance off Brown Street
- Increase in traffic will exacerbate noise, pollution and fumes in Brown Street
- Air quality assessment inadequate
- For most part, residences opposite access and backing onto hotel affected by increase in traffic.
- Nuisance caused by increase in vehicular and pedestrian traffic, particularly at midnight with alcohol involved – already a problem in Milford Street.
- In a Conservation Area - out of scale with surrounding small scale buildings
- Will overwhelm historic character and intrinsic nature of the area
- Development undesirable / should not be approved.
- Persistent applications of this nature of inconvenience to local residents / property owners
- Insufficient account taken of local need
- Fails to meet Council's adopted policies
- Increase in height / taller – would affect views of Cathedral from outside the site, particularly from the east
- Would partially mask views of Cathedral from Churchill Way
- Impact on listed buildings
- Contrary to Policies CN3, CN5, CN8, CN9, CN11, CN12 (conservation policies) - relating to design, scale, character, setting and views.
- Taking away top floor would only result a reduction of 12 rooms from 28- sold houses in Brown Street that could have accommodated more than 12 rooms.
- Alternative sites for developing 4\* hotel rather than overdeveloping this site
- Hotel has sold off other properties which could have been used for hotel accommodation
- Car parks referred to available for parking e.g. Brown St. likely to be redeveloped, and would not be available for parking.

Following the submission of revised plans, a further 3 letters of objections have been received, two from previous objectors.

Salisbury City Council: None received

Salisbury Civic Society:

*“On behalf of the Civic Society, I would like to comment on the above submission. We have been following with interest the evolving applications on this important site. As with previous schemes, we remain somewhat cautious about the effect of significant development within the centre of a Chequer; forming a new entrance to the rear of the hotel turns a quiet, central space into a destination, which is fundamentally out of keeping with the medieval urban layout. When we last wrote on 13th February 2013 with regard to the previous application, we noted our concern that a new formal entrance at the rear of the might make the core of the chequer very busy, especially if the number of guests is increased. We remain concerned that it might become a busy delivery/ pick-up /drop-off point accommodating larger vehicles and groups of people waiting around, as they currently do opposite the front entrance, on St John’s Street (although here they are at least a greater distance from the surrounding residential area). New road markings, planting, increased lighting etc. might make this car park and rear entrance much more of a feature than it has been previously.*

*Whilst a new rear access might help to ease congestion on St John’s Street, its impact on the character of the listed building might be much more detrimental longer term. The internal spaces of the existing building are rationalised through ones arrival at the St John’s Street entrance, directly off the main thoroughfare; the internal layout of the building works to accommodate visitors arriving here, entering at the Hotel Reception. In the proposed plans the current reception and lounge area is now labelled as a ‘bistro.’ Clearly we must judge the application on the information presented today, but we would be concerned that such a comprehensive reversal of the buildings orientation to now welcome visitors at the rear will very likely raise the need for subsequent internal alterations to the listed building in the future. Sadly, this also leaves the landmark entrance on St John’s Street all but redundant in the likelihood it becomes used mainly as the bistro entrance, rather than the main hotel. Much of the joy in staying in these heritage assets in historic towns and cities is taken from the arrival at unusual and interesting landmarks. Unfortunately this will be lost at the White Hart, with a low-key, almost apologetic and very generic entrance being formed at the rear, at the centre of the chequer.*

*Despite our concerns with the plan form and organisation of the new layout, we recognise that this is in the commercial heart of the city centre. As such, we do not feel that the massing of the new proposal is overly large. The plan layouts appear to have been put together carefully so as not to increase any overlooking issues with adjacent properties, although the expansion northwards will have an undeniable impact on the rear of the Ivy Street properties. As with the previous scheme, the main elevational drawings do not fully incorporate the context of the surrounding site. A long section through the whole chequer showing the proposed south elevation would also help reassure us that the massing is acceptable. The proposal’s main impact might be from the east where the ground is a bit higher, beyond Brown Street, but there are no drawings which adequately illustrate this. A concise history of the recent planning applications would also help the reader better understand the evolution and reasoning behind the current proposal.*

*Whilst efforts have been made to reduce the massing of the scheme from that submitted in 2013, we do feel that the design intent has unfortunately also been ‘watered down.’ In this respect, we support the comments made by English Heritage. The elevations are less well considered and it is difficult to see how these are site specific. The new entrance is not articulated as well as the previous scheme and the more monolithic stone façade seems to appear heavier and bulkier as a result. There is a danger that this new development could begin to resemble any other generic out-of -town hotel chain. The current 1970s extension at least dared to be different and of its time!*

*In summary, we feel the application could be substantially improved. Improvements would look to be focused on a design for the new entrance which is currently less good than the previous version. We also reiterate our strong concern that the new reoriented layout is in total conflict with the plan form of the listed building. We also wish to highlight the deficiencies of the application in supplying full contextual information.*

*We are not opposed to redevelopment of this existing extension and we would be glad to see improvements made that also provide a much needed facility to the city centre. However, we are concerned that the current design presents a missed opportunity to do something modern, of its time and site specific. The White Hart Hotel is an unusual and charming historic building; it is a city centre landmark that deserves an architectural response equal to that of the existing building”.*

Wiltshire and Swindon Biological Records Centre:

Note that otters and bat species have been recorded nearby.

Wiltshire Fire & Rescue:

Refer to Building Regulations (B5) and recommendations to improve safety and reduce property loss in the event of fire (domestic sprinkler protection).

*(Officer Note: compliance with Building Regulation is a requirement / procedure. However, an Informative can be added to the decision. Also the applicant should be advised that any subsequent changes to the approved plans to comply Building Regulations may require the further approval of the LPA in terms of the listed building consent and planning permission*

## **9. CONSULTATIONS**

Historic England:

Historic England (then English Heritage) commented on the plans as originally submitted as follows:

*“ .....English Heritage has had extensive involvement with this site over several years with both pre-application and formal applications.*

*Summary*

*We consider the impact of the scale of the new block combined with the imposition of the mansard roof extension on the existing and new build will have less than substantial harm on the setting to the principle heritage asset- The White Hart and adjacent listed buildings within the tight environment of this Chequer within the Salisbury Conservation Area. We believe more efforts should be made to offset this harm with a more integrated and imaginative approach to bring some positive improvements to the car park that is highlighted as a negative space at the rear of the hotel.*

*English Heritage Advice*

*The White Hart is a significant Grade II\* heritage asset that is located on the west side of the chequer nearest to the eastern extent of the Cathedral Close boundary wall. Its presence on this corner of St John's Street and Ivy Street is pivotal in both reinforcing the historic fabric and significance of the city's townscape and, as it covers a large proportion of this chequer, its prominent position is an important landmark. Built in the late 18<sup>th</sup> century, but possibly retaining fabric from an earlier structure, it is “remarkably grand for an inn of that date” (Pevsner). Interestingly, Pevsner also highlights the 1970s extension by N Foley that is the subject of this application.*

*Due the extent of time that this proposal has evolved, several different Inspectors from*

English Heritage have been involved. My understanding of the planning history to date is that various applications have been submitted and either refused or withdrawn. The exception being that LBC has been approved for the demolition of the single storey building behind the principal building. Although this has not yet been implemented, the principle of demolition has already been conceded. It is, however, disappointing that the applicants do not appear to have provided a detailed planning history summary that would assist in this consultation. It is also regrettable that this building has not been integrated into the overall proposal. A more creative solution might have been successful in achieving a sustainable future for this structure.

This proposal is primarily concerned with the 1970's block that is linked on the front and forms an L-shaped extension to the hotel. It has a parking undercroft that helps to lighten this otherwise quite heavy extension, when viewed from the car park. The proposal is to infill the undercroft and raise the structure by another storey to allow for further bedroom accommodation. This will also entail the installation of a mansard roof rather than the current flat roofed structure. A further extension of the same height and design finishing in the mansard roof is also proposed to run along the northern side of the hotel providing further accommodation.

This scheme presents a more unified structure at the rear than previous iterations and will incorporate the current external stairs that are visually unattractive on the external face of the car park elevation. It also allows for greater separation between the end of the hotel and the rear of the properties on Brown Street. On the street front elevation of this late 20<sup>th</sup> century addition, the proposal includes some cosmetic changes to the façade to create a more visually compatible elevational treatment to the building. Whilst we accept that this may improve the visual qualities of the extension, there is a danger that if badly executed using cheap materials this could result in a poor attempt at pastiche. We, therefore, recommend that this element of the work is subject to strong Conditions.

The main issue for us will be the introduction of the mansard roof that is **not** normally an accepted roof form associated with Salisbury. However, we understand that this revision has been as a direct result of discussions with Wiltshire Council. Whilst we do not favour this form of roof addition, we are mindful that it will be relatively well screened from most public views around the Hotel and the Chequer on which it is located. It is most unlikely that there will any views of it from further afield; as the photomontages indicate that this development will have a relatively low impact outside the immediate setting of the Chequer in which the White Hart sits. However, there will be some harm albeit less than substantial, to the immediate heritage assets around and within the Chequer itself by the introduction of the mansard roof combined with the scale of the north elevation. To some extent this should be offset by the landscaping scheme that will help to mitigate the harshness of the car park area that is identified as a negative element in Jane Root's Statement of Significance. However, we do not consider the planting of a few token trees to be adequate enough and would ask that this matter is reassessed. Although, it would also be wrong to over embellish or to make the entrance too conspicuous in the street, something simple might help lift this part of the Brown Street. Such enhancement could then be balanced against the harm caused by this inappropriate roof form of development.

On this basis, we consider that this development will have a negative impact on the setting to the principle grade II\* listed hotel building, other designated heritage assets within the close vicinity of this site and on the Conservation Area. Currently the proposals should be addressed against Policy 134 of the NPPF. We do not believe enough public benefits have been demonstrated to outweigh this less than substantial harm. We would ask that further investigations are made with the applicants to see if more comprehensive improvements can be forthcoming to the car park and entrance way.



### *Recommendation*

*We urge you to address the above issues, and recommend that this application be determined in accordance with national and local policy guidance, and on the basis of your expert conservation advice. It is not necessary for us to be consulted again. If you feel you need further advice, please let us know why.*

*Please re-consult us if there are material changes to the proposals beyond those necessary to address the issues we have raised. We will then consider whether such changes might lead us to object. If they do, and if your authority is minded to grant consent, you should notify the Secretary of State of this application in accordance with Circular 08/2009”.*

Following the submission of revised plans and additional information, Historic England has commented:

*“...The additional information and amended plans provided appear to broadly address the concerns outlined in our earlier advice letter. We continue to have issue with the mansard roof addition but, as previously outlined, are mindful that it will be relatively well screened from most public views. Improvements to the facade treatment and landscaping have improved the visual character of the building and its setting.*

*We therefore recommend that the application is now determined in accordance with national and local policy guidance, and on the basis of your expert conservation advice.*

*It is not necessary for us to be consulted again. If you feel you need further advice, please let us know why.*

*Please re-consult us if there are material changes to the proposals beyond those necessary to address the issues we have raised. We will then consider whether such changes might lead us to object. If they do, and if your authority is minded to grant consent, you should notify the Secretary of State of this application in accordance with the above Direction...”.*

### Ancient Monuments Society:

*Thank you for consulting us on this application which was discussed at the Society’s Casework Committee on Tuesday 29 April. The Ancient Monuments Society believes that this application would be damaging to the Grade II\*- listed White Hart Hotel and its setting, as well as to the Salisbury City Centre Conservation Area. While the harm caused would be “less than substantial”, it would not be outweighed by public benefits and has not been justified. The Society agrees with English Heritage that further efforts should be made to a secure a more satisfactory outcome.*

### *Significance*

*The White Hart Hotel is an important landmark building in Salisbury town centre situated east of the Cathedral Close. It was listed Grade II\* in 1952, and is one of a small number of particularly important buildings with “more than special interest”. While the present building dates principally from the 18th century, it is known that an inn of this name existed on the site in 1635. The hotel’s prominent portico was added in the early 19th century as part of a remodelling. The hotel is in the Salisbury City Centre Conservation Area and in the north-west corner of the ‘White Hart Chequer’. Salisbury was built in the 13th century as a ‘new town’ on a grid of five streets from east to west and six from north to south forming ‘chequers’, or squares. The city derives much of its special character from its surviving medieval street pattern. We are grateful to the applicant for providing us with an analysis of the significance of the one-storey building to the rear of the hotel. While the document gives a useful description of the building, it is still not clear to us what its original purpose and age are. It would be useful to have this information to better understand the significance of this*

section of the White Hart Chequer. The Salisbury City Centre Conservation Area Appraisal states that "There has been little modern intervention within this Chequer and accordingly no archaeological work has been carried out." Although the building has been much altered in recent years, it has nevertheless survived and is evidence of the Chequer's past form and uses.

#### *Proposal and AMS position*

The application is for the refurbishment of a 1970s wing to the rear of the hotel and the creation of a new function room and dining room in place of the existing single storey building. Trustees were disappointed to note that the proposed 'new building' is in effect a refacing of an existing extension rather than a brand new development. While the preservation of embodied energy is to be applauded, Trustees feel that an opportunity has been missed to improve the relationship of the extension wing with the main hotel and, more importantly, that the constraints of the existing building's form has made the introduction of an innovative design more difficult to achieve. Trustees were also surprised that the applicant had not taken the opportunity to improve the setting of the White Hart Hotel by removing the 1970s extension and replacing it with a world-class design. In this sense, it could be argued that the recommendations of Section 7 of the NPPF, Requiring Good Design, and in particular Paragraphs 63 and 64, ought to be applied more stringently:

*63. In determining applications, great weight should be given to outstanding or innovative designs which help raise the standard of design more generally in the area.*

*64. Permission should be refused for development of poor design that fails to take the opportunities available for improving the character and quality of an area and the way it functions.*

Trustees cited the Council Office at Bourne Hill as an example of a highly successful design intervention in a sensitive context which has set a useful precedent in Salisbury. As English Heritage has pointed out, there is a danger that a badly executed scheme could result in pastiche. We share the organisation's concerns that a mansard roof would look incongruous within the context of the Salisbury City Conservation Area. In conclusion, the AMS has no objection to the demolition of the 1970s extension and believes that a well-executed replacement could have an enhancing effect. The Society agrees with English Heritage that the proposed solution is not satisfactory and does not meet the requirements of the NPPF. In addition to this, the AMS has concerns about the demolition of the single-storey building to the rear of the White Hart, whose significance may not yet have been fully established. We therefore object to the scheme as it stands. We would be happy to look at the application again, should further information be made available.

#### WC Urban Design Officer:

*"..Policy South Wiltshire Core Strategy saved Salisbury District Local Plan Design Policy D1/D2, Pre submission draft Wiltshire Core Strategy Core Policy 57.*

*The proposal is a revision of S/2013/0060/FULL & S/2013/0061/LBC which has satisfactorily addressed my comments dated 13.05.2013 on that application, and my subsequent comment on revisions dated 11.10.2013 with the exception of the following queries:*

*- Downpipes are not shown on the elevations-Is it the intention to run these internally? This should be established and if not, as a significant visual element of the elevational design they should be shown on the proposed plans and elevations. Strategically placed they could particularly contribute a stature and interest to the elevations. For example expressed hopper heads and robust downpipes set in from each corner of the 4 storey element of the brick faced East Elevation to drain the gutter at the mansard parapet level. Rainwater goods should be identified as metal rather than plastics to represent a suitable quality of appearance in this setting with other historic buildings;*

- As mentioned in both of my previous comments there is still no indication on the plans or elevations of how the service plant and outlets for the extension will be integrated into the design to establish these will not liberally appear on the roof and facades potentially detrimental to visual quality of the surrounding area and amenity of neighbouring occupiers and not just from the issue of noise.

While there is a note on the 'proposed section c' that 'all extracts, vents, louvres, a/c ducts from the function room will be taken to face the courtyard...' it cannot be assumed from this that externally mounted plant and ducting is not required and will not materialize across the numerous flat roofs which are likely to be clearly visible from neighbouring properties. Associated intake /extract grilles to ventilate the ground floor communal toilets and internal bedroom toilets should also be shown: the location of the hotel bedroom en-suites suggest multiple soil pipe vents and mechanical ventilation/intake extracts may project above and 'pepper' the fourth floor flat roof seen from a distance whereas any protrusions should be shown on the drawings-combined and incorporated in a visually tidy and unobtrusive way into the mansard.

In addition the opening of the windows should also be established and noted on the elevations as centre pivot or top hung windows would look distinctly out of place in this setting.

The specific facing brickwork and generic reference to the stone panelling and sloping roof finish is shown alongside the coloured proposed elevation drawings and on the sectional details drawing. Samples/specification will need to be provided for each of these for approval together with the brickwork bond /mortar joint details, cills/parapets, profile/colour of the aluminium window frames, and rainwater goods to establish that these are of an appropriately high quality of appearance in this setting. This should include the flat roof finish where a bright and reflective colour and finish (typical of single ply roof membranes) would detract from the roofscape of the Chequers, and visual amenity of neighbouring properties looking down on these. The Michelmersh brick images are shown in Flemish Bond which would be an appropriate bond adding local interest while maintaining the 'contemporary' appearance"

Following the submission of further information in response to the above comments the Urban Design Officer comments:

*"Their note suitably clarifies my queries. If they want to run external rainwater pipes on the extension portion they should show these on the elevations but being consistent with the main wing by keeping all pipes internal would be more logical. With the explanation of the approach to appropriately minimising the roof outlets and external plant etc. suggests you could condition this and expect this approach to appear on details then submitted ?"*

Conservation Officer:

Based on the recently revised plans, the Conservation Officer comments:

*"...The proposal requires the partial demolition of a single-storeyed range to the rear of the hotel; much more of this is now to be retained than in previous iterations. The extension and additional floor to the 1970s wing would not have an overbearing impact on the setting of the listed building or its listed neighbours. The large flat roof is essentially a reworking of the existing flat roof, although there would be less flat area due to the slate-clad sides; the use of slate is an enhancement over other possible materials (and the existing). The lift/stairwell projection toward the western end of the proposal area may just be visible from St John St, however this would not be a significant intrusion into this important view. The proposal to*

*clad the whole of the rear wing in gault bricks is welcomed, and a pointed sample panel will be essential to ensure that the brick chosen is the most appropriate. I would like to know for sure the materials/design of the dormer windows and new glazing; and also of the ground floor alterations to the St John St elevation, both of which could be provided for agreement by condition.*

*Overall, I think the modest harm created by raising the level of the top floor is outweighed by the visual benefits of the alterations to the rear wing and the southern section on St John St, without getting into the other benefits of increased accommodation etc....”*

#### Economic Development and Tourism:

The Council's Development Officer comments:

*“ I have consulted with VisitWiltshire on the subject application.*

*The Visitor Accommodation Study undertaken for VisitWiltshire by Hotel Solutions confirms that there is potential for additional hotel provision in Salisbury city centre at the 4 star / boutique level, and that incremental growth through the expansion and upgrading of existing hotels, and some new, relatively small boutique hotels is the most appropriate way forward to meeting the requirement for additional supply at this level in the market.*

*This application is aligned with this level of growth, and so VisitWiltshire supports it”.*

#### WC Public Protection:

The Council's Public Protection Officer originally raised queries regarding the submitted with the noise assessment and requested that the issues be addressed at the application stage. With respect to Air Quality the PPO raised no concerns about the air quality assessment submitted with the application and air quality should not deteriorate as a result of the development.

Following the submission of further information the PPO made further comments:

*“The most recent noise report completed in October 2013 (HM:2415/R3) details the measured noise levels at the nearest residential property (86 Brown Street) and refers to BS4142:1997. The assessment indicates the noise level will be 3-4dB above background levels at the property up to midnight. BS4142 states that a difference of around +5Db is of marginal significance. As detailed in the report the predicted noise level is unlikely to be particularly noticeable within buildings, though this is assuming that windows will stay closed and in warmer weather windows are likely to be open for a significant proportion of time. However, based on the responses from this department and the additional information provided, including further mitigation measures internally we will move forward with the previous suggestions made. Therefore, we would expect the applicant to submit further information detailing how entertainment noise from the function rooms will be managed. This should take the form of a noise management strategy. As previously mentioned this strategy should include the following;*

- *Details on how the noise limiter will be set (including how it will control specific frequency ranges)*
- *How the noise limiter will be managed*
- *A statement detailing that all entertainment will be passed through the noise limiter*
- *Implemented procedures to ensure the device/system cannot be tampered/adjusted*

- *Procedures indicating that all entertainers will use the amplification system in the function rooms (therefore be controlled by the noise limiter)*
- *Absolute maximum noise level should be set in the function rooms (including details on how noise levels will be managed to ensure they do not exceed the max noise level)*

*The most recent plans indicate proposals to construct bi-folding doors inside the function rooms to provide additional insulation when the rooms are being used for entertainment purposes. Furthermore to the above we would need additional information from the noise consultant to indicate what the impact of the proposed changes to the structure including the bi-folding doors will have on emitted noise levels at the nearest residential property. As outlined in previous responses we still need to establish what the impact of low frequency noise will be”.*

Following the submission of revised plans and a further revised Noise Report, the PPO's comments and recommendation is:

*“...Following the additional information submitted at the beginning of last year for this application we agreed that we would move forward with the suggestions made by the agent and ask that further information detailing how entertainment noise from the function rooms will be managed. This has been completed, and a noise management strategy has been submitted.*

*The noise management plan includes details on the proposed noise limiting device and how it will be managed by the hotel staff. The information included from the manufacturer, Sentry, states that there is a remote reset key switch which may be added if required. Within the noise limiting management section of the noise management strategy it does not state whether or not this reset key switch will be added to the system, if it is (we would suggest it is) could the applicant/agent please confirm who will operate the switch and have access to the key? And amend their noise management strategy accordingly.*

*Once the noise management strategy has been updated and submitted, we would recommend that a condition to the following effect is attached to any planning permission granted. We would also recommend that a reference is given for the noise management strategy so this can be included in the condition;*

1. *All activities shall be carried out in accordance with the noise management strategy (reference). The noise management strategy shall not be altered without prior written approval from the local planning authority.*

*The layout for the function rooms now includes bi folding doors to cover the windows and fire door during noisy events. The noise assessment recommended acoustics specifications for the windows, fire door in the external wall and an independent acoustic ceiling. These are detailed in both the 2013 and 2016 report (HM:2415/R3). In relation to the mechanical ventilation, it has been identified that noise from the proposed equipment will be below background levels and acoustic louvers will be installed. To ensure all of the recommended mitigation measures are installed we would recommend the following condition is attached;*

2. *The development hereby permitted shall be designed, installed and maintained at all times thereafter in accordance with the acoustic mitigation measures detailed in section 2 and 5 of the submitted Hayes McKenzie Noise Report dated 14<sup>th</sup> October 2013 and 19<sup>th</sup> August 2016 reference HM:2415/R3.*

*At the nearest residential window to the east of the building, the predicted noise level for loud amplified music (96dB LAeq) in the function room is 41dB LAeq, which is 4dB above*



*the lowest assumed background noise level. It has been suggested that the noise level within the function room will be limited using a noise limiter to 90dB LAeq, which should ensure noise levels at the nearest residential window are below background noise levels. It had been agreed that prior to the function rooms becoming operational further measurements will be carried out to ensure a suitable maximum level inside the rooms can be obtained. Therefore, we would recommend a condition to the following effect is also attached to ensure post completion noise measuring is carried out;*

3. *No development shall commence on site until a written scheme for post completion noise measuring has been submitted to and approved in writing by the Local Planning Authority. The written scheme shall include details of the measurement location outside the building (nearest residential window) and the equipment and noise descriptors to be used for the purposes of measuring the residual levels of noise caused by the amplified music inside the function room. Post completion noise measurements made should ensure that the noise limiter is set at a level in which noise levels at the nearest residential window are below background noise levels (LA90) as defined in table 1 of the Environmental Noise Assessment (Reference; HM: 2415/R3, dated 14<sup>th</sup> October 2013 and 19<sup>th</sup> August 2016).*

*To ensure disturbance to residents is minimised during construction and demolition stages we would also recommend that the following conditions are attached to any planning approval granted;*

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.*
5. *No development shall commence on site until a construction management plan has been submitted to and approved in writing by the local planning authority. The plan shall include details of the measures that will be taken to reduce and manage the emission of noise, vibration and dust during the demolition and/or construction phase of the development. It shall include details of the following:*
  - a) *The movement of construction vehicles;*
  - b) *The cutting or other processing of building materials on site;*
  - c) *The transportation and storage of waste and building materials;*
  - d) *The recycling of waste materials (if any)*
  - e) *The loading and unloading of equipment and materials*
  - f) *The location and use of generators and temporary site accommodation*

*The construction/demolition phase of the development will be carried out fully in accordance with the construction management plan at all times.*

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

*We would also recommend if there isn't already a condition attached to previous approvals that a condition is attached restricting deliveries/collections to the site;*

7. *No deliveries shall be made to or collections made from the development hereby approved except between the hours of 07.00 and 19.00 Monday to Saturday and 08.00 to 17.00 on Sundays and Public Holidays...”..*

*(Officer's Note: A revision to the Noise Management Strategy has been requested in line with the PPO's requirements)*

### WC Archaeology:

*“ This site is of archaeological interest as it lies within the medieval White Hart chequer. Archaeological evaluation has taken place in and around the car park in 2003 and 2010. Both demonstrated that remains from the medieval and post-medieval period do survive in the areas investigated. The remains have, in some areas, been affected by the later buildings.*

*The NPPF (and previously the now superseded Planning Policy Statement 5) states that an application should describe the significance of heritage assets affected by an application. NPPF policy 128 states that ‘Where a site on which development is proposed includes or has the potential to include heritage assets with archaeological interest, local planning authorities should require developers to submit an appropriate desk-based assessment and, where necessary, a field evaluation.’*

*In this case, the previous evaluation has provided enough evidence to demonstrate that significant heritage assets with an archaeological interest are present on the site. However, the proposed development appears to have a significant overlap with the existing buildings.*

*The NPPF also says: 141. Local planning authorities should make information about the significance of the historic environment gathered as part of plan-making or development management publicly accessible. They should also require developers to record and advance understanding of the significance of any heritage assets to be lost (wholly or in part) in a manner proportionate to their importance and the impact, and to make this evidence (and any archive generated) publicly accessible. However, the ability to record evidence of our past should not be a factor in deciding whether such loss should be permitted.*

*As there appears to be a significant overlap between the proposed works and the existing buildings, mitigation work in advance of demolition appears to be problematic. It is therefore recommended that a programme of archaeological works is carried out as part of any development. This should initially take the form of a watching brief during demolition and construction. However, should significant remains be identified it may be necessary to undertake some archaeological excavation as part of the mitigation works. The applicant should be aware that this may have an effect upon their programme of works.*

*Therefore in line with the National Planning Policy Framework (NPPF) and the earlier PPS5 (2010) and Planning Policy Guidance Note 16: Archaeology and Planning (DoE 1990) the following recommendations are made:*

*Further Recommendations: The work should be conducted by a professionally recognised archaeological contractor in accordance with a brief issued by this office and there will be a financial implication for the applicant”*

*(Officer Note: a condition requiring a scheme of archaeological investigation is recommended – see conditions below)*

### WC Highways:

The Council's Highways Officer has commented:

*“My highway comments are similar to those on the S/2013/0060 planning application i.e., The hotel is located within the centre of Salisbury and benefits from city centre facilities and public transport opportunities within walking and cycling distances. There is a lack of on-street parking in the vicinity of the hotel, particularly for long stay parking, due to controlled*

parking restrictions and there is a choice of public car parks available for hotel guests if necessary.

*I am of the opinion that the reduction in overall parking provision within the hotel car park is not of particular concern in this central location and there would be no resulting detrimental impact on the highway. I do not wish to raise a highway objection”*

Confirmation is awaited from the Highways Officer regarding the revised plans.

Wessex Water:

*“... Water Supply and Waste Connections*

*If new water supply and waste water connections are required from Wessex water to serve this proposed development, application forms and guidance information is available from the Developer Services web-pages at our website [www.wessexwater.co.uk](http://www.wessexwater.co.uk). Please note that DEFRA intend to implement new regulations that will require the adoption of all new private sewers. All connections subject to these new regulations will require a signed adoption agreement with WessexWater before any drainage works commence. Further information can be obtained from our New Connections Team by telephoning 01225 526222 for Water Supply and 01225 526333 for Waste Water.*

*Separate Sewer Systems*

*Separate systems of drainage will be required to serve the proposed development. No surface water connections will be permitted to the foul sewer system. There should be no significant increase to the Surface water system...”*

Environment Agency:

*“ I note from Weetwood's letter dated 13 February 2014 that the only difference from a previous application that we commented upon (Our Ref: WX/2013/123009/01 and /02) is a slight reduction in proposed footprint.*

*The Flood Map has not changed since our previous comments in relation to the application above. Our advice has therefore not changed and we would recommend planning conditions (relating to finished floor levels and surface water management) as per our previous consultation (see ref above). Please note that we would not seek consultation to discharge a planning condition relating to surface water management. At this scale this would be the responsibility of the Local Drainage Authority.*

*Our previous response is reproduced below for ease of reference:*

*We have **no objection** to the proposed development **subject to the following conditions and informatives** being included in any planning permission granted.*

*(Officer Note: The EA recommends conditions in relation to a scheme of surface water drainage to be approved and water efficiency and Informatives in relation to flood resilience / proofing and water efficiency)*

WC Land Drainage Engineer:

The Council's Land Drainage Engineer's comments on the original submission:

“...

- Application form indicates use of sustainable drainage and connection to public storm sewers but you appear not to have a consultation response from Wessex Water – this

should be sought in case they require a condition on discharge rates – I am aware that on similar sites they require no increase in discharge rate in relation to storm to storm connections

- The Environment Agency letter dated 2 July 2014 identifies suggested conditions in relation to flood risk with which we agree...”

In discussion with the applicant’s consultant the Council’s Drainage Engineer sought further information regarding percolation tests / infiltration flow rates and details of the surface water system. Following the submission of further information the Council’s Land Drainage Engineer commented:

“... ”

- *Any discharge to public sewers, especially on revised arrangements will need approval of the sewerage undertaker*
- *The FRA talks about storage required if no soakaway and then deals with soakaways*
- *The base of any soakaway is to have at least 1m of unsaturated soil between it and the top level of ground water taking into account seasonal variations – it is extremely unlikely that this required 1m can be achieved – on site testing required – previous email in May 2015 confirmed direct connection to sewer with storage without infiltration due to the high water table...”*

However, subsequent to the latest Addendum to the FRA, the Council’s Land Drainage Engineer has confirmed no objection subject to conditions and recommends support with the following conditions:

*Condition 1 - 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 in consultation with the sewerage undertaker*

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

*Condition 2 - 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*

*Condition 3 - 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 in consultation with the sewerage undertaker*

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

*Condition 4 - 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*

(Officer Note: the Land Drainage Engineer has subsequently advised that Condition 1 be reworded to clarify discharge rates / limits to the public storm sewer)

## **10. ASSESSMENT**

### **10.1 Principle of the Development**

The NPPF makes it clear that applications for planning permission must be determined in accordance with the development plan unless material considerations indicate otherwise (para.11). The proposal is for an extension and alteration to an established hotel in the

centre of Salisbury. The key policy relating to proposals for new hotel facilities is Wiltshire Core Strategy Policy 40, which states:

*“Hotels, bed and breakfasts, guest houses and conference facilities  
Proposals for new hotels, bed and breakfasts, guesthouses or conference facilities, together with the sensitive extension, upgrading and intensification of existing tourism accommodation facilities will be supported within;*

- i. Principal Settlements and Market Towns; or*
- ii. Local Service Centres, and Large and Small Villages where the proposals are of an appropriate scale and character within the context of the immediate surroundings and the settlement as a whole; or.*
- iii. Outside the settlements above, proposals that involve the conservation of buildings that for contextual, architectural or historic reasons should be retained and otherwise would not be.*

*In all cases it must be demonstrated that proposals will:*

- iv. Not have a detrimental impact on the vitality of the town centre; and*
- v. Avoid unacceptable traffic generation.*

*Proposals for the change of use of existing bed spaces provided in hotels or public houses or conference facilities to alternative uses will be resisted, unless it can be clearly demonstrated there is no longer a need for such a facility in either its current use, or in any other form of tourism, leisure, arts, entertainment or cultural use”*

The WCS is an up to date document and its policies carry considerable weight. Salisbury is a ‘Principal Settlement’ under WCS Core Policy 1, which states

*“... Wiltshire’s Principal Settlements are strategically important centres and the primary focus for development. This will safeguard and enhance their strategic roles as employment and service centres. They will provide significant levels of jobs and homes, together with supporting community facilities and infrastructure meeting their economic potential in the most sustainable way to support better self containment...”*

In the WCS Spatial Vision, ‘Objective 1: delivering a thriving economy’ states that the *“The Core Strategy enables development to take place and encourages economic vitality, providing local jobs for Wiltshire’s population, whilst ensuring that sustainable development objectives have been met...”* and that *“... The potential of tourism should be realised as a major growth sector through capitalising on the quality of the environment and location Wiltshire benefit from...”*. In the ‘Key Outcomes’ a bullet point reference again to tourism states *“...Wiltshire’s tourist sector will have grown in a sustainable way, ensuring the protection and where possible enhancement of Wiltshire’s environmental and heritage assets, including the delivery of new tourist accommodation and where appropriate the safeguarding of existing facilities...”*.

The NPPF defines hotels as a ‘main town centre use’. In principle the proposal to provide additional hotel accommodation and facilities is in line with guidance in the NPPF which supports sequentially preferable sites to ensure the vitality and viability of town centres (para. 24). The town centre first approach is also highlighted in the NPPG. Section 1 (Building a strong, competitive economy) of the NPPF is supportive of sustainable economic growth and advocates that significant weight should be placed on economic growth in the planning system.

The hotel sector has strong links to tourism. WCS Policy 39 (Tourist development) states that *“... Within Principal Settlements and Market Towns, proposals for tourist development of an appropriate scale (including attractions and tourist accommodation) will be supported subject to a sequential assessment. Proposals for large-scale tourist development must be*



*assessed against all the policies of this Core Strategy, including transport implications and how the proposal could assist rural regeneration and the well being of communities...". It is considered that, in principle, the proposal would be in accordance with the Core Policy 39. Sequentially, the site is located in a sequentially preferable location within central and historic core of the city.*

The Spatial Strategy for the Salisbury Community Area in the WCS highlights Salisbury as an international tourist destination that brings significant revenue to the city, whilst the supporting text to Core Policy 40 specifically refers to the lack of both budget and high quality leisure accommodation within part of Wiltshire, particularly the south and states:

*"...For example, Salisbury is less successful in attracting business visitors than other, similar destinations and does not have the conference facilities needed for large events..."*

This relates back to work carried out in connection with 'A Tourism Strategy for South Wiltshire' in connection with the former South Wiltshire Core Strategy and is referred to in the evidence base in connection with the current Wiltshire Core Strategy.

The application is accompanied by a 'Planning Statement and Economic Justification'. Whilst 'need' is not a policy requirement as such under Core Policy 40, the document includes information on the key issues faced by the hotel, which is a material consideration, stating:

"...

- *The Hotel does not have a dedicated meeting / function / banqueting room and the operator is forced to close the restaurant to accommodate local banquets, weddings and larger meetings.*
- *The Hotel is restricted in terms of its ability to meet the demands of business and tourist visitors by the limited number of bedrooms, and this also affects its ability to service weddings and functions.*
- *There are at least 120 "constrained" nights per year – i.e. nights where there are not enough bedrooms to satisfy the demand.*
- *The location of the Reception, off St John Street, is not the natural point of arrival for guests arriving in their own car or by taxi. Furthermore, there is restricted access for drop off on St John's Street as it is adjacent to a busy traffic junction (and one way system) and no scope to increase the size of the drop off area in that location.*
- *Notwithstanding this, the Portico entrance on St John's Street is the main point of entry for pedestrians including local residents, businesses and visitors using the Hotel facilities (as a meeting point) and for guests during their stay, and historically was the main entrance. It therefore needs to continue to be a strong entry point.*
- *There is not a clear or logical internal route plan within the Hotel for guests and visitors.*

*The application proposals aim to address these operational issues and meet the owner's overall objectives through:*

- *The creation of new high quality and flexible function and banqueting facilities, with a room capacity of approx. 175 persons with associated facilities (toilets / breakout area / bar, etc.).*
- *The provision of 28 additional guest bedrooms, to meet existing demands and to support the conferencing and banqueting facilities.*
- *The enhancement of the existing bistro / bar / lounge area visible from, and leading off, the main portico street entrance from St John's Street, to create a focal / rendezvous point for local business and leisure users.*

- *The creation of a new main entrance and reception area at the car park side of the Hotel to enhance the experience for guests arriving by car and taxi and improve the route through the Hotel.*
  - *The refurbishment of the existing restaurant overlooking a new landscaped courtyard area, giving a central focus / heart to the ground floor of the Hotel*
- ...”

A more recent additional planning statement submitted in support of the application includes information on the economic, social, and public benefits that would result from the proposal, referring to the issues highlighted in the Tourism Topic Paper, and the need for additional hotel accommodation and conference facilities in Salisbury. Some further site specific operational issues mentioned include:

- 2015 records showing the demand for rooms cannot be met because of high occupancy levels.
- The inability to currently meet demand impacts and support Salisbury as a tourist, shopping and business destination.
- The only 4\* hotel without a dedicated meeting / function/ banqueting facilities.
- The 68 rooms is restricted in its ability to meet demands of business and tourist visitors and service wedding and larger functions.
- Will increase the number of 4\* bedrooms and improved conference facilities.
- Visitors are turned away have no other options for this level of hotel accommodation in the city.
- The restricted drop –off point is to a busy traffic junction, part of a one way system and there is no scope to increase its suitability as a drop-off location.
- The construction budget would be a significant investment in Salisbury.
- Would provide additional employment opportunities (8 new full time staff).
- Additional knock on local economic benefits and expenditure.

The applicant considers that the application proposals would be in accordance with the Council’s policy; with the tourism strategy and vision for Salisbury; and with the overarching objectives of the NPPF to promote sustainable economic growth, they will:

“ ...

- *Provide additional hotel bedrooms in an established and accessible town centre hotel location;*
  - *Assist in meeting an identified need for additional hotel accommodation in Salisbury;*
  - *Create purpose built and flexible banqueting and conferencing space, for which there is an acknowledged need;*
  - *Assist in supporting the long term viability of the White Hart Hotel, which is a significant Grade II\* listed building in a prominent location, and enhance its existing 4\* rating;*
  - *More generally, support the tourism economy in Salisbury and the wider south Wiltshire area*
- ...”

The Council’s Economic Development and Tourism officer has referred to the ‘*The Visitor Accommodation Study undertaken for VisitWiltshire by Hotel Solution*’, which confirms that there is potential for additional hotel provision in Salisbury city centre at the 4 star / boutique level, and that incremental growth through the expansion and upgrading of existing hotels, and some new, relatively small boutique hotels is the most appropriate way forward to meeting the requirement for additional supply at this level in the market.

Whilst the development plan and policies have changed since the application was submitted, notably with the adoption of the WCS in January 2015, it is considered that the proposal to extend the hotel in this location would in line with the general strategy set out in the development plan and guidance in the NPPF and NPPG and would help towards meeting the desired outcomes as set out in the action plan within the Tourism Strategy for South Wiltshire. It is considered that there would be a public benefit in terms of contributing to the local economy and tourism objectives.

Notwithstanding this, however, the proposal must be considered against all relevant policies of the WCS and have regard to any other relevant guidance in the NPPF / NPPG, and other material planning considerations. These matters are set out below.

## 10.2 Scale and Design

The NPPF requires good design including, inter alia, a strong sense of place responding to the character and history and reflecting the identity of local surroundings and materials.

Core Policy 57 (Ensuring high quality design and place shaping) states that “...A high standard of design is required in all new developments, including extensions, alterations, and changes of use of existing buildings. Development is expected to create a strong sense of place through drawing on the local context and being complimentary to the locality. Applications for new development must be accompanied by appropriate information to demonstrate how the proposal will make a positive contribution to the character of Wiltshire through:

- i. *Enhancing local distinctiveness by responding to the value of the natural and historic environment, relating positively to its landscape setting and the existing pattern of development and responding to local topography by ensuring that important views into, within and out of the site are to be retained and enhanced*
- ii. *The retention and enhancement of existing important landscaping and natural features, (for example trees, hedges, banks and watercourses), in order to take opportunities to enhance biodiversity, create wildlife and recreational corridors, effectively integrate the development into its setting and to justify and mitigate against any losses that may occur through the development*
- iii. *Responding positively to the existing townscape and landscape features in terms of building layouts, built form, height, mass, scale, building line, plot size, elevational design, materials streetscape and rooflines to effectively integrate the building into its setting*
- iv. *Being sympathetic to and conserving historic buildings and historic landscapes*
- v. *The maximisation of opportunities for sustainable construction techniques, use of renewable energy sources and ensuring buildings and spaces are orientated to gain maximum benefit from sunlight and passive solar energy, in accordance with Core Policy 41*
- vi. *Making efficient use of land whilst taking account of the characteristics of the site and the local context to deliver an appropriate development which relates effectively to the immediate setting and to the wider character of the area*

- vii. *Having regard to the compatibility of adjoining buildings and uses, the impact on the amenities of existing occupants, and ensuring that appropriate levels of amenity are achievable within the development itself, including the consideration of privacy, overshadowing; vibration; and pollution (such as light intrusion, noise, smoke, fumes, effluent, waste or litter)*
- viii. *Incorporating measures to reduce any actual or perceived opportunities for crime or antisocial behaviour on the site and in the surrounding area through the creation of visually attractive frontages that have windows and doors located to assist in the informal surveillance of public and shared areas by occupants of the site*
- ix. *Ensuring that the public realm, including new roads and other rights of way, are designed to create places of character which are legible, safe and accessible; in accordance with Core Policy 66 – Strategic Transport Network*
- x. *The sensitive design of advertisements and signage, which are appropriate and sympathetic to their local setting by means of scale, design, lighting and materials*
- xi. *Taking account of the needs of potential occupants, through planning for diversity and adaptability, and considering how buildings and space will be used in the immediate and long term future*
- xii. *The use of high standards of building materials, finishes and landscaping, including the provision of street furniture and the integration of art and design in the public realm*
- xiii. *In the case of major developments, ensuring they are accompanied by a detailed design statement and master plan, which is based on an analysis of the local context and assessment of constraints and opportunities of the site and is informed by a development concept, including clearly stated design principles, which will underpin the character of the new place.*
- xiv. *Meet the requirements of Core Policy 61 – Transport and New Development*

One of the most significant aspects of the development is the upward extension and external treatment to the 1970s wing and the proposed rear extensions. The Planning Statement states that:

*“... the 1970 bedroom wing is prominent and unsympathetic in form and style when viewed from the south or car park side. Many users of the hotel, including resident and function guests and elderly or disabled visitors, currently enter the building from the car park. The 1970 bedroom wing and further twentieth-century extensions adjoining it destroy any sense of arrival at an historic building and block views of it when approaching from this side. Where this range extends onto St John’s Street it forms a continuation of the principal or entrance front of the hotel and is a relatively neutral element in the street scene...”.*

Officers agree that, whilst of its time, the 1970s extension is generally considered to be unsympathetic and there is an opportunity to enhance the historic environment of the site and surroundings, whilst permitting the hotel to expand and improve its facilities.

Regarding design, the NPPF states at paragraph 58 that:

*“The Government attaches great importance to the design of the built environment. Good design is a key aspect of sustainable development, is indivisible from good planning, and should contribute positively to making places better for people”*

And at paragraph 60, states:

*“...Planning policies and decisions should not attempt to impose architectural styles or particular tastes and they should not stifle innovation, originality or initiative through unsubstantiated requirements to conform to certain development forms or styles. It is, however, proper to seek to promote or reinforce local distinctiveness...”*

Whereas a previous application (withdrawn) was for a more contemporary design, the current application reverts to a more traditional approach, with revisions. The third floor extension is now contained within what is described as a ‘mansard’ roof. This is, in fact, more of a modern mansard type roof (as it does not have a traditional full height mansard roof with a central ridge) and has sloping sides with a central flat roof. This reduces the overall height, whilst achieving the accommodation space sought and the height of the third floor extension has been kept below the 12.2m height restriction for development in the central area under Core Policy 22 (Salisbury Skyline). The height is, in fact, just below the height of the existing plant room now on the roof, which would be removed.



View 01 - EXISTING



View 01 - PROPOSED

The third floor extension is also part of a new side extension on the north side of the 1970s at the rear of the site. This new side / rear extension is in area currently covered by existing ground floor and later additions to the listed building, which will be demolished. The footprint of this element of the extension would be a little greater than the existing ground floor footprint on its east and north sides. The extension in this location also has a ‘mansard type’ roof and is stepped in from the north and east boundaries at first, second and third storey level, leaving a flat roof on these sides over part of the ground floor extension, an element of which is directly adjacent the rear boundary with 2 Trinity Street.

The proposed ground floor contains two new function rooms and breakout area which has an opening out onto the internal courtyard landscaped area. At first, second and third floors the accommodation comprises guest bedrooms. This stepped arrangement reduces the bulk of the extension on its north and east sides. On the north side, an existing pitched roof (over the current plant and conference rooms) will be replaced also by a mansard type roof (slightly lower in height than the ridge of the current pitched roof) which will include additional guest bedroom accommodation linked to the remainder of the proposed extension and 1970s wing. The fenestration is on the south and east elevations and to the west elevation

(facing inward towards the courtyard and main listed building. There are some corridor windows proposed on the inner (north) side of the upward mansard extension to 1970s wing, which face over the courtyard but otherwise the walls to the north elevation of the extension (facing the rear of properties in Trinity Street) are blank.

In the north east corner of the site, a new covered bin store is proposed. This is a rectangular single storey brick building with a shallow pitched slate roof, attached to the main extension and directly adjacent the rear boundaries of dwellings in Trinity Street and Brown Street. It also includes space for A/C units. The extension also includes a new enclosed / covered service route between the function rooms and adjacent rear boundaries of 2 and 4 in Trinity Street. The bin store and rear service route is accessed from the rear car park and access off Brown Street, as at present.

Returning to the 1970s wing, it is proposed to enclose the current open under-croft and convert this to a new reception area, with lounge and WCs. A single storey entrance foyer with a glazed roof is proposed on the south side together with a single storey glazed flat roof narrow extension along the south side of the 1970s wing, abutting the existing substantial boundary wall with No.3 St Johns St. It is proposed to enclose the fire escape stair case within the building envelope on the eastern end of the 1970s block on its south side, with a striking vertical glazing to the corner. On a previous scheme, this protruding element was larger and included a lift shaft, which has now been re-positioned elsewhere in the building, enabling its bulk to be reduced.

Regarding the proposed external materials, these comprise facing brick for the new extension and facing of the 1970s wing, natural slates for the slopes of the mansards and a flat roof membrane material to the flat roofs. The sloping sides of the mansard roof will be set back behind a parapet wall with stone coping. The enclosed staircase is proposed to be clad in stone. As a result of discussions, the agent has confirmed that 'natural' stone to match existing is to be used (i.e. not re-constituted). In addition, revisions to the facing brick have been made following discussion with officers (and HE). The main brick work for the facing of the 1970s block and new extension is now proposed to be in a gault / buff coloured brick, a brick colour that also been used on the front elevation of the existing 1970s wing and to elevations to parts of the principal hotel building facing St Johns Street and Ivy Street. This will, it is considered, result in a lighter but more integrated feel and compliment the natural stone faced staircase.

The façade to St Johns Street is proposed to be infilled and to receive some cosmetic treatment. At ground level there will be painted timber framed glazing elements with three separate external doors with access to a sub-station, gas meter room and internal fire escape staircase. Existing concrete posts will be faced with brick slips and infill areas will be in matching brick. The exposed concrete floor slab above ground floor level will receive a stone facing. The existing brickwork and windows will be retained at first and second floor levels with painted heads and stone drip detailing to the window. It is considered that the proposed treatment is sympathetic, will enhance the current rather drab appearance and void at ground level.





Externally, some landscape works are proposed to the car park and rear entrance off Brown Street. The central planting comprises 3 specimen trees (standards) set within a new hedge in the centre of the car park and a number of smaller trees / shrubs in peripheral locations and at the entrance to the car park with associated ground planting. The car park will also be re-surfaced with a buff coloured bonded natural aggregate finish with natural stone setts for edging detail. This will enhance the appearance of the car park, which is currently a fairly bare expanse of tarmac. As a result of comments from Historic England (see above) the applicant has reconsidered the treatment to the entrance area to the car park. The result is that on the north (RHS) entering the car park, some 5 additional car spaces have been removed, which provides an opportunity to provide a strip of soft landscape planting in this location and would enable the remains of the wall / remains of the former historic 'Barracks' building to be better appreciated (an interpretation board is also proposed) and soften the entrance. Other elements of the proposed landscaping include a strip of some soft landscaping at the end (on the east side) of the 1970s block and enclosed staircase and to a new paved area around the new entrance foyer.

Because the finished ground floor level of the extension will be lower than the ground level to the east (the service access) a low retaining wall is proposed to run parallel with its east elevation, leaving a narrow strip between the wall of the extension and retaining wall, which also provides a pedestrian route to the service access on the north side of the extension. The central courtyard close to the principal historic building (not visible from outside the site) is to receive new hard and soft landscape treatment, whilst retaining a central feature tree.

The Council's Urban Design Officer, having raised some initial queries regarding detailing, has no objection to the general scale and design approach. Further information regarding architectural detailing and materials, which are clearly crucial to securing a high quality development, can be secured through planning conditions. Scale and design is also intrinsically linked to the impact on heritage assets, and is assessed below.

It is considered that whilst the proposals would result in a relatively large addition to the existing building, the mix of traditional and complementary modern design elements, would mitigate the impact of the additional bulk and is generally in less sensitive location (in terms of visual prominence from the surrounding public realm) behind the main street frontages. At the same time, the proposals respond to the site opportunities and, it is considered would result in a positive improvement to views from the rear of the site and through the gap

formed by the car park entrance from Brown Street. Conditions can be imposed to approve architectural detailing and materials. A condition can be imposed to ensure the development conforms to the sustainable construction objectives sought under WCS Core Policy 41.

### 10.3 Impact on the Historic Environment

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. Section 66 of the Planning (Listed Buildings and Conservation Areas) Act 1990 requires that in considering whether to grant planning permission for development which affects a listed building or its setting, the local planning authority shall have special regard to the desirability of preserving the building or its setting or any features of special architectural or historic interest which it possesses. Section 72 of the Planning (Listed Buildings and Conservation Areas) Act 1990 states that in the exercise of any functions, with respect to any buildings or other land in a conservation area, under or by virtue of any of the provisions mentioned in this Section, special attention shall be paid to the desirability of preserving or enhancing the character or appearance of that area.

The National Planning Policy Framework indicates that:

*“133. Where a proposed development will lead to substantial harm to or total loss of significance of a designated heritage asset, local planning authorities should refuse consent, unless it can be demonstrated that the substantial harm or loss is necessary to achieve substantial public benefits that outweigh that harm or loss, or all of the following apply:*

- the nature of the heritage asset prevents all reasonable uses of the site; and*
- no viable use of the heritage asset itself can be found in the medium term through appropriate marketing that will enable its conservation; and*
- conservation by grant-funding or some form of charitable or public ownership is demonstrably not possible; and*
- the harm or loss is outweighed by the benefit of bringing the site back into use.*

*134. Where a development proposal will lead to less than substantial harm to the significance of a designated heritage asset, this harm should be weighed against the public benefits of the proposal, including securing its optimum viable use.”*

Notwithstanding the above, policy CP58 of the adopted WCS indicates that:

*“Development should protect, conserve and where possible enhance the historic environment. Designated heritage assets and their settings will be conserved, and where appropriate enhanced in a manner appropriate to their significance, including:*

- i. Nationally significant archaeological remains*
- ii. World Heritage Sites within and adjacent to Wiltshire*
- iii. Buildings and structures of special architectural or historic interest*
- iv. The special character or appearance of conservation areas*
- v. Historic parks and gardens*
- vi. Important landscapes, including registered battlefields and townscapes.*

*Distinctive elements of Wiltshire’s historic environment, including non-designated heritage assets, which contribute to a sense of local character and identity will be conserved, and*

*where possible enhanced. The potential contribution of these heritage assets towards wider social, cultural, economic and environmental benefits will also be utilised where this can be delivered in a sensitive and appropriate manner in accordance with Core Policy 57.....”*

The NPPF requires that the applicant to describe the significance of any heritage assets affected, including any contribution to their setting (Para. 128). A Statement of Significance has been submitted with the application alongside the Design and Access Statement, which assesses the significance of the White Hart Hotel within its setting. The setting of the White Hart includes a high proportion of designated and undesignated heritage assets, and the statement also considers the contribution made by the hotel and its site to the setting of these structures, including the Grade I Listed mediaeval Cathedral Close Wall opposite the entrance front of the hotel. The White hart is a Grade II\* listed building with the following list description:

*ST JOHN'S STREET 1. 1594 (East Side) No 1 (White Hart Hotel) SU 1429 NE 4/130 28.2.52. II\* GV 2. Late C18. 3 storey. White brick on stone plinth with yellow rubbed window arches, moulded stone cornice and blocking course. Slate roof. Projecting central portico, early C19, full height of building with a plain ground floor treatment of 3 stone arches on square piers facing street and one similar arch across pavement at each end, these arches support 4 Ionic stone columns, with 2 responding pilasters on wall face carried up 2 storeys and with moulded stone entablature and pediment crowned with a full size White Hart. The main wall face inside portico is painted stucco, with 3 windows all with moulded architraves and with additional cornices and pediment to central and other 1st floor windows, on ground floor under arcade 2 windows to right hand and 8-panel double doors, egg-and-tongue enrichment to panels, to left hand with architrave surround. 3 windows each side of portico to main block, totalling 9 bays. The portico has enriched and turned wood balustrade, with beautiful side guards of wrought iron scroll work and cypher G.R.; at angles of portico are horn shaped lamp brackets of similar but more delicate wrought iron scroll work. Slightly later extension to right hand of 6 bays, with plain painted front. The portico is an important street feature. Only the windows in side the portico have glazing bars, original, the rest restored. Interior considerably altered. 2 bay modern extension to south in matching style. Nos 1 to 13 (odd) form a very important group.*

In addition, as one would expect, there are a number of listed buildings fronting the 4 streets that enclose the Chequer, fronting Trinity Street, Brown Street, St Ann's Street and St Johns Street. Of these, one is Grade I (No.9 St John's St), some are Grade II\* (Nos. 3-5, 7-7A, 11), and the remaining (2-4 Ivy St, 82-92 Brown St and 1-5 St Ann's St) are Grade II. There is also a significant number of surrounding listed buildings on the opposite road frontages to these streets. In particular, No15 (Malmesbury House) in The Close, St Ann's gate and The Close Wall are Grade I listed buildings. Many other buildings within the conservation area, although not listed, may be regarded as no designated heritage assets. The Cathedral Close and Cathedral is located a short distance to the south west. Therefore, there are a significant number of designated and no designated heritage assets of significant importance adjacent the site and in the immediate surrounding area. The area is also of potential archaeological significance.

The buildings proposed to be demolished removed are later additions and of no significant historic and architectural interest. The submitted statement of significance states that permission has previously been granted for demolition of these buildings but has not been implemented. As such, no objection has been raised by Historic England or the Conservation Officer in principle to the removal of these elements and their replacement with

new building. However, notwithstanding this, as a result of discussions revised plans have been received which retains a larger proportion of a slightly older wall (a part west facing into the internal courtyard) and is now integrated into the ground floor extension, which is welcomed. A condition can be imposed to require a recording of the relevant buildings before their demolition.

Regarding the alterations to the front façade to St Johns Street, no objections are raised by Historic England or the Conservation Officer. These works will not harm the fabric any features of historic or architectural interest and will preserve the setting of the White Hart listed building, adjacent listed buildings and street scene. There are other associated internal alterations, which require listed building consent (the subject of a separate listed building application) but to which the Conservation Officer and Historic England have raised no objection.

Concern has been raised by the Civic Society regarding what appears to be a comprehensive reversal of the buildings orientation to now welcome visitors at the rear and that this would leave the landmark entrance on St John's Street all but redundant in the likelihood it becomes used mainly as the bistro entrance, rather than the main hotel. The Civic Society also raises concern regarding the monolithic design and that it is a missed opportunity to do something modern, of its time and site specific. The AMS also comment that it is surprised that the applicant had not taken the opportunity to improve the setting of the White Hart Hotel by removing the 1970s extension and replacing it with a world-class design, referring to Section 7 of the NPPF and in particular Paragraphs 63 and 64, which it considers ought to be applied more stringently:

*“63. In determining applications, great weight should be given to outstanding or innovative designs which help raise the standard of design more generally in the area.*

*64. Permission should be refused for development of poor design that fails to take the opportunities available for improving the character and quality of an area and the way it functions”.*

Whilst the proposal does not propose the demolition of the 1970s block, the application must be judged on its based on the scheme put forward. A more contemporary approach was taken in the previous application but was withdrawn in view of objections and concerns with such an approach. The current scheme aims to improve on the previous two designs put forward, albeit it similar in terms of the basic approach but articulated differently in detailed design and massing. Regarding the 'entrance' issue, the applicant's submissions identify the difficulties with the drop off point the busy St Johns Street but state:

- *Notwithstanding this, the Portico entrance on St John's Street is the main point of entry for pedestrians including local residents, businesses and visitors using the Hotel facilities (as a meeting point) and for guests during their stay, and historically was the main entrance. It therefore needs to continue to be a strong entry point.*

Local representations also object to the scale and dominance of the of the extensions in relation to the smaller scale surrounding historic buildings and the impact of the upward extension on views across the Conservation Area. HE's comments on the originally submitted plans concluded that there would be some harm, albeit less than substantial, to the immediate heritage assets around and within the Chequer itself by the introduction of the mansard roof combined with the scale of the north elevation but this could to some extent be offset by the landscaping scheme that will help to mitigate the harshness of the car park area that is identified as a negative element in Jane Root's Statement of Significance. HE goes on to say:

*“... we do not consider the planting of a few token trees to be adequate enough and would ask that this matter is reassessed. Although, it would also be wrong to over embellish or to make the entrance too conspicuous in the street, something simple might help lift this part of the Brown Street. Such enhancement could then be balanced against the harm caused by this inappropriate roof form of development...”*

Historic England summarised:

*“... We consider the impact of the scale of the new block combined with the imposition of the mansard roof extension on the existing and new build will have less than substantial harm on the setting to the principle heritage asset- The White Hart and adjacent listed buildings within the tight environment of this Chequer within the Salisbury Conservation Area. We believe more efforts should be made to offset this harm with a more integrated and imaginative approach to bring some positive improvements to the car park that is highlighted as a negative space at the rear of the hotel...”*

Since then, Historic England have continued to be involved in discussion with the applicant and officers, following which revised plans have been received. Historic England has assessed the revised plans for the external works together and treatment of the extensions and re-facing of the 1970s block. They consider that the amended plans appear to broadly address their concerns. Although they confirm that they continue to have issue with the mansard roof addition, they are mindful that it will be relatively well screened from most public views and that the improvements to the facade treatment and landscaping have improved the visual character of the building and its setting. They now recommend that the application is now determined in accordance with national and local policy guidance, and on the basis of your expert conservation advice.

The upward extension will be visible from some close public views from Brown Street and St Anns' Street at ground level, noticeably through the vehicular access of Brown Street. It may also be visible at higher levels from surrounding buildings. It is likely to be visible in the roof scape in the line of public views to the Cathedral, for example from higher ground to the east. The upward extension would be lower than the current plant building but clearly larger in terms of its massing. However, the overall height, design and use of slates to the mansard roof slopes will mitigate its impact on views and, in terms of longer distance views towards the Cathedral and its spire, it is not likely to appear as an unduly prominent, obtrusive or discordant element in the varied roofscape and it is judged that it would harm the city's skyline important public view points of the Cathedral. It would also not exceed the 12.2m height restriction under Core Policy 22. The upward extension has also been considered on how it might affect the historic street scene in St Johns Street and the setting of adjacent and nearby heritage assets, not least the White Hart Hotel itself. It is judged that due to the set back of the extension and roof slope from the St John's Street frontage, it is unlikely it would be either visible or unduly prominent (where it might be partly seen) from street level and is likely to have a neutral impact on the street scene and setting of heritage assets from this direction. The roof will, of course, no doubt be visible from upper building storeys in surrounding buildings in the context of the surrounding roof scape. It is concluded, however, that views into and out of the Conservation Area would be adequately safeguarded / preserved. The Council's Conservation Officer (see comments above) concludes that the *“... overall the modest harm created by raising the level of the top floor is outweighed by the visual benefits of the alterations to the rear wing and the southern section on St John St , without getting into the other benefits of increased accommodation etc...”*

Regarding underground heritage assets, the Council's Archaeologist has advised that the site is of archaeological interest as it lies within the medieval White Hart chequer and that previous evaluation that took place in and around the car park in 2003 and 2010

demonstrated that remains from the medieval and post-medieval period do survive in the areas investigated, although the remains have, in some areas, been affected by the later buildings. Therefore a planning condition is recommended to require and approve a written scheme of archaeological investigation, which will require a watching brief should significant remains be identified it may be necessary to undertake some archaeological excavation as part of the mitigation works.

Having regard to the NPPF, in particular paragraphs 131 to 134, the advice from English Heritage and the specialist advice from the Council's Conservation and Archaeology Officers, it is judged that overall, taking into account the positive enhancements resulting from the proposed development, the proposal would not have a harmful impact on the historic environment generally not any specific designated or non-designated heritage asset. Notwithstanding this, if it is considered that the upward mansard additions would have some negative impact on heritage assets as a result of its design and bulk, it is judged that this would be less than substantial harm and would be outweighed by the public benefits in terms of the contribution to the local economy and tourism objectives together with the enhancement of public views into the site from the rear and setting of the principle listed building.

#### 10.4 Residential Amenity

Criteria (vii) of Core Policy 57 (Ensuring high quality design and place shaping) states that new development shall have regard to “...*the compatibility of adjoining buildings and uses, the impact on the amenities of existing occupants, and ensuring that appropriate levels of amenity are achievable within the development itself, including the consideration of privacy, overshadowing; vibration; and pollution (such as light intrusion, noise, smoke, fumes, effluent, waste or litter)*”. The NPPF states that the planning system should seek to secure a high quality design and good standard of amenity for all existing and future occupiers of land and buildings.

##### Daylight / sunlight

Concern has been expressed by occupiers of neighbouring properties regarding overlooking / loss of privacy and overshadowing / loss of light.

The proposed extension will introduce a new building mass and bulk at the rear of the hotel, which will clearly be visible from the rear of properties in Trinity Street and Brown Street as immediate neighbours on the north and east sides of the hotel. The applicant has sought to reduce the impact on these properties by stepping the proposed extension inward from the east and north elevations of the ground floor footprint at first floor level, leaving a flat roof area around east and north sides of the first floor. A mansard roof on the northern end of the second floor and a mansard on the third floor of the extension (and to the 1970s block) would help to further reduce the impact of the bulk of the proposed extension. The pitched roof to be replaced by a mansard with first floor accommodation adjacent the southern end of the west boundary of No. 2 Trinity Street will increase the bulk of this element to a degree but it is lower in height overall than the existing ridge height of the pitched roof. The rear of the properties in Trinity Street and Brown Street, including those on Brown Street to the south of the rear car park entrance have an existing outlook over the rear of the hotel which occupies a considerable space and height in the Chequer, in particular the 1970s block as a significant feature at the rear. Immediately adjacent to the south of the site is No. 3 St John's Street. This residential property is directly adjacent the hotel on its south side, in particular the 1970s block, which already has a significant impact on the outlook from this property and its rear garden. The single storey addition with glazed roof on the south side of the 1970s block is unlikely to have any undue impact due to the significant boundary wall in this location. The proposed ground floor addition directly adjacent the rear boundaries to properties in Ivy Street (service access route) comprising shallow lean to roof and flat roof



together with the proposed bin store in the north east corner of the site (directly adjacent the rear boundaries to properties in Ivy Street and Brown Street) are low single storey height structures and not considered that these structures would have significant impact in terms of overshadowing / loss of light.

The applicant has submitted a report which has systematically assessed the impact of the proposed development on the levels of daylight and sunlight received by the residential properties that would be most affected by the proposed development in Trinity Street, Brown Street and St John's Street, using BRE guidelines. This is not a development plan policy requirement but aids the assessment of likely impact on the amenity of the occupiers of these properties. The report concludes:

*"...The assessments to the neighbouring properties have demonstrated that a good level of daylight and sunlight will be retained in the proposed condition, in accordance with the BRE guidelines.*

*....The adjoining occupants will not experience noticeable reductions in daylight and sunlight, and in most cases obtain levels in excess of the BRE guidelines...."*

Nos. 2-4 Trinity Street and No. 3 St John Street are likely to most affected. The latter has an upper window facing north at close quarters into the side of the 1970s block at present and the submitted assessment suggest that the level of light to this room is already low and would lose further light by the proposed scheme (the upward extension) below the BRE guidelines. However, the assessment suggest that the current light levels are so low that even the 1% loss of visual sky component would not be noticeable and there is a small window on the rear elevation that should supplement daylight levels to the same room.

The sunlight / daylight assessment report was carried out in connection with the previous scheme / application in 2011. The current scheme has some revisions to the general form, height and massing of the extension. The applicant's consultant has reviewed the revisions to the scheme and comments that "....

- *The east elevation drawings PS-117 shows that in comparison to the old scheme, the overall height of the proposal has reduced, and the stepped facades that reduce in height towards Ivy Street have been mansarded and should have less of an effect on the neighbouring properties.*
- *The proposed stair and lobby area adjacent to the Brown Street properties has now been set back, thus reducing the height of the massing adjacent to the Brown Street properties.*
- *The third floor level has been mansarded, especially adjacent to 3 St John's Street, which equates to a height reduction in comparison to the previous proposal..."*

The applicant's consultant concludes that *"...The revised drawings have been modified to improve the daylight and sunlight effects to the neighbouring residential properties. The 2011 report demonstrated that there would be no noticeable reductions to the neighbouring properties with the taller massing in place. Therefore this revised massing proposal will also ensure that the occupants adjacent to the White Hart Hotel will maintain high levels of daylight and sunlight with the proposed works in place..."*

Officers consider that, on balance, the potential loss of daylight and / or sunlight received to windows in adjacent residential properties is unlikely in itself to result in a harmful loss of amenity to the occupiers of adjacent residential properties. Any overshadowing to rear

gardens is also unlikely to be significant, in comparison with the existing built form. It is concluded that, on balance, any such harm would not be significant enough to warrant refusal of permission on the grounds of the impact on the living conditions for the occupiers of these properties and the current scheme represents a marginal improvement on the previous scheme.

#### Outlook and Dominance

Officers would not dispute the findings but the impact on residential amenity is not just restricted to sunlight and daylight analysis. Consideration also has to be had on whether the proposal would represent an over-dominant form of development. In this sense officers consider that the occupiers of these properties are likely to experience a more noticeable change to their outlook, in terms of building mass / bulk and external appearance. However, given the current outlook and dominance of the hotel buildings, in particular the 1970s block, whilst the proposed extensions would result in additional building mass and bulk closer to the residential boundaries, the stepped approach to the upper floors will mitigate the impact on these properties and when set against the existing substantial building mass on the site.

The increase in bulk and height of the 1970s block may result in some partial loss of views over the current flat roof for some properties, although the loss of private views, *per se*, is not a material planning consideration (this is different to public views and associated conservation area issues). Whilst there will be a change in outlook, it is judged that for those most closely affected, the impact is unlikely to be unduly harmful in terms of over dominance or living conditions and, although more subjective, it is considered that there would be some benefits to visual amenity through the design and use of materials, which represents an opportunity to improve the appearance of the hotel from the rear and mitigate the impact of the current appearance of the 1970s block into a more integrated and sympathetic form.

#### Overlooking / Loss of Privacy

Objections have also been received on the grounds of overlooking and loss of privacy. The proposed scheme would involve the insertion of a series of 6 additional windows to guest bedrooms in the south elevation of third floor upward extension, set within the slope of the mansard roof and a window to the enclosed fire escape staircase. These windows are spaced regularly and align vertically with the windows below in the first and second floors. Set at right angles, they would overlook No 3 St Johns Street and its garden and properties further south. It is considered that there would be some loss of amenity to the occupiers of these properties as a result of the potential for overlooking. However, there is already significant potential for overlooking from the existing guest bedrooms at first and second floor levels and it is considered that the additional overlooking is unlikely in itself to be so unduly harmful to warrant refusal on the grounds of overlooking / loss of privacy. This is taking into account that it is stated that the window sizes are smaller than those currently at lower levels and that with the over-cladding of the façade the existing windows will be reduced in size from 1275mm high x 1350mm wide to 1100mm high x 1000mm. The third floor windows are also set back within the sloping mansard roof behind a parapet and are at a higher level, such that overlooking to lower adjacent levels would be less than the windows at first and second floor. The windows are also hotel guest bedrooms so that occupancy is unlikely to be throughout the whole day.

There will be additional windows in the east elevation; four in the third floor mansard roof slope, five at second floor level (one in a mansard roof slope), five at first floor level and a large feature window in the enclosed fire escape staircase at ground, first and second floor levels. There are also windows to each of the ground floor function rooms in the east elevation. There are 4 existing windows in the east elevation but there is potential for additional overlooking to the rear of properties in Brown Street. However, the extension is set back at first, second and third floors. There is currently an open service access running adjacent the rear fence / wall boundaries to Nos. 86-102 Brown Street, which is to be

retained providing some separation from the proposed function rooms at ground floor level. An enclosed bin store is proposed in the north east corner of the site at the end of this service access directly adjacent the boundaries to properties I Brown Street and Ivy Street. However no windows are proposed in this building with louvered doors facing into the service access. The structure is single storey height with a shallow sloping roof. There are existing windows in the east elevation of the 1970s block. Revised plans have been received which have reduced two of the larger three light windows in the first and second floor to smaller two light windows. Given this and the separation distance from the main extension to the rear of the nearest residential properties in Brown Street, on balance it is considered that given the existing urban location and relationships between properties, the potential overlooking will not result in unacceptable loss of privacy or impact on living conditions for these properties to warrant refusal of permission on such grounds.

#### Noise and disturbance

Objections have been received on the grounds of noise and disturbance resulting from the proposed development. This stems from the direct use of the proposed function rooms and from the intensification of use from the expansion of the hotel and potentially affects

The applicant has submitted a noise report, which focuses around the use of the functions rooms and proposed mitigation measures to reduce potential noise disturbance to existing residential properties adjacent the site, in particular properties in Brown Street and Ivy Street. The Public Protection Officer expressed some concerns about noise levels and proposed mitigation measures. As a result revisions have been made to the function room, which would now include an internal wall to limit noise emissions when amplified music systems are being used. The wall would have bi-folding doors which could be opened during events which do not need amplified acoustic systems. Following the submission of further information, including a Noise Management Strategy (NMS), the PPO has raised no objection, subject to conditions (refer to full response above), including the testing of noise levels / the noise limiting device and an amendment to the NMS in respect of the latter (now submitted). Whilst the concern of residents is acknowledged, taking into account the submitted noise assessment and recommendation of the PPO, it is considered that the potential harmful impact of noise on the living conditions of the occupiers of adjacent residential properties could be adequately mitigated.

The PPO has raised no general objection to any activity which may be generated as a result of any intensification of use of the hotel outside of the building (e.g. in the car park) as a result of the arrivals and departures. It is considered that the hotel is an established business with a function rooms / conference facilities. The number of parking spaces in the car park is to be reduced, thereby reducing the number of cars able to park. Not all the patrons for hotel accommodation or functions will arrive and leave via the car park and the front portico entrance will still be used. The use of the service access route at the rear of the site will remain as existing and it is not anticipated that the proposal should result in any increase in noise and disturbance over the existing arrangement. The enclosed bin store is an improvement and the proposed A/C units are now to be enclosed within this building. The PPO has requested some conditions regarding construction activities, which although temporary, is considered reasonable in this case, in the interests of residential amenity, due to the proximity of adjacent residential properties in relation to the scale of the proposed development.

#### 10.5 Air Quality

The site is located in an Air Quality Management Area. An Air Quality Assessment has been submitted which assesses the air quality impacts as a result of the proposed development during construction and at the operational stage. The report states that since the development will reduce the number of parking spaces it is likely to result in a small

reduction in traffic but it is recognised that this will be offset by the potential for increased traffic due to the increase in the number of bedrooms. However, the small number of rooms to be added is highly unlikely to significantly increase local traffic flows even if no allowance is made for the reduction due to removal of parking spaces. Taking into account Council guidance / criteria for the requirement of assessments, overall it is concluded that the development will not have any significant impact on local air quality conditions and a quantitative assessment is not required. During construction there is a risk of dust emissions but that mitigation should be straightforward, as most of the necessary measures are routinely employed as 'good practice' on construction sites. A Construction Method Statement is, however, recommended. The Council's Public Protection Team has raised no concerns regarding air quality. Given the scale, nature, characteristics and likely air quality impact, it is considered that the proposal would not conflict with WCS Core Policy 55.

#### 10.6 Highway / transport impact

The applicant has submitted a parking statement. The statement confirms that the White Hart Hotel currently has 68 bedrooms. This application proposes an additional 28 bedrooms, providing 96 bedrooms in total. Additional function space is also proposed as part of the application. There are currently 76 car parking spaces available to serve the Hotel. As a result of the proposals (including the additional 5 spaces lost through revisions to the external landscape works) this would result in 53 spaces to serve the extended 87 bedroom hotel. None of the staff have allocated parking space and use of the car park by staff is at the Hotel Manager's discretion. No more than eight employees are able to park at the Hotel on a regular basis, but only if there is capacity. It is indicated that up to 50% of overnight guests use the car park. The Statement provides information which shows that the car park operates within capacity. The statement includes the results of a survey undertaken shows that the existing level of car parking provision is more than adequate to meet demand at the site and whilst the survey is now a few years old (2011), the Hotel Manager has confirmed that the results remain valid and that it is only in rare and extreme circumstances that the car park is ever close to full capacity.

The car park is currently managed by the Hotel, with a barrier system and tickets dispensed to Hotel visitors on their arrival and they are charged according to their length of stay. The Statement acknowledges that the improved and extended function space proposed as part of the separate application will add to the Hotel's attraction as a venue for conferences and weddings. However, the hotel does not expect that all guests would arrive by car. Given the current level of spare capacity in the car park, the applicant considers that the number of additional trips to the Hotel generated by the additional 28 bedrooms and improved function space could be accommodated into the remaining car parking spaces and that the reduced number of spaces would be sufficient to meet operational requirements. It is pointed out that on the rare occasions when the car park is full, there are a number of car parks within a short walk of the Hotel, which guests and visitors can be directed. The nearest of these are Brown Street East and West car parks (which are available overnight) and the Culver Street car park. Ultimately the management of the car park is a matter for the Hotel. The Statement points out that there is the option to cancel existing parking permit arrangements and restrict the ability for staff and non-guest members of the public to park at the Hotel.

Notwithstanding that the proposal is likely to result in a greater use of the hotel and its facilities and reduction in the number of parking spaces, the hotel is well located a central location and highly accessible by modes of transport other than the private car, with good pedestrian and public transport links. The Council's Highways Officer has raised no objection in respect of level of parking provision nor raised any concerns regarding operational aspects. The submitted parking statement is based on the plans as originally submitted and refers to the loss of 17 car spaces. Since the original submission, the external landscape works scheme has resulted in the number of parking spaces being reduced by a further 5

spaces. However, the Council's Highways Officer has confirmed that he has no objections to the latest revised plans.

Local concerns have been raised about traffic generation, congestion in Brown Street and air pollution. Brown Street is likely to experience traffic queuing at peak periods as it is one of the main through / circulation routes (one way) in the city centre. However, the Council's Highways Officer has not raised any concerns regarding highways safety in relation to Brown Street nor the use of the hotel's vehicular access. The Council's Highway Officer has also raised no concerns regarding congestion or air pollution resulting from the proposed development.

It is considered the development would be accordance with WCS Core Policies CP61 in respect of transport and new development and in line with guidance in the NPPF (Section4) which seeks to supports a pattern of development which facilitates the use of sustainable transport.

#### 10.7 Drainage and flood risk

A Flood Risk Assessment has been submitted with the application. The site is located within Flood Zone 2. The FRA concludes that

*"...Based on existing ground levels and modelled flood levels the majority of the area proposed for the hotel extension is located outside the 1,000 year flood outline. Some depths of inundation (of up to 220mm) of only the lower areas of the area proposed for the hotel extension may be expected in the 1,000 year event. It is important to note, however, that flood waters in the 1,000 year event would be very unlikely to reach this area of the site due to the existing built development to the west of the site obstructing the inundation of flood flows. Flood risk from surface water flooding is considered low, however any residual risk will be mitigated through the measures proposed for the management of surface water runoff following redevelopment. Flood risk from both groundwater flooding and highway flooding are also considered to be low. Proposals include an extension to an existing building, as well as converting the existing ground floor undercroft car parking area into a lounge area. A structural engineering report has confirmed that the existing ground level of the undercroft car park would need to be reduced by 500mm to allow sufficient head height in this area. As such, the FFL of the hotel extension would need to be reduced to 45.60mAOD. Ground levels surrounding the hotel extension are however situated above the 100 year plus climate change event and therefore no flood waters would be expected to reach the extension. To further mitigate against the effects of an extreme event it is proposed that flood resilient techniques will be incorporated into the construction, in line with guidance provided in the Communities and Local Government Document, "Improving the Flood Performance of New Buildings: Flood Resilient Construction..."*

In particular, it is noted in the FRA that *"... it is proposed to construct a water proofed wall, up to at least the 46.10mAOD level, around the edge of the proposed reception area and lounge. This will be part of the construction details of the new boundary walls and windows, and would protect the site to the current level of natural protection. It is therefore considered unlikely that the area proposed for the hotel extension would receive any floodwaters in the 1,000 year event, even if FFLs are set at 45.60mAOD..."*

In terms of means of emergency measures and means of escape the report notes that *"... The site is included in the EA flood warning area. Owners of the hotel may register with the EA to receive flood warning information. Dry access and egress is available from the site along Brown Street in a northerly direction, in up to a 100 year plus climate change event..."*

Regarding surface water disposal / drainage, the records show that this drains to the public sewerage system. Because of the high ground water levels, infiltration devices are difficult. The FRA has been revised with an Addendum covering to cover the proposed surface water disposal arrangements. It is noted that the amount of impermeable surfacing as a result of the proposed development will be little different to that existing. The Environment Agency have been consulted and have raised no objection subject to conditions, including details of the surface water disposal but point out that this aspect is the responsibility of the Council's own drainage engineers. It would appear that the current arrangement, where private drainage system discharges surface water under the undercroft and into the public surface water sewer in St Johns Street and this will have to be changed, as it is under the proposed extension (which will be filled in) and would not be able to be accessed in the event of a blockage. Therefore an alternative route will be required. The strategy in the FRA is:

- There will be no increase in existing flow rates discharged to the public sewer
- The use of SUDS as the preferred method of dealing with surface water
- The run-off up to the 1 in 100 year annual probability + climate change will be dealt with without increasing flood risk elsewhere.

The use of SUDS to mimic natural drainage can be achieved in a number of ways, including underground storage tanks. However, the calculations in the FRA show that the minimal storage required can be achieved within the proposed pipe network. The Council's Land Drainage Team has raised no objection subject to conditions to agree the full details of the design of the surface water discharge. The applicant will be required to consult Wessex Water at the detailed stage to agree discharge rates. Wessex Water has raised no objection but indicate that no surface water connections will be permitted to the foul sewer system and that there should be no significant increase to the surface water system. If new water supply and foul / waste water connections are required, this would also require consent from Wessex Water. It is recommended that an appropriate Informative is added to any planning permission.

Subject to no objections / comments from Wessex Water and the Council's Land Drainage Team in respect of the revised FRA and appropriate conditions, it is considered that the proposed drainage arrangements would be satisfactory.

#### 10.8 Community Infrastructure Levy (CIL)

The CIL is a charge that local authorities can place on new development in their area. The money generated through CIL will contribute to the funding of infrastructure to support growth. Wiltshire Council adopted it's CIL in early 2015. The developer (or whoever has assumed liability for the development) is liable to make payment to Wiltshire Council for this type of development. An Informative will be placed on planning permission to inform applicant that the development may represent chargeable development under the CIL Regulations and Wiltshire's CIL Charging Schedule.

### **11. CONCLUSION**

Having regard to the development plan, national planning policy guidance, other material considerations and matters raised, it is judged that the balance of the considerations weighs in favour of granting planning permission.

### **12. RECOMMENDATION**

**Subject to the following:**



**1) Confirmation from Wessex Water regarding the revised drainage proposals.**

**Then APPROVE,**

**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 implemented in accordance with the submitted plans and documents listed below. No variation from the approved plans should be made without the prior approval of the local planning authority. Amendments may require the submission of a further application.

- Location plan 5296/PS-100
- Proposed Layout 5296/PS-106 REV B
- Proposed Ground Floor Plan 5296/PS-107 REV B
- Proposed First Floor Plan 5296/PS-108 REV A
- Proposed Second Floor Plan 5296/PS-109 REV A
- Proposed Third Floor Plan 5296/PS-110 REV B
- Proposed Roof Plan 5296/PS-111 REV A
- Proposed Demolition Plan 5296/PS-112 REV A
- Existing and Proposed North Elevation 5296/PS-113 REV A
- Existing and Proposed East Elevation 5296/PS-114 REV A
- Existing and Proposed South Elevation 5296/PS-115 REV A
- Existing and Proposed West Elevation 5296/PS-116 REV B
- Proposed Elevations (north and east) 5296/PS-117 REV B
- Proposed Elevations (south and west) 5296/PS-118 REV C
- Existing and Proposed St John's Street Elevation 5296/PS-119 REV A
- Section Details 5296/PS-123, REV B
- Existing and Proposed Section A-A 5 5296/PS-124 REV A
- Existing and Proposed Section B-B 5296/PS-125 REV A

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

3) Notwithstanding the approved plans, 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, and preserving the character and appearance of the listed building and its setting.

4) No walls shall be constructed on site, until a sample wall panel of the proposed brickwork, not less than 1 metre square, has been constructed on site, inspected and approved in writing by the Local Planning Authority. The panel shall then be left in position for

comparison whilst the development is carried out. Development shall be carried out in accordance with the approved sample.

REASON: 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, and preserving the character and appearance of the listed building and its setting.

5) No external stonework shall be constructed on site until full details have been submitted (including if required a sample panel of stonework to be constructed on site and inspected) and approved in writing by the Local Planning Authority. Any panel required shall then be left in position for comparison whilst the development is carried out. Development shall be carried out in accordance with the approved sample.

REASON: 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, and preserving the character and appearance of the listed building and its setting.

6) No development shall commence on site until details of all eaves, verges, windows (including head, sill and window reveal details), doors, rainwater goods, chimneys, dormers and canopies 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, and preserving the character and appearance of the listed building and its setting.

7) No works shall commence on site until an appropriate programme of building recording (including architectural/historical analysis) has been carried out in respect of the part of the building to be demolished. This record shall be carried out by an archaeologist/building recorder or an organisation with acknowledged experience in the recording of standing buildings which is acceptable to the Local Planning Authority. The recording shall be carried out in accordance with a written specification, and presented in a form and to a timetable, which has first been agreed in writing with the Local Planning Authority.

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 secure the proper recording of the listed building.

8) No development shall commence until:

- a) A written programme of archaeological investigation, which should include on-site work and off-site work such as the analysis, publishing and archiving of the results, has been submitted to and approved by the Local Planning Authority; and

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

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

9) No development shall commence on site until a scheme of hard and soft landscaping has been submitted to and approved in writing by the Local Planning Authority, the details of which shall include:

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

REASON: The application contained insufficient information to enable this matter to be considered prior to granting planning permission and the matter is required to be agreed with the Local Planning Authority before development commences in order that the development is undertaken in an acceptable manner, to ensure a satisfactory landscaped setting for the development and the protection of existing important landscape features.

10) 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.

11) 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 arboriculture techniques where it can be demonstrated to be in the interest of good arboriculture 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.

12) No development shall commence on site (including any works of demolition), until a Construction Method Statement, has been submitted to and approved in writing by the local planning authority. The plan shall include details of the measures that will be taken to reduce and manage the emission of noise, vibration and dust during the demolition and/or construction phase of the development. It shall include details of the following:

- a) the parking of vehicles of site operatives and visitors;
- b) the movement of construction vehicles;
- c) loading and unloading of plant and materials;
- d) The transportation and storage of plant and waste and building materials
- e) The recycling of waste materials (if any)
- f) The loading and unloading of equipment and materials
- g) The location and use of generators and temporary site accommodation
- h) The cutting or other processing of building materials on site;
- i) The erection and maintenance of security hoarding including decorative displays and facilities for public viewing, where appropriate;
- j) Wheel washing facilities;
- k) Measures to control the emission of dust and dirt during construction;
- l) A scheme for recycling/disposing of waste resulting from demolition and construction works; and
- m) Measures for the protection of the natural environment.
- n) 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 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.

13) All activities shall be carried out in accordance with the noise management strategy (Appendix A of the Hayes McKenzie Noise Report dated 19<sup>th</sup> August 2016 ref MH: 2415/R3). The noise management strategy shall not be altered without prior written approval from the local planning authority.

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

14) The development hereby permitted shall be designed, installed and maintained at all times thereafter in accordance with the acoustic mitigation measures detailed in section 2 and 5 of the submitted Hayes McKenzie Noise Report dated (INSET DATE / REFERENCE)

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

15) No development shall commence on site until a written scheme for post completion noise measuring has been submitted to and approved in writing by the Local Planning Authority. The written scheme shall include details of the measurement location outside the building (nearest residential window) and the equipment and noise descriptors to be used for the purposes of measuring the residual levels of noise caused by the amplified music inside the function room. Post completion noise measurements made should ensure that the noise limiter is set at a level in which noise levels at the nearest residential window are below background noise levels (LA90) as defined in table 1 of the Environmental Noise Assessment (Reference; HM: 2415/R3, dated 14<sup>th</sup> October 2013 and 19<sup>th</sup> August 2016).

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

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

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

REASON: In order to minimise detrimental effects to the neighbouring amenities.

18) No deliveries shall be made to or collections made from the development hereby approved except between the hours of 07.00 and 19.00 Monday to Saturday and 08.00 to 17.00 on Sundays and Public Holidays.

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

19) No development shall take place until evidence that the development is registered with a BREEAM certification body and a pre-assessment report (or design stage certificate with

interim rating if available) has been submitted indicating that the development can achieve the “very good” BREEAM standard (or any such equivalent national measure of sustainable building which replaces that scheme). No part of the new building shall be occupied until a final Certificate has been issued certifying that the “very good” BREEAM standard (or any such equivalent national measure of sustainable building which replaces that scheme) has been achieved for the development.

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

20) The works hereby granted consent shall be carried out in such a manner as to ensure that the existing buildings are preserved and not structurally or superficially altered in any way whatsoever, save in accordance with the approved plans and the said building(s) shall be structurally supported and weatherproofed at all times during the construction period in accordance with established building practice.

REASON: To preserve the special architectural and historic interest of the listed building.

21) 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 windows, doors, or other form of openings other than those shown on the approved plans, shall be inserted in the elevations of the development hereby permitted.

REASON: In the interests of residential amenity and privacy.

22) No development shall commence on site until a scheme of water and energy efficiency measures to reduce the water and energy consumption of the development hereby approved has been submitted to and approved by the Local Planning Authority. Before any of the dwellings are occupied, the approved measures shall be implemented and brought into operation in accordance with the approved scheme and thereafter retained.

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 the conservation of water and energy resources.

23) The flood risk mitigation measures (flood proofing, flood resilience, etc.) detailed in the submitted Flood Risk Assessment (FRA) shall be carried out in full prior to the first bringing into use of the development.

REASON: In the interests of flood prevention.

24) No part of the development hereby approved shall be brought into use until the parking shown on the approved plans has been laid out in accordance with the approved details. This area shall be maintained and remain available for this use at all times thereafter.

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

25) 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 in consultation with the sewerage undertaker



REASON: To ensure that the development can be adequately drained

26) 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

27) 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), which proves existing and hence limiting discharge to the public storm sewer to current rate with control device and appropriate storage volume arrangements, has been submitted to and approved in writing by the Local Planning Authority, in consultation with the sewage undertaker.

REASON: To ensure that the development can be adequately drained

28) 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

### **INFORMATIVES**

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.

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: The applicant's attention is drawn the advice of from Wiltshire Fire & Rescue Service in their letter dated 9<sup>th</sup> May 2014 received in relation to the matter of requirements identified under B5 of Approved Document B relating to The Building Regulations 2010 and recommendations to improve safety and reduce property loss in the event of fire.

INFORMATIVE TO APPLICANT: The applicant is reminded of the need to obtain separate listed building in addition to this planning permission.

INFORMATIVE TO APPLICANT: With respect to the archaeological investigations required by the conditions above, the work should be conducted by a professional archaeological contractor in accordance with a Written Scheme of Investigation and mitigation agreed by this office. The applicant should note that the costs of carrying out a programme of building recording and archaeological investigation will fall to the applicant or their successors in title. The Local Planning Authority cannot be held responsible for any costs incurred.

INFORMATIVE TO APPLICANT: The Environment Agency recommends that flood resistance and resilience measures are incorporated into the design of the development. These include removable barriers on building apertures (e.g. doors and air bricks), elevated electrics, and using waterproof materials and techniques (e.g. no plasterboard, solid tiled floors). The following link offers further assistance [http://www.planningportal.gov.uk/uploads/br/flood\\_performance.pdf](http://www.planningportal.gov.uk/uploads/br/flood_performance.pdf) .

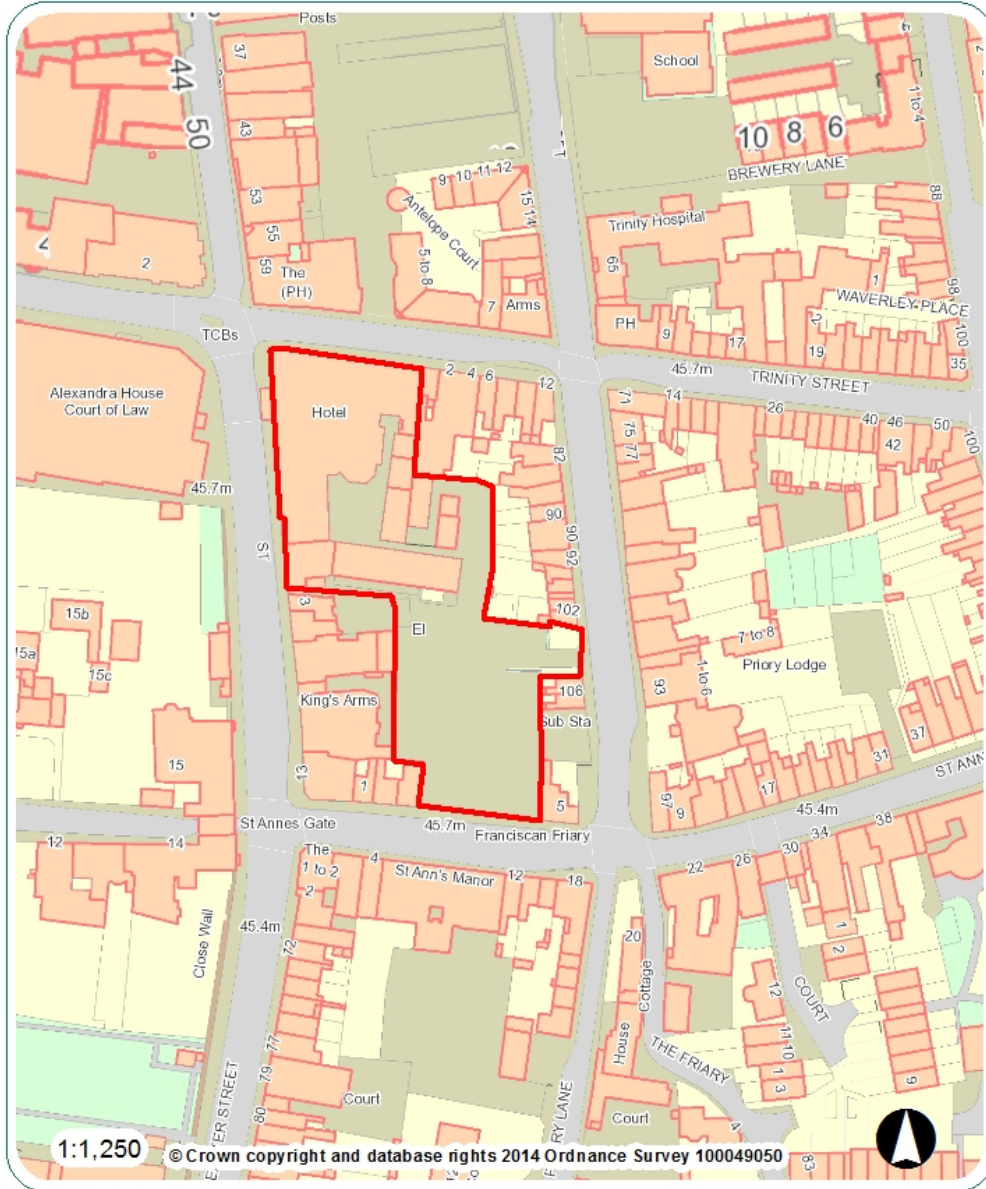
INFORMATIVE TO APPLICANT: The development should include water efficient systems and fittings. These should include dual-flush toilets, water-saving taps, showers and baths, and appliances with the highest water efficiency rating (as a minimum). Greywater recycling and rainwater harvesting should be considered. An appropriate submitted scheme to discharge the condition will include a water usage calculator showing how the development will not exceed a usage level of 105 litres per person per day.

INFORMATIVE: The applicant's attention is drawn to Condition 27, which requires details of surface / storm water to be agreed with the local planning authority, prior to commencement of development and will require consultation with Wessex Water. The applicant is advised to contact the Council's Land Drainage Engineer (Peter Weston, tel. 01249 706505) prior to submitting details pursuant to this condition and Condition 28 and 25(foul drainage).

INFORMATIVE TO APPLICANT: If new water supply and waste water connections are required from Wessex water to serve this proposed development, application forms and guidance information is available from the Developer Services web-pages at our website [www.wessexwater.co.uk](http://www.wessexwater.co.uk). Please note that DEFRA intend to implement new regulations that will require the adoption of all new private sewers. All connections subject to these new regulations will require a signed adoption agreement with Wessex Water before any drainage works commence. Further information can be obtained from our New Connections Team by telephoning 01225 526222 for Water Supply and 01225 526333 for Waste Water.

14/01986/FUL & 14/01990/LBC

The White Hart  
St. John Street  
Salisbury  
SP1 2SD



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**REPORT SOUTHERN AREA PLANNING COMMITTEE**

**Report No. 9b**

<b>Date of Meeting</b>	12 <sup>th</sup> January 2017
<b>Application Number</b>	14/01990/LBC
<b>Site Address</b>	The White Hart St. John Street Salisbury SP1 2SD
<b>Proposal</b>	Proposed alterations to existing 1970s block including conversion of parking undercroft, stepped four storey extension including an upward extension to form new level, providing function rooms and a new hotel entrance on the ground floor with 28 No new guest bedrooms above. Proposed internal refurbishment and alterations to existing public areas with associated landscaping.
<b>Applicant</b>	White Hart Hotel Salisbury Ltd
<b>Town/Parish Council</b>	SALISBURY CITY
<b>Electoral Division</b>	ST MARTINS AND CATHEDRAL – Cllr Ian Tomes
<b>Grid Ref</b>	414569 129722
<b>Type of application</b>	Listed Building Consent
<b>Case Officer</b>	Tim Pizzey

**1. REASON FOR THE APPLICATION BEING CONSIDERED BY COMMITTEE**

Cllr Ian Tomes wishes the matter to be considered by Committee given the continuing local concerns expressed and the previous history of this project.

**2. PURPOSE OF REPORT**

The purpose of this report is to assess the merits of the proposed development against the policies of the development plan and other material considerations. Having reached a balanced conclusion, the report recommends that listed building consent be APPROVED subject to conditions.

**3. REPORT SUMMARY**

The main issues to consider are:

- 1) Scale, Design and Impact on the Listed Building

The application as originally submitted generated 6 letters of objection from local residents, related mainly to amenity issues (noise, overlooking, and loss of light), increased traffic,

parking, scale, design, views and listed building / heritage issues. Concern over noise has been expressed in particular in relation to the proposed new functions rooms, use of the rear service access and intensification of use. Revisions to the proposed scheme and noise mitigation measures have subsequently been submitted following discussions with the Council's Public Protection Team. Some minor revisions to the design have taken place in response to other amenity concerns.

The Civic Society and Ancient Monuments Society have raised concerns, including the introduction of a new reception at the rear of the building. Historic England has raised various concerns to the plans as originally submitted and has been party to discussions on revisions to the scheme. The most appropriate approach and treatment to the 1970s extension has been the subject of considerable discussion. Following the submission of revised proposals, a further 3 letters of objection have been received from local residents. Historic England continues to have an issue with the mansard roof addition but acknowledges the improvements to the scheme and recommends that the application be determined on the basis of the LPA's own expert conservation advice. The Council's Conservation Officer has no objections to the revised proposals, subject to conditions.

With the improvements brought about through revisions to the scheme, it is considered that, on balance, the proposed scale, design and impact on the historic environment is acceptable. The application as originally submitted generated 6 letters of objection from local residents, related mainly to amenity issues (noise, overlooking, and loss of light), increased traffic, parking, scale, design, views and listed building / conservation issues. Concerns have been expressed by the Civic Society and Ancient Monuments Society, including the introduction of a new reception at the rear of the building. Historic England has raised various concerns to the plans as originally submitted and have been party to discussions on revisions to the scheme. The most appropriate approach and treatment to the 1970s extension has been the subject of considerable discussion. Following the submission of revised proposals, a further 3 letters of objection have been received from local residents. Historic England continues to have an issue with the mansard roof addition but acknowledges the improvements to the scheme and recommends that the application be determined on the basis of the LPA's own expert conservation advice. The Council's Conservation Officer has no objections to the revised proposals, subject to conditions.

This application has evolved from previous unsuccessful schemes (including a more contemporary design) over a number of years and has resulted in the current scheme to address previous concerns. In principle, it is considered that the improvement to the hotel accommodation would be beneficial to economic development and tourism in the city. The proposal would result in some reasonably substantial changes and additions to this listed building and it will inevitably have some impact on the environment of the site and on the occupiers of surrounding properties. Having regard to the development plan and other relevant material considerations, it is judged that the balance of considerations weighs in favour of granting listed building consent.

#### **4. MAIN POLICIES**

Wiltshire Core Strategy (adopted January 2015):

Core Policy 22 (Salisbury Skyline)

Core Policy 57: Ensuring high quality design and place shaping

Core Policy 58: Ensuring the conservation of the historic environment

Saved Salisbury District Local Plan policies: D4 (Salisbury Townscape /Chequers)



National Planning Policy Framework (March 2012), in particular paragraphs 14 and 17, Section 7 (Requiring Good Design), Section 12 (Conserving and Enhancing the Historic Environment).

National Planning Policy Guidance, in particular sections with regard to guidance relating to Design, Conserving and Enhancing the Historic Environment.

Sections 66 Planning (Listed Building and Conservation Areas) Act 1990  
Section 72 Planning (Listed Building and Conservation Areas) Act 1990

Other documents: Salisbury City Conservation Area Appraisal

## 5. SITE AND SURROUNDINGS

The White Hart Hotel is located at the junction of St John Street and Ivy Street in Salisbury. It is a relatively extensive site within the historic Eastern Chequers area of the city, occupying a significant part of the 'White Hart' Chequer. The main public facing frontage of the hotel building is to St Johns Street (the main entrance) and Ivy Street but it has a vehicular entrance to Brown Street that serves the hotel and car park. The car park extends to St Ann's Street, which forms the southern side of the Chequer. The hotel is a Grade II\* listed building and located within the Salisbury Conservation Area. Although a few commercial uses, there are mainly residential properties which back on to the site in Ivy Street, either side of the access in Brown Street, and St Ann's Street and St John Street on the south side of the site. The Cathedral Close is located within close proximity to the south west on the west side of Exeter Street and St John's Street.

## 6. THE PROPOSAL

The proposal is mainly for an extension and alterations to provide an additional 28 guest bedrooms and new function rooms, with associated works and alterations. The application scheme involves expansion and remodelling of the hotel's 1970s bedroom wing, with an upward third floor extension (mansard roof) to provide an additional accommodation together with the replacement of a collection of single storey buildings, which currently includes back-of-house accommodation, on the north side of this wing, with a new extension, stepped up to three storeys high, with a mansard roof at third floor level which joins that proposed above the 1970s wing at the same height. A new covered refuse storage area is also proposed at the rear. The also seeks to refurbish the public areas within the hotel and re-landscape the car park. The proposal also includes re-facing the 1970's façade to part of St John's Street. The proposals are discussed further below.

This application for listed building consent is being considered concurrently with the associated planning application 14/01986/FUL for the proposed development on the site under that application.

## 7. RECENT PLANNING HISTORY

14/01990/LBC	Proposed alterations to existing 1970s block including conversion of parking undercroft, stepped four storey extension including an upward extension to form new level, providing function rooms and a new hotel entrance on the ground floor with 28 No new guest bedrooms above. Proposed internal refurbishment and alterations to existing public areas with associated landscaping. UNDETERMINED /CONCURRENT.
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S/2013/0061	Proposed alterations to existing 1970s block including conversion of parking undercroft, stepped four storey extension including an upward extension to form new level, providing function rooms and a new hotel entrance on the ground floor with 29 No new guest bedrooms above. Proposed internal refurbishment and alterations to existing public areas with associated landscaping. WITHDRAWN 16.01.13.
S/2013/0060	Proposed alterations to existing 1970s block including conversion of parking under-croft, stepped four storey extension including an upward extension to form new level, providing function rooms and a new hotel entrance on the ground floor with 29 No new guest bedrooms above. Proposed internal refurbishment and alterations to existing public areas with associated landscaping. WITHDRAWN 16.01.13
S/2012/0770	Proposed repair works to section of boundary wall. APPROVED 30/05/12.
S/2011/1861	Proposed demolition of existing wall. WITHDRAWN 14/12/11
S/2011/1841	Proposed demolition of existing wall and construction of five dwellings, within the curtilage of a listed building. WITHDRAWN 07/12/11
S/2011/1840	Proposed demolition of existing wall and construction of five dwellings, within the curtilage of a listed building. WITHDRAWN 07/12/11.
S/2009/1313	Internal alterations to existing meeting room to create DDA compliant WC facility. APPROVED 10.09.09.
S/2009/0740	Conversion of staff accommodation for the white hart hotel to provide 4 no individual houses, no's 86, 88, 90 & 92 brown street. APPROVED 28/05/09.
S/2009/0741	Conversion of staff accommodation for the white hart hotel to provide 4no individual houses, no's 86, 88, 90 & 92 brown street. APPROVED 28/05/09.
S/2008/0266	Maintenance to stone portico installation of air conditioning / condense units and bedroom plus corridor decorations. APPROVED 12/02/08.
S/2008/0037	Installation of external air conditioning condenser units and steel work platform. APPROVED 14/01/08.
S/2003/2089	L/B application. Construction of a pair of brick piers to support a damaged concrete beam. APPROVED 23/12/03.
S/2003/2088	Construction of a pair of brick piers to support a concrete beam. APPROVED 28/11/03.
S/2003/0704	L/B application. Extension to existing hotel to include health and fitness centre a further 14 bedrooms to the upper floors and new roof to court yard and associated alterations. REFUSED 07/07/03.
S/2003/0703	Extension to existing hotel to include health and fitness centre a further 14 bedrooms to the upper floors and new roof to court yard and associated alterations. REFUSED 07/07/03.
S/2002/1422	Extension to existing hotel to include health and fitness centre a further 32 / 33 bedrooms to the upper floors and new roof to courtyard. REFUSED 04/09/02.

S/2002/1423	L/B application. Extension to existing hotel to include health and fitness centre a further 32 / 33 bedrooms to the upper floors and new roof to courtyard. REFUSED 04/09/02.
S/2000/2133	Erect external porch. APPROVED 03/01/00.
S/2000/2072	Convert 2 rooms into 1 meeting room and erect external covered area. APPROVED 29/12/00.
S/2000/1827	L/B application. Proposed new entrance door to front elevation with minor internal alterations. APPROVED 12/12/00.
S/2000/1826	Proposed new entrance door to front elevation with minor internal alterations. APPROVED 16/11/00.
S/2000/0525	Infill open area to the front elevation. APPROVED 19/05/00.
S/2000/0526	Infill existing open area to the front elevation. APPROVED 28/06/00.
S/1996/1020	L/B application. Erection of new decorative iron gates and improvements to underside of bedroom block. APPROVED 05/09/96.
S/1996/1019	Erection of new decorative iron gates (St John Street). APPROVED 22/08/96.
S/1995/0882	Reduction in length of existing flagpole from 4.2m long to 3m long. APPROVED 16/08/95.
S/1995/0330	L/B application - relocation of flagpole from roof of portico to portico gable to enable flag to be taken down occasionally for cleaning etc. REFUSED 19/05/95.
S/1992/1553	L/B application - new signage to replace existing and additional signs. APPROVED 08/06/92.
S/1992/1392	L/B application - fit traditional awnings to ground floor windows and door on the St. John street elevation. REFUSED 02/11/92.
S/1989/0537	Re-roofing with non-asbestos slates or alternatively with non-asbestos slates on rear and second-hand slates on front elevation. REFUSED 10/05/89.
S/1988/0403	L/B application - erection of wall and block up doorway. APPROVED 20/04/88.
S/1988/0402	Alterations to lounge etc. APPROVED 20/04/88.
S/1986/1000	L/B application - to erect and paint 15 sets of shutters to ground floor windows along St. John street elevation of hotel. WITHDRAWN.
S/1985/0674	L/B application - re-decoration of sash windows on all elevations and redecoration of brickwork on ivy street. REFUSED 26.06.85.
S/1985/0215	Demolition of existing garage erection of store and formation of conference room. APPROVED 03/04/85.
S/1985/0216	L/B application - demolition of existing garage, erection of store and formation of conference room. APPROVED 03/04/85.
S/1984/1696	L/B application - erection of flagpole atop the balustrade and removal of two in the portico. APPROVED 30/01/85.
S/1983/0779	L/B application - erection of flag pole at top balustrade of hotel. REFUSED 03/08/83.
S/1983/0618	L/B application - erection of a canopy over the door leading to new "wavells" bar. APPROVED 22/06/83.

S/1983/0157	L/B application - (a)to erect 9 hanging basket holders(b)to remove glass from lanterns on portico & replace. APPROVED 11/04/83.
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## 8. REPRESENTATIONS

The application was publicised through site notice, neighbour notification and newspaper advertisement.

7 letters of objections from neighbouring properties. Summary of main points raised:

- Concern regarding height
- Massing, overbearing impact
- Don't want upward extension
- Use of access way and right of way at rear of hotel
- Reduction in width of access way
- Parking / obstruction of access way
- Reduction in parking
- Impact of noise from use of functions rooms
- Openable windows / noise breakout
- Noise report needs to address issues to contain noise
- Noise from staff, deliveries and function rooms and use of car park
- No guarantee that management procedures / mitigation will work
- Activities will be concentrated to a much smaller area to the rear
- More likely to cause a statutory nuisance
- Loss of daylight
- Loss of privacy / overlooking from proposed extension
- Increase in size intrudes on privacy
- Upward extension would be an eyesore
- Not in keeping with surrounding medieval buildings which would be overshadowed
- Will necessitate increased traffic into car park
- Insufficient parking on site for size of development
- Increased pressure on on-street parking in Residents Parking Zone E
- Increased traffic congestion and highway danger / safety issues in Brown Street
- Noise and disturbance from users / vehicles in early morning
- Noise and disturbance from construction work
- Previous objections to use of rear entrance as main entrance
- Increase in of traffic using only entrance off Brown Street
- Increase in traffic will exacerbate noise, pollution and fumes in Brown Street
- Air quality assessment inadequate
- For most part, residences opposite access and backing onto hotel affected by increase in traffic.
- Nuisance caused by increase in vehicular and pedestrian traffic, particularly at midnight with alcohol involved – already a problem in Milford Street.
- In a Conservation Area - out of scale with surrounding small scale buildings
- Will overwhelm historic character and intrinsic nature of the area
- Development undesirable / should not be approved.
- Persistent applications of this nature of inconvenience to local residents / property owners
- Insufficient account taken of local need
- Fails to meet Council's adopted policies

- Increase in height / taller – would affect views of Cathedral from outside the site, particularly from the east
- Would partially mask views of Cathedral from Churchill Way
- Impact on listed buildings
- Contrary to Policies CN3, CN5, CN8, CN9, CN11, CN12 (conservation policies) - relating to design, scale, character, setting and views.
- Taking away top floor would only result a reduction of 12 rooms from 28- sold houses in Brown Street that could have accommodated more than 12 rooms.
- Alternative sites for developing 4\* hotel rather than overdeveloping this site
- Hotel has sold off other properties which could have been used for hotel accommodation
- Car parks referred to available for parking e.g. Brown St. likely to be redeveloped, and would not be available for parking.

Following the submission of revised plans, a further 3 letters of objections have been received, two from previous objectors.

(Officer's Note: The above representations also relate to the associated planning application but only those related to matters associated with this listed building consent are relevant to this listed building application:

Salisbury City Council: None received

Salisbury Civic Society:

*"On behalf of the Civic Society, I would like to comment on the above submission. We have been following with interest the evolving applications on this important site. As with previous schemes, we remain somewhat cautious about the effect of significant development within the centre of a Chequer; forming a new entrance to the rear of the hotel turns a quiet, central space into a destination, which is fundamentally out of keeping with the medieval urban layout. When we last wrote on 13th February 2013 with regard to the previous application, we noted our concern that a new formal entrance at the rear of the might make the core of the chequer very busy, especially if the number of guests is increased. We remain concerned that it might become a busy delivery/ pick-up /drop-off point accommodating larger vehicles and groups of people waiting around, as they currently do opposite the front entrance, on St John's Street (although here they are at least a greater distance from the surrounding residential area). New road markings, planting, increased lighting etc. might make this car park and rear entrance much more of a feature than it has been previously.*

*Whilst a new rear access might help to ease congestion on St John's Street, its impact on the character of the listed building might be much more detrimental longer term. The internal spaces of the existing building are rationalised through ones arrival at the St John's Street entrance, directly off the main thoroughfare; the internal layout of the building works to accommodate visitors arriving here, entering at the Hotel Reception. In the proposed plans the current reception and lounge area is now labelled as a 'bistro.' Clearly we must judge the application on the information presented today, but we would be concerned that such a comprehensive reversal of the buildings orientation to now welcome visitors at the rear will very likely raise the need for subsequent internal alterations to the listed building in the future. Sadly, this also leaves the landmark entrance on St John's Street all but redundant in the likelihood it becomes used mainly as the bistro entrance, rather than the main hotel. Much of the joy in staying in these heritage assets in historic towns and cities is taken from the arrival at unusual and interesting landmarks. Unfortunately this will be lost at the White Hart, with a low-key, almost apologetic and very generic entrance being formed at the rear, at the centre of the chequer.*

*Despite our concerns with the plan form and organisation of the new layout, we recognise that this is in the commercial heart of the city centre. As such, we do not feel that the massing of the new proposal is overly large. The plan layouts appear to have been put together carefully so as not to increase any overlooking issues with adjacent properties, although the expansion northwards will have an undeniable impact on the rear of the Ivy Street properties. As with the previous scheme, the main elevational drawings do not fully incorporate the context of the surrounding site. A long section through the whole chequer showing the proposed south elevation would also help reassure us that the massing is acceptable. The proposal's main impact might be from the east where the ground is a bit higher, beyond Brown Street, but there are no drawings which adequately illustrate this. A concise history of the recent planning applications would also help the reader better understand the evolution and reasoning behind the current proposal.*

*Whilst efforts have been made to reduce the massing of the scheme from that submitted in 2013, we do feel that the design intent has unfortunately also been 'watered down.' In this respect, we support the comments made by English Heritage. The elevations are less well considered and it is difficult to see how these are site specific. The new entrance is not articulated as well as the previous scheme and the more monolithic stone façade seems to appear heavier and bulkier as a result. There is a danger that this new development could begin to resemble any other generic out-of-town hotel chain. The current 1970s extension at least dared to be different and of its time!*

*In summary, we feel the application could be substantially improved. Improvements would look to be focused on a design for the new entrance which is currently less good than the previous version. We also reiterate our strong concern that the new reoriented layout is in total conflict with the plan form of the listed building. We also wish to highlight the deficiencies of the application in supplying full contextual information.*

*We are not opposed to redevelopment of this existing extension and we would be glad to see improvements made that also provide a much needed facility to the city centre. However, we are concerned that the current design presents a missed opportunity to do something modern, of its time and site specific. The White Hart Hotel is an unusual and charming historic building; it is a city centre landmark that deserves an architectural response equal to that of the existing building”.*

## **9. CONSULTATIONS**

Historic England: (formerly English Heritage)

Regarding the original plans, Historic England commented as follows:

*“ .....English Heritage has had extensive involvement with this site over several years with both pre-application and formal applications.*

*Summary*

*We consider the impact of the scale of the new block combined with the imposition of the mansard roof extension on the existing and new build will have less than substantial harm on the setting to the principle heritage asset- The White Hart and adjacent listed buildings within the tight environment of this Chequer within the Salisbury Conservation Area. We believe more efforts should be made to offset this harm with a more integrated and imaginative approach to bring some positive improvements to the car park that is highlighted as a negative space at the rear of the hotel.*

*English Heritage Advice*



*The White Hart is a significant Grade II\* heritage asset that is located on the west side of the chequer nearest to the eastern extent of the Cathedral Close boundary wall. Its presence on this corner of St John's Street and Ivy Street is pivotal in both reinforcing the historic fabric and significance of the city's townscape and, as it covers a large proportion of this chequer, its prominent position is an important landmark. Built in the late 18<sup>th</sup> century, but possibly retaining fabric from an earlier structure, it is "remarkably grand for an inn of that date" (Pevsner). Interestingly, Pevsner also highlights the 1970s extension by N Foley that is the subject of this application.*

*Due the extent of time that this proposal has evolved, several different Inspectors from English Heritage have been involved. My understanding of the planning history to date is that various applications have been submitted and either refused or withdrawn. The exception being that LBC has been approved for the demolition of the single storey building behind the principal building. Although this has not yet been implemented, the principle of demolition has already been conceded. It is, however, disappointing that the applicants do not appear to have provided a detailed planning history summary that would assist in this consultation. It is also regrettable that this building has not been integrated into the overall proposal. A more creative solution might have been successful in achieving a sustainable future for this structure.*

*This proposal is primarily concerned with the 1970's block that is linked on the front and forms an L-shaped extension to the hotel. It has a parking undercroft that helps to lighten this otherwise quite heavy extension, when viewed from the car park. The proposal is to infill the undercroft and raise the structure by another storey to allow for further bedroom accommodation. This will also entail the installation of a mansard roof rather than the current flat roofed structure. A further extension of the same height and design finishing in the mansard roof is also proposed to run along the northern side of the hotel providing further accommodation.*

*This scheme presents a more unified structure at the rear than previous iterations and will incorporate the current external stairs that are visually unattractive on the external face of the car park elevation. It also allows for greater separation between the end of the hotel and the rear of the properties on Brown Street. On the street front elevation of this late 20<sup>th</sup> century addition, the proposal includes some cosmetic changes to the façade to create a more visually compatible elevational treatment to the building. Whilst we accept that this may improve the visual qualities of the extension, there is a danger that if badly executed using cheap materials this could result in a poor attempt at pastiche. We, therefore, recommend that this element of the work is subject to strong Conditions.*

*The main issue for us will be the introduction of the mansard roof that is **not** normally an accepted roof form associated with Salisbury. However, we understand that this revision has been as a direct result of discussions with Wiltshire Council. Whilst we do not favour this form of roof addition, we are mindful that it will be relatively well screened from most public views around the Hotel and the Chequer on which it is located. It is most unlikely that there will any views of it from further afield; as the photomontages indicate that this development will have a relatively low impact outside the immediate setting of the Chequer in which the White Hart sits. However, there will be some harm albeit less than substantial, to the immediate heritage assets around and within the Chequer itself by the introduction of the mansard roof combined with the scale of the north elevation. To some extent this should be offset by the landscaping scheme that will help to mitigate the harshness of the car park area that is identified as a negative element in Jane Root's Statement of Significance. However, we do not consider the planting of a few token trees to be adequate enough and would ask that this matter is reassessed. Although, it would also be wrong to over embellish or to make the entrance too conspicuous in the street, something simple might help lift this*

part of the Brown Street. Such enhancement could then be balanced against the harm caused by this inappropriate roof form of development.

*On this basis, we consider that this development will have a negative impact on the setting to the principle grade II\* listed hotel building, other designated heritage assets within the close vicinity of this site and on the Conservation Area. Currently the proposals should be addressed against Policy 134 of the NPPF. We do not believe enough public benefits have been demonstrated to outweigh this less than substantial harm. We would ask that further investigations are made with the applicants to see if more comprehensive improvements can be forthcoming to the car park and entrance way.*

#### *Recommendation*

*We urge you to address the above issues, and recommend that this application be determined in accordance with national and local policy guidance, and on the basis of your expert conservation advice. It is not necessary for us to be consulted again. If you feel you need further advice, please let us know why.*

*Please re-consult us if there are material changes to the proposals beyond those necessary to address the issues we have raised. We will then consider whether such changes might lead us to object. If they do, and if your authority is minded to grant consent, you should notify the Secretary of State of this application in accordance with Circular 08/2009”.*

Following the submission of revised plans and additional information, Historic England have commented:

*“...The additional information and amended plans provided appear to broadly address the concerns outlined in our earlier advice letter. We continue to have issue with the mansard roof addition but, as previously outlined, are mindful that it will be relatively well screened from most public views. Improvements to the facade treatment and landscaping have improved the visual character of the building and its setting.*

*We therefore recommend that the application is now determined in accordance with national and local policy guidance, and on the basis of your expert conservation advice.*

*It is not necessary for us to be consulted again. if you feel you need further advice, please let us know why.*

*Please re-consult us if there are material changes to the proposals beyond those necessary to address the issues we have raised. We will then consider whether such changes might lead us to object. If they do, and if your authority is minded to grant consent, you should notify the Secretary of State of this application in accordance with the above Direction...”.*

#### Ancient Monuments Society:

*Thank you for consulting us on this application which was discussed at the Society’s Casework Committee on Tuesday 29 April. The Ancient Monuments Society believes that this application would be damaging to the Grade II\*- listed White Hart Hotel and its setting, as well as to the Salisbury City Centre Conservation Area. While the harm caused would be “less than substantial”, it would not be outweighed by public benefits and has not been justified. The Society agrees with English Heritage that further efforts should be made to a secure a more satisfactory outcome.*

#### *Significance*

*The White Hart Hotel is an important landmark building in Salisbury town centre situated east of the Cathedral Close. It was listed Grade II\* in 1952, and is one of a small number of*

particularly important buildings with “more than special interest”. While the present building dates principally from the 18th century, it is known that an inn of this name existed on the site in 1635. The hotel’s prominent portico was added in the early 19th century as part of a remodelling. The hotel is in the Salisbury City Centre Conservation Area and in the north-west corner of the ‘White Hart Chequer’. Salisbury was built in the 13th century as a ‘new town’ on a grid of five streets from east to west and six from north to south forming ‘chequers’, or squares. The city derives much of its special character from its surviving medieval street pattern. We are grateful to the applicant for providing us with an analysis of the significance of the one-storey building to the rear of the hotel. While the document gives a useful description of the building, it is still not clear to us what its original purpose and age are. It would be useful to have this information to better understand the significance of this section of the White Hart Chequer. The Salisbury City Centre Conservation Area Appraisal states that “There has been little modern intervention within this Chequer and accordingly no archaeological work has been carried out.” Although the building has been much altered in recent years, it has nevertheless survived and is evidence of the Chequer’s past form and uses.

#### *Proposal and AMS position*

The application is for the refurbishment of a 1970s wing to the rear of the hotel and the creation of a new function room and dining room in place of the existing single storey building. Trustees were disappointed to note that the proposed ‘new building’ is in effect a refacing of an existing extension rather than a brand new development. While the preservation of embodied energy is to be applauded, Trustees feel that an opportunity has been missed to improve the relationship of the extension wing with the main hotel and, more importantly, that the constraints of the existing building’s form has made the introduction of an innovative design more difficult to achieve. Trustees were also surprised that the applicant had not taken the opportunity to improve the setting of the White Hart Hotel by removing the 1970s extension and replacing it with a world-class design. In this sense, it could be argued that the recommendations of Section 7 of the NPPF, Requiring Good Design, and in particular Paragraphs 63 and 64, ought to be applied more stringently:

63. In determining applications, great weight should be given to outstanding or innovative designs which help raise the standard of design more generally in the area.

64. Permission should be refused for development of poor design that fails to take the opportunities available for improving the character and quality of an area and the way it functions.

Trustees cited the Council Office at Bourne Hill as an example of a highly successful design intervention in a sensitive context which has set a useful precedent in Salisbury. As English Heritage has pointed out, there is a danger that a badly executed scheme could result in pastiche. We share the organisation’s concerns that a mansard roof would look incongruous within the context of the Salisbury City Conservation Area. In conclusion, the AMS has no objection to the demolition of the 1970s extension and believes that a well-executed replacement could have an enhancing effect. The Society agrees with English Heritage that the proposed solution is not satisfactory and does not meet the requirements of the NPPF. In addition to this, the AMS has concerns about the demolition of the single-storey building to the rear of the White Hart, whose significance may not yet have been fully established. We therefore object to the scheme as it stands. We would be happy to look at the application again, should further information be made available.

#### WC Urban Design Officer:

“..Policy South Wiltshire Core Strategy saved Salisbury District Local Plan Design Policy D1/D2, Pre submission draft Wiltshire Core Strategy Core Policy 57.

The proposal is a revision of S/2013/0060/FULL & S/2013/0061/LBC which has satisfactorily addressed my comments dated 13.05.2013 on that application, and my subsequent comment on revisions dated 11.10.2013 with the exception of the following queries:

- Downpipes are not shown on the elevations-Is it the intention to run these internally? This should be established and if not, as a significant visual element of the elevational design they should be shown on the proposed plans and elevations. Strategically placed they could particularly contribute a stature and interest to the elevations. For example expressed hopper heads and robust downpipes set in from each corner of the 4 storey element of the brick faced East Elevation to drain the gutter at the mansard parapet level. Rainwater goods should be identified as metal rather than plastics to represent a suitable quality of appearance in this setting with other historic buildings;

- As mentioned in both of my previous comments there is still no indication on the plans or elevations of how the service plant and outlets for the extension will be integrated into the design to establish these will not liberally appear on the roof and facades potentially detrimental to visual quality of the surrounding area and amenity of neighbouring occupiers and not just from the issue of noise.

While there is a note on the 'proposed section c' that 'all extracts, vents, louvres, a/c ducts from the function room will be taken to face the courtyard...' it cannot be assumed from this that externally mounted plant and ducting is not required and will not materialize across the numerous flat roofs which are likely to be clearly visible from neighbouring properties. Associated intake /extract grilles to ventilate the ground floor communal toilets and internal bedroom toilets should also be shown: the location of the hotel bedroom en-suites suggest multiple soil pipe vents and mechanical ventilation/intake extracts may project above and 'pepper' the fourth floor flat roof seen from a distance whereas any protrusions should be shown on the drawings-combined and incorporated in a visually tidy and unobtrusive way into the mansard.

In addition the opening of the windows should also be established and noted on the elevations as centre pivot or top hung windows would look distinctly out of place in this setting.

The specific facing brickwork and generic reference to the stone panelling and sloping roof finish is shown alongside the coloured proposed elevation drawings and on the sectional details drawing. Samples/specification will need to be provided for each of these for approval together with the brickwork bond /mortar joint details, cills/parapets, profile/colour of the aluminium window frames, and rainwater goods to establish that these are of an appropriately high quality of appearance in this setting. This should include the flat roof finish where a bright and reflective colour and finish (typical of single ply roof membranes) would detract from the roovescape of the Chequers, and visual amenity of neighbouring properties looking down on these. The Michelmersh brick images are shown in Flemish Bond which would be an appropriate bond adding local interest while maintaining the 'contemporary' appearance"

Following the submission of further information in response to the above comments the Urban Design Officer comments:

"Their note suitably clarifies my queries. If they want to run external rainwater pipes on the extension portion they should show these on the elevations but being consistent with the main wing by keeping all pipes internal would be more logical. With the explanation of the approach to appropriately minimising the roof outlets and external plant etc. suggests you could condition this and expect this approach to appear on details then submitted ?"

Conservation Officer:

Based on the latest revised plans, the Conservation Officer comments:

*“...The proposal requires the partial demolition of a single-storeyed range to the rear of the hotel; much more of this is now to be retained than in previous iterations. The extension and additional floor to the 1970s wing would not have an overbearing impact on the setting of the listed building or its listed neighbours. The large flat roof is essentially a reworking of the existing flat roof, although there would be less flat area due to the slate-clad sides; the use of slate is an enhancement over other possible materials (and the existing). The lift/stairwell projection toward the western end of the proposal area may just be visible from St John St, however this would not be a significant intrusion into this important view. The proposal to clad the whole of the rear wing in gault bricks is welcomed, and a pointed sample panel will be essential to ensure that the brick chosen is the most appropriate. I would like to know for sure the materials/design of the dormer windows and new glazing; and also of the ground floor alterations to the St John St elevation, both of which could be provided for agreement by condition.*

*Overall, I think the modest harm created by raising the level of the top floor is outweighed by the visual benefits of the alterations to the rear wing and the southern section on St John St, without getting into the other benefits of increased accommodation etc....”*

#### WC Archaeology:

*“ This site is of archaeological interest as it lies within the medieval White Hart chequer. Archaeological evaluation has taken place in and around the car park in 2003 and 2010. Both demonstrated that remains from the medieval and post-medieval period do survive in the areas investigated. The remains have, in some areas, been affected by the later buildings.*

*The NPPF (and previously the now superseded Planning Policy Statement 5) states that an application should describe the significance of heritage assets affected by an application. NPPF policy 128 states that ‘Where a site on which development is proposed includes or has the potential to include heritage assets with archaeological interest, local planning authorities should require developers to submit an appropriate desk-based assessment and, where necessary, a field evaluation.’*

*In this case, the previous evaluation has provided enough evidence to demonstrate that significant heritage assets with an archaeological interest are present on the site. However, the proposed development appears to have a significant overlap with the existing buildings.*

*The NPPF also says: 141. Local planning authorities should make information about the significance of the historic environment gathered as part of plan-making or development management publicly accessible. They should also require developers to record and advance understanding of the significance of any heritage assets to be lost (wholly or in part) in a manner proportionate to their importance and the impact, and to make this evidence (and any archive generated) publicly accessible. However, the ability to record evidence of our past should not be a factor in deciding whether such loss should be permitted.*

*As there appears to be a significant overlap between the proposed works and the existing buildings, mitigation work in advance of demolition appears to be problematic. It is therefore recommended that a programme of archaeological works is carried out as part of any development. This should initially take the form of a watching brief during demolition and construction. However, should significant remains be identified it may be necessary to undertake some archaeological excavation as part of the mitigation works. The applicant should be aware that this may have an effect upon their programme of works.*

Therefore in line with the National Planning Policy Framework (NPPF) and the earlier PPS5 (2010) and Planning Policy Guidance Note 16: Archaeology and Planning (DoE 1990) the following recommendations are made:

*Further Recommendations: The work should be conducted by a professionally recognised archaeological contractor in accordance with a brief issued by this office and there will be a financial implication for the applicant”*

(Officer Note: a condition requiring a scheme of archaeological investigation is recommended on the associated planning application)

## **10. ASSESSMENT**

### **10.1 Scale, Design and Impact on the Listed Building**

The NPPF requires good design including, inter alia, a strong sense of place responding to the character and history and reflecting the identity of local surroundings and materials.

Core Policy 57 (Ensuring high quality design and place shaping) states that “...A high standard of design is required in all new developments, including extensions, alterations, and changes of use of existing buildings. Development is expected to create a strong sense of place through drawing on the local context and being complimentary to the locality. Applications for new development must be accompanied by appropriate information to demonstrate how the proposal will make a positive contribution to the character of Wiltshire through:

- i. Enhancing local distinctiveness by responding to the value of the natural and historic environment, relating positively to its landscape setting and the exiting pattern of development and responding to local topography by ensuring that important views into, within and out of the site are to be retained and enhanced*
- ii. The retention and enhancement of existing important landscaping and natural features, (for example trees, hedges, banks and watercourses), in order to take opportunities to enhance biodiversity, create wildlife and recreational corridors, effectively integrate the development into its setting and to justify and mitigate against any losses that may occur through the development*
- iii. Responding positively to the existing townscape and landscape features in terms of building layouts, built form, height, mass, scale, building line, plot size, elevational design, materials streetscape and rooflines to effectively integrate the building into its setting*
- iv. Being sympathetic to and conserving historic buildings and historic landscapes*
- v. The maximisation of opportunities for sustainable construction techniques, use of renewable energy sources and ensuring buildings and spaces are orientated to gain maximum benefit from sunlight and passive solar energy, in accordance with Core Policy 41*
- vi. Making efficient use of land whilst taking account of the characteristics of the site and the local context to deliver an appropriate development which*



*relates effectively to the immediate setting and to the wider character of the area*

- vii. *Having regard to the compatibility of adjoining buildings and uses, the impact on the amenities of existing occupants, and ensuring that appropriate levels of amenity are achievable within the development itself, including the consideration of privacy, overshadowing; vibration; and pollution (such as light intrusion, noise, smoke, fumes, effluent, waste or litter)*
- viii. *Incorporating measures to reduce any actual or perceived opportunities for crime or antisocial behaviour on the site and in the surrounding area through the creation of visually attractive frontages that have windows and doors located to assist in the informal surveillance of public and shared areas by occupants of the site*
- ix. *Ensuring that the public realm, including new roads and other rights of way, are designed to create places of character which are legible, safe and accessible; in accordance with Core Policy 66 – Strategic Transport Network*
- x. *The sensitive design of advertisements and signage, which are appropriate and sympathetic to their local setting by means of scale, design, lighting and materials*
- xi. *Taking account of the needs of potential occupants, through planning for diversity and adaptability, and considering how buildings and space will be used in the immediate and long term future*
- xii. *The use of high standards of building materials, finishes and landscaping, including the provision of street furniture and the integration of art and design in the public realm*
- xiii. *In the case of major developments, ensuring they are accompanied by a detailed design statement and master plan, which is based on an analysis of the local context and assessment of constraints and opportunities of the site and is informed by a development concept, including clearly stated design principles, which will underpin the character of the new place.*
- xiv. *Meet the requirements of Core Policy 61 – Transport and New Development*

Criteria (i), (iii) and (iv) are of particular relevance in a historic environment.

One of the most significant aspects of the development is the upward extension and external treatment to the 1970s wing and the proposed rear extensions. The Planning Statement states that:

*“... the 1970 bedroom wing is prominent and unsympathetic in form and style when viewed from the south or car park side. Many users of the hotel, including resident and function guests and elderly or disabled visitors, currently enter the building from the car park. The 1970 bedroom wing and further twentieth-century extensions adjoining it destroy any sense of arrival at an historic building and block views of it when approaching from this side. Where this range extends onto St John’s Street it forms a continuation of the principal or entrance front of the hotel and is a relatively neutral element in the street scene...”*

Officers agree that, whilst of its time, the 1970s extension is generally considered to be unsympathetic and there is an opportunity to enhance the historic environment of the site and surroundings, whilst permitting the hotel to expand and improve its facilities.

Regarding design, the NPPF states at paragraph 58 that:

*“The Government attaches great importance to the design of the built environment. Good design is a key aspect of sustainable development, is indivisible from good planning, and should contribute positively to making places better for people”*

And at paragraph 60, states:

*“...Planning policies and decisions should not attempt to impose architectural styles or particular tastes and they should not stifle innovation, originality or initiative through unsubstantiated requirements to conform to certain development forms or styles. It is, however, proper to seek to promote or reinforce local distinctiveness...”*

Whereas a previous application (withdrawn) was for a more contemporary design, the current application reverts to a more traditional approach, with revisions. The third floor extension is now contained within what is described as a ‘mansard’ roof. This is, in fact, more of a modern mansard type roof (as it does not have a traditional full height mansard roof with a central ridge) and has sloping sides with a central flat roof. This reduces the overall height, whilst achieving the accommodation space sought and the height of the third floor extension has been kept below the 12.2m height restriction for development in the central area under Core Policy 22 (Salisbury Skyline). The height is, in fact, just below the height of the existing plant room now on the roof, which would be removed.

The third floor extension is also part of a new side extension on the north side of the 1970s at the rear of the site. This new side / rear extension is in area currently covered by existing ground floor and later additions to the listed building, which will be demolished. The footprint of this element of the extension would be a little greater than the existing ground floor footprint on its east and north sides. The extension in this location also has a ‘mansard type’ roof and is stepped in from the north and east boundaries at first, second and third storey level, leaving a flat roof on these sides over part of the ground floor extension, an element of which is directly adjacent the rear boundary with 2 Trinity Street.

The proposed ground floor contains two new function rooms and breakout area which has an opening out onto the internal courtyard landscaped area. At first, second and third floors the accommodation comprises guest bedrooms. This stepped arrangement reduces the bulk of the extension on its north and east sides. On the north side, an existing pitched roof (over the current plant and conference rooms) will be replaced also by a mansard type roof (slightly lower in height than the ridge of the current pitched roof) which will include additional guest bedroom accommodation linked to the remainder of the proposed extension and 1970s wing. The fenestration is on the south and east elevations and to the west elevation (facing inward towards the courtyard and main listed building. There are some corridor windows proposed on the inner (north) side of the upward mansard extension to 1970s wing, which face over the courtyard but otherwise the walls to the north elevation of the extension (facing the rear of properties in Trinity Street) are blank.

In the north east corner of the site, a new covered bin store is proposed. This is a rectangular single storey brick building with a shallow pitched slate roof, attached to the main extension and directly adjacent the rear boundaries of dwellings in Trinity Street and Brown Street. It also includes space for A/C units. The extension also includes a new enclosed / covered service route between the function rooms and adjacent rear boundaries of 2 and 4

in Trinity Street. The bin store and rear service route is accessed from the rear car park and access off Brown Street, as at present.

Returning to the 1970s wing, it is proposed to enclose the current open under-croft and convert this to a new reception area, with lounge and WCs. A single storey entrance foyer with a glazed roof is proposed on the south side together with a single storey glazed flat roof narrow extension along the south side of the 1970s wing, abutting the existing substantial boundary wall with No.3 St Johns St. It is proposed to enclose the fire escape stair case within the building envelope on the eastern end of the 1970s block on its south side, with a striking vertical glazing to the corner. On a previous scheme, this protruding element was larger and included a lift shaft, which has now been re-positioned elsewhere in the building, enabling its bulk to be reduced.

Regarding the proposed external materials, these comprise facing brick for the new extension and facing of the 1970s wing, natural slates for the slopes of the mansards and a flat roof membrane material to the flat roofs. The sloping sides of the mansard roof will be set back behind a parapet wall with stone coping. The enclosed staircase is proposed to be clad in stone. As a result of discussions, the agent has confirmed that 'natural' stone to match existing is to be used (i.e. not re-constituted). In addition, revisions to the facing brick have been made following discussion with officers (and HE). The main brick work for the facing of the 1970s block and new extension is now proposed to be in a gault / buff coloured brick, a brick colour that also been used on the front elevation of the existing 1970s wing and to elevations to parts of the principal hotel building facing St Johns Street and Ivy Street. This will, it is considered, result in a lighter but more integrated feel and compliment the natural stone faced staircase.

The façade to St Johns Street is proposed to be infilled and to receive some cosmetic treatment. At ground level there will be painted timber framed glazing elements with three separate external doors with access to a sub-station, gas meter room and internal fire escape staircase. Existing concrete posts will be faced with brick slips and infill areas will be in matching brick. The exposed concrete floor slab above ground floor level will receive a stone facing. The existing brickwork and windows will be retained at first and second floor levels with painted heads and stone drip detailing to the window. It is considered that the proposed treatment is sympathetic, will enhance the current rather drab appearance and void at ground level.

Externally, some landscape works are proposed to the car park and rear entrance off Brown Street. The central planting comprises 3 specimen trees (standards) set within a new hedge in the centre of the car park and a number of smaller trees / shrubs in peripheral locations and at the entrance to the car park with associated ground planting. The car park will also be re-surfaced with a buff coloured bonded natural aggregate finish with natural stone setts for edging detail. This will enhance the appearance of the car park, which is currently a fairly bare expanse of tarmac. As a result of comments from Historic England (see above) the applicant has reconsidered the treatment to the entrance area to the car park. The result is that on the north (RHS) entering the car park, some 5 additional car spaces have been removed, which provides an opportunity to provide a strip of soft landscape planting in this location and would enable the remains of the wall / remains of the former historic 'Barracks' building to be better appreciated (an interpretation board is also proposed) and soften the entrance. Other elements of the proposed landscaping include a strip of some soft landscaping at the end (on the east side) of the 1970s block and enclosed staircase and to a new paved area around the new entrance foyer.

Because the finished ground floor level of the extension will be lower than the ground level to the east (the service access) a low retaining wall is proposed to run parallel with its east elevation, leaving a narrow strip between the wall of the extension and retaining wall, which

also provides a pedestrian route to the service access on the north side of the extension. The central courtyard close to the principal historic building (not visible from outside the site) is to receive new hard and soft landscape treatment, whilst retaining a central feature tree.

The Councils Urban Design Officer, having raised some initial queries regarding detailing, has no objection to the general scale and design approach. Further information regarding architectural detailing and materials, which are clearly crucial to securing a high quality development, can be secured through planning conditions. Scale and design is also intrinsically linked to the impact on heritage assets, and is assessed below.

It is considered that whilst the proposals would result in a relatively large addition to the existing building, the mix of traditional and complementary modern design elements, would mitigate the impact of the additional bulk and is generally in less sensitive location (in terms of visual prominence from the surrounding public realm) behind the main street frontages. At the same time, the proposals respond to the site opportunities and, it is considered would result in a positive improvement to views from the rear of the site and through the gap formed by the car park entrance from Brown Street. Conditions can be imposed to approve architectural detailing and materials

Regarding the impact on the historic environment / heritage assets and relevant policy, Section 16 of the Planning (Listed Buildings and Conservation Areas) Act 1990 requires that in considering whether to grant listed building consent for any works the local planning authority shall have special regard to the desirability of preserving the building or its setting or any features of special architectural or historic interest which it possesses. Section 72 of the Planning (Listed Buildings and Conservation Areas) Act 1990 states that in the exercise of any functions, with respect to any buildings or other land in a conservation area, under or by virtue of any of the provisions mentioned in this Section, special attention shall be paid to the desirability of preserving or enhancing the character or appearance of that area.

The National Planning Policy Framework indicates that:

*“133. Where a proposed development will lead to substantial harm to or total loss of significance of a designated heritage asset, local planning authorities should refuse consent, unless it can be demonstrated that the substantial harm or loss is necessary to achieve substantial public benefits that outweigh that harm or loss, or all of the following apply:*

- *the nature of the heritage asset prevents all reasonable uses of the site; and*
- *no viable use of the heritage asset itself can be found in the medium term through appropriate marketing that will enable its conservation; and*
- *conservation by grant-funding or some form of charitable or public ownership is demonstrably not possible; and*
- *the harm or loss is outweighed by the benefit of bringing the site back into use.*

*134. Where a development proposal will lead to less than substantial harm to the significance of a designated heritage asset, this harm should be weighed against the public benefits of the proposal, including securing its optimum viable use.”*

Notwithstanding the above, policy CP58 of the adopted WCS indicates that:

*“Development should protect, conserve and where possible enhance the historic environment. Designated heritage assets and their settings will be conserved, and where appropriate enhanced in a manner appropriate to their significance, including:*

- i. Nationally significant archaeological remains
- ii. World Heritage Sites within and adjacent to Wiltshire
- iii. Buildings and structures of special architectural or historic interest
- iv. The special character or appearance of conservation areas
- v. Historic parks and gardens
- vi. Important landscapes, including registered battlefields and townscapes.

*Distinctive elements of Wiltshire's historic environment, including non-designated heritage assets, which contribute to a sense of local character and identity will be conserved, and where possible enhanced. The potential contribution of these heritage assets towards wider social, cultural, economic and environmental benefits will also be utilised where this can be delivered in a sensitive and appropriate manner in accordance with Core Policy 57....."*

The NPPF requires that the applicant to describe the significance of any heritage assets affected, including any contribution to their setting (Para. 128). A Statement of Significance has been submitted with the application alongside the Design and Access Statement, which assesses the significance of the White Hart Hotel within its setting. The setting of the White Hart includes a high proportion of designated and undesignated heritage assets, and the statement also considers the contribution made by the hotel and its site to the setting of these structures, including the Grade I Listed mediaeval Cathedral Close Wall opposite the entrance front of the hotel. The White hart is a Grade II\* listed building with the following list description:

*ST JOHN'S STREET 1. 1594 (East Side) No 1 (White Hart Hotel) SU 1429 NE 4/130 28.2.52. II\* GV 2. Late C18. 3 storey. White brick on stone plinth with yellow rubbed window arches, moulded stone cornice and blocking course. Slate roof. Projecting central portico, early C19, full height of building with a plain ground floor treatment of 3 stone arches on square piers facing street and one similar arch across pavement at each end, these arches support 4 Ionic stone columns, with 2 responding pilasters on wall face carried up 2 storeys and with moulded stone entablature and pediment crowned with a full size White Hart. The main wall face inside portico is painted stucco, with 3 windows all with moulded architraves and with additional cornices and pediment to central and other 1st floor windows, on ground floor under arcade 2 windows to right hand and 8-panel double doors, egg-and-tongue enrichment to panels, to left hand with architrave surround. 3 windows each side of portico to main block, totalling 9 bays. The portico has enriched and turned wood balustrade, with beautiful side guards of wrought iron scroll work and cypher G.R.; at angles of portico are horn shaped lamp brackets of similar but more delicate wrought iron scroll work. Slightly later extension to right hand of 6 bays, with plain painted front. The portico is an important street feature. Only the windows in side the portico have glazing bars, original, the rest restored. Interior considerably altered. 2 bay modern extension to south in matching style. Nos 1 to 13 (odd) form a very important group.*

In addition, as one would expect, there are a number of listed buildings fronting the 4 streets that enclose the Chequer, fronting Trinity Street, Brown Street, St Ann's Street and St Johns Street. Of these, one is Grade I (No.9 St John's St), some are Grade II\* (Nos. 3-5, 7-7A, 11), and the remaining (2-4 Ivy St, 82-92 Brown St and 1-5 St Ann's St) are Grade II. There is also a significant number of surrounding listed buildings on the opposite road frontages to these streets. In particular, No15 (Malmesbury House) in The Close, St Ann's gate and The Close Wall are Grade I listed buildings. Many other buildings within the conservation area, although not listed, may be regarded as no

designated heritage assets. The Cathedral Close and Cathedral is located a short distance to the south west. Therefore, there are a significant number of designated and no designated heritage assets of significant importance adjacent the site and in the immediate surrounding area. The area is also of potential archaeological significance.

The buildings proposed to be demolished removed are later additions and of no significant historic and architectural interest. The submitted statement of significance states that permission has previously been granted for demolition of these buildings but has not been implemented. As such, no objection has been raised by Historic England or the Conservation Officer in principle to the removal of these elements and their replacement with new building. However, notwithstanding this, as a result of discussions revised plans have been received which retains a larger proportion of a slightly older wall (a part west facing into the internal courtyard) and is now integrated into the ground floor extension, which is welcomed. A condition can be imposed to require a recording of the relevant buildings before their demolition.

Regarding the alterations to the front façade to St Johns Street, no objections are raised by Historic England or the Conservation Officer. These works will not harm the fabric any features of historic or architectural interest and will preserve the setting of the White Hart listed building, adjacent listed buildings and street scene. There are other associated internal alterations, which require listed building consent (the subject of a separate listed building application) but to which the Conservation Officer and Historic England have raised no objection.

Concern has been raised by the Civic Society regarding what appears to be a comprehensive reversal of the buildings orientation to now welcome visitors at the rear and that this would leave the landmark entrance on St John's Street all but redundant in the likelihood it becomes used mainly as the bistro entrance, rather than the main hotel. The Civic Society also raises concern regarding the monolithic design and that it is a missed opportunity to do something modern, of its time and site specific. The AMS also comment that it is surprised that the applicant had not taken the opportunity to improve the setting of the White Hart Hotel by removing the 1970s extension and replacing it with a world-class design, referring to Section 7 of the NPPF and in particular Paragraphs 63 and 64, which it considers ought to be applied more stringently:

*"63. In determining applications, great weight should be given to outstanding or innovative designs which help raise the standard of design more generally in the area.*

*64. Permission should be refused for development of poor design that fails to take the opportunities available for improving the character and quality of an area and the way it functions".*

Whilst the proposal does not propose the demolition of the 1970s block, the application must be judged on its based on the scheme put forward. A more contemporary approach was taken in the previous application but was withdrawn in view of objections and concerns with such an approach. The current scheme aims to improve on the previous two designs put forward, albeit it similar in terms of the basic approach but articulated differently in detailed design and massing. Regarding the 'entrance' issue, the applicant's submissions identify the difficulties with the drop off point the busy St Johns Street but state:

- *Notwithstanding this, the Portico entrance on St John's Street is the main point of entry for pedestrians including local residents, businesses and visitors using the Hotel facilities (as a meeting point) and for guests during their stay, and historically was the main entrance. It therefore needs to continue to be a strong entry point.*



Local representations also object to the scale and dominance of the of the extensions in relation to the smaller scale surrounding historic buildings and the impact of the upward extension on views across the Conservation Area. HE's comments on the originally submitted plans concluded that there would be some harm, albeit less than substantial, to the immediate heritage assets around and within the Chequer itself by the introduction of the mansard roof combined with the scale of the north elevation but this could to some extent be offset by the landscaping scheme that will help to mitigate the harshness of the car park area that is identified as a negative element in Jane Root's Statement of Significance. HE goes on to say:

*"... we do not consider the planting of a few token trees to be adequate enough and would ask that this matter is reassessed. Although, it would also be wrong to over embellish or to make the entrance too conspicuous in the street, something simple might help lift this part of the Brown Street. Such enhancement could then be balanced against the harm caused by this inappropriate roof form of development..."*

Historic England summarised:

*"...We consider the impact of the scale of the new block combined with the imposition of the mansard roof extension on the existing and new build will have less than substantial harm on the setting to the principle heritage asset- The White Hart and adjacent listed buildings within the tight environment of this Chequer within the Salisbury Conservation Area. We believe more efforts should be made to offset this harm with a more integrated and imaginative approach to bring some positive improvements to the car park that is highlighted as a negative space at the rear of the hotel..."*

Since then, Historic England have continued to be involved in discussion with the applicant and officers, following which revised plans have been received. Historic England has assessed the revised plans for the external works together and treatment of the extensions and re-facing of the 1970s block. They consider that the amended plans appear to broadly address their concerns. Although they confirm that they continue to have issue with the mansard roof addition, they are mindful that it will be relatively well screened from most public views and that the improvements to the facade treatment and landscaping have improved the visual character of the building and its setting. They now recommend that the application is now determined in accordance with national and local policy guidance, and on the basis of your expert conservation advice.

The upward extension will be visible from some close public views from Brown Street and St Anns' Street at ground level, noticeably through the vehicular access of Brown Street. It may also be visible at higher levels from surrounding buildings. It is likely to be visible in the roof scape in the line of public views to the Cathedral, for example from higher ground to the east. The upward extension would be lower than the current plant building but clearly larger in terms of its massing. However, the overall height, design and use of slates to the mansard roof slopes will mitigate its impact on views and, in terms of longer distance views towards the Cathedral and its spire, it is not likely to appear as an unduly prominent, obtrusive or discordant element in the varied roofscape and it is judged that it would harm the city's skyline important public view points of the Cathedral. It would also not exceed the 12.2m height restriction under Core Policy 22. The upward extension has also been considered on how it might affect the historic street scene in St Johns Street and the setting of adjacent and nearby heritage assets, not least the White Hart Hotel itself. It is judged that due to the set back of the extension and roof slope from the St John's Street frontage, it is unlikely it would be either visible or unduly prominent (where it might be partly seen) from street level and is likely to have a neutral impact on the street scene and setting of heritage assets from this direction. The roof will, of course, no doubt be visible from upper building storeys in

surrounding buildings in the context of the surrounding roof scape. It is concluded, however, that views into and out of the Conservation Area would be adequately safeguarded / preserved. The Council's Conservation Officer (see comments above) concludes that the "... overall the modest harm created by raising the level of the top floor is outweighed by the visual benefits of the alterations to the rear wing and the southern section on St John St , without getting into the other benefits of increased accommodation etc...."

Regarding underground heritage assets, the Council's Archaeologist has advised that the site is of archaeological interest as it lies within the medieval White Hart chequer and that previous evaluation that took place in and around the car park in 2003 and 2010 demonstrated that remains from the medieval and post-medieval period do survive in the areas investigated, although the remains have, in some areas, been affected by the later buildings. Therefore a planning condition is recommended to require and approve a written scheme of archaeological investigation, which will require a watching brief should significant remains be identified it may be necessary to undertake some archaeological excavation as part of the mitigation works.

Having regard to the NPPF, in particular paragraphs 131 to 134, the advice from English Heritage and the specialist advice from the Council's Conservation and Archaeology Officers, it is judged that overall, taking into account the positive enhancements resulting from the proposed development, the proposal would not have a harmful impact on the historic environment generally not any specific designated or non-designated heritage asset. Notwithstanding this, if it is considered that the upward mansard additions would have some negative impact on heritage assets as a result of its design and bulk, it is judged that this would be less than substantial harm and would be outweighed by the public benefits in terms of the contribution to the local economy and tourism objectives together with the enhancement of public views into the site from the rear and setting of the principle listed building.

## **10. CONCLUSION**

It is considered that having regard to the development plan, national planning policy guidance and other relevant material considerations, it is judged that listed building consent can be granted for the works associated with the proposed development on this site, subject to planning permission being granted under planning application 14/01986/FUL.

## **11. RECOMMENDATION**

**Provided planning permission is granted in respect of the associated planning application Ref.14/01986/FUL,**

**Then APPROVE,**

**Subject to the following conditions:**

1) The works for which Listed Building Consent is hereby granted shall be begun before the expiration of three years from the date of this consent.

REASON: To comply with the provisions of Section 18 of the Planning (Listed Buildings and Conservation Areas) Act 1990 as amended by the Planning and Compulsory Purchase Act 2004.

2)The development hereby permitted shall be implemented in accordance with the submitted plans and documents listed below. No variation from the approved plans should be made

without the prior approval of the local planning authority. Amendments may require the submission of a further application.

- Location plan 5296/PS-100
- Proposed Layout 5296/PS-106 REV B
- Proposed Ground Floor Plan 5296/PS-107 REV B
- Proposed First Floor Plan 5296/PS-108 REV A
- Proposed Second Floor Plan 5296/PS-109 REV A
- Proposed Third Floor Plan 5296/PS-110 REV B
- Proposed Roof Plan 5296/PS-111 REV A
- Proposed Demolition Plan 5296/PS-112 REV A
- Existing and Proposed North Elevation 5296/PS-113 REV A
- Existing and Proposed East Elevation 5296/PS-114 REV A
- Existing and Proposed South Elevation 5296/PS-115 REV A
- Existing and Proposed West Elevation 5296/PS-116 REV B
- Proposed Elevations (north and east) 5296/PS-117 REV B
- Proposed Elevations (south and west) 5296/PS-118 REV C
- Existing and Proposed St John's Street Elevation 5296/PS-119 REV A
- Section Details 5296/PS-123, REV B
- Existing and Proposed Section A-A 5296/PS-124 REV A
- Existing and Proposed Section B-B 5296/PS-125 REV A

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

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

REASON: The application contained insufficient information to enable this matter to be considered prior to granting planning permission and the matter is required to be agreed with the Local Planning Authority before development commences in order that the development is undertaken in an acceptable manner, in the interests of visual amenity and the character and appearance of the area, and preserving the character and appearance of the listed building and its setting.

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

REASON: 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, and preserving the character and appearance of the listed building and its setting.

5) No external stonework shall be constructed on site until full details have been submitted (including a sample panel of stonework to be constructed on site and inspected) and approved in writing by the Local Planning Authority. Any panel required shall then be left in position for comparison whilst the development is carried out. Development shall be carried out in accordance with the approved sample.

REASON: 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, and preserving the character and appearance of the listed building and its setting.

6) No development shall commence on site until details of all eaves, verges, windows (including head, sill and window reveal details), doors, rainwater goods, chimneys, dormers and canopies 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, and preserving the character and appearance of the listed building and its setting.

7) The works hereby granted consent shall be carried out in such a manner as to ensure that the existing buildings are preserved and not structurally or superficially altered in any way whatsoever, save in accordance with the approved plans and the said building(s) shall be structurally supported and weatherproofed at all times during the construction period in accordance with established building practice.

REASON: To preserve the special architectural and historic interest of the listed building.

8) No works shall commence on site until an appropriate programme of building recording (including architectural/historical analysis) has been carried out in respect of the part of the building to be demolished. This record shall be carried out by an archaeologist/building recorder or an organisation with acknowledged experience in the recording of standing buildings which is acceptable to the Local Planning Authority. The recording shall be carried out in accordance with a written specification, and presented in a form and to a timetable, which has first been agreed in writing with the Local Planning Authority.

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 secure the proper recording of the listed building.

## **INFORMATIVES**

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.

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.

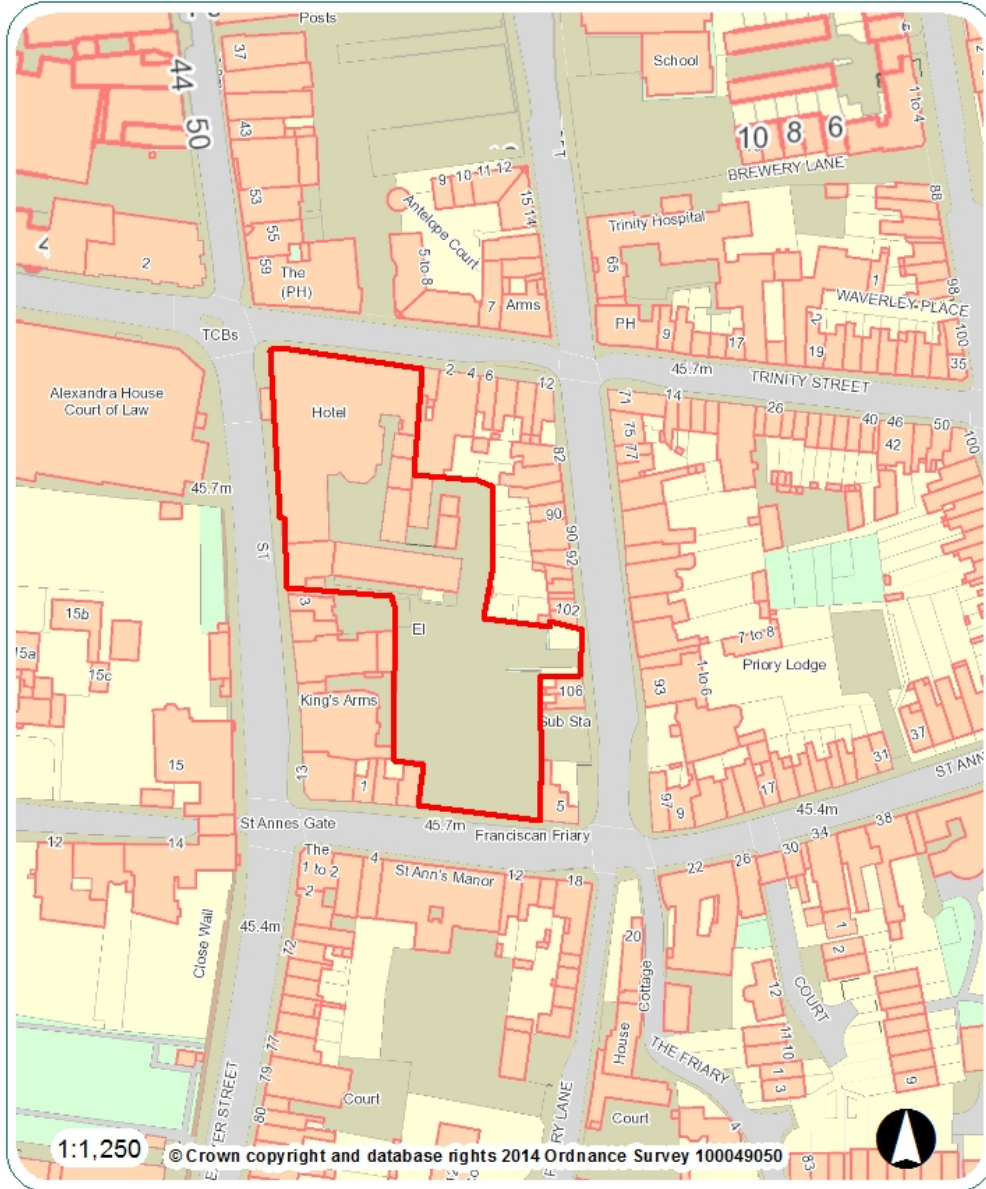
**INFORMATIVE TO APPLICANT:** Please note that Council offices do not have the facility to receive material samples. Please deliver material samples to site and inform the Planning Officer where they are to be found.

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14/01986/FUL & 14/01990/LBC

The White Hart  
St. John Street  
Salisbury  
SP1 2SD



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## REPORT FOR SOUTHERN AREA PLANNING COMMITTEES

Report No. 9c

<b>Date of Meeting</b>	12 <sup>th</sup> January 2017
<b>Application Number</b>	16/09228/FUL
<b>Site Address</b>	Land at rear of 82 Britford Lane Harnham Salisbury Wiltshire SP2 8AJ
<b>Proposal</b>	Proposed development of two detached chalet dwellings and garages
<b>Applicant</b>	Mr & Mrs Harvey
<b>Town/Parish Council</b>	SALISBURY CITY
<b>Electoral Division</b>	ST MARTINS AND CATHEDRAL – (Councillor Ian Tomes)
<b>Grid Ref</b>	414887 128716
<b>Type of application</b>	Full Planning
<b>Case Officer</b>	Lucy Minting

### Reason for the application being considered by Committee

Councillor Tomes has called in the application for the following reasons:

- Scale of development
- Relationship to adjoining properties

### 1. Purpose of Report

To consider the above application and the recommendation of the Head of Development Management that planning permission should be APPROVED subject to conditions.

### 2. Report Summary

The main issues which are considered to be material in the determination of this application are listed below:

- Principle
- Impact to the character and appearance of the area
- Residential amenity
- Highway considerations
- Archaeology
- Ecology
- Sustainable Construction
- S106 obligations/CIL

The application has generated 4 third party representations, and an objection from Salisbury City Council.

### 3. Site Description

The site is to the rear (south) of No 82 Britford Lane and lies within the designated Housing Policy Area (H8) of Salisbury and within an Area of Special Archaeological Significance. To the north side of Britford Lane are the water meadows (a conservation area).

The red line of the application site includes the adjacent former nursery site for the vehicular access from Britford Lane.

### 4. Planning History

The area of the site which comprises the garden and rear garden of No 82 Britford Lane has the following site history of planning applications:

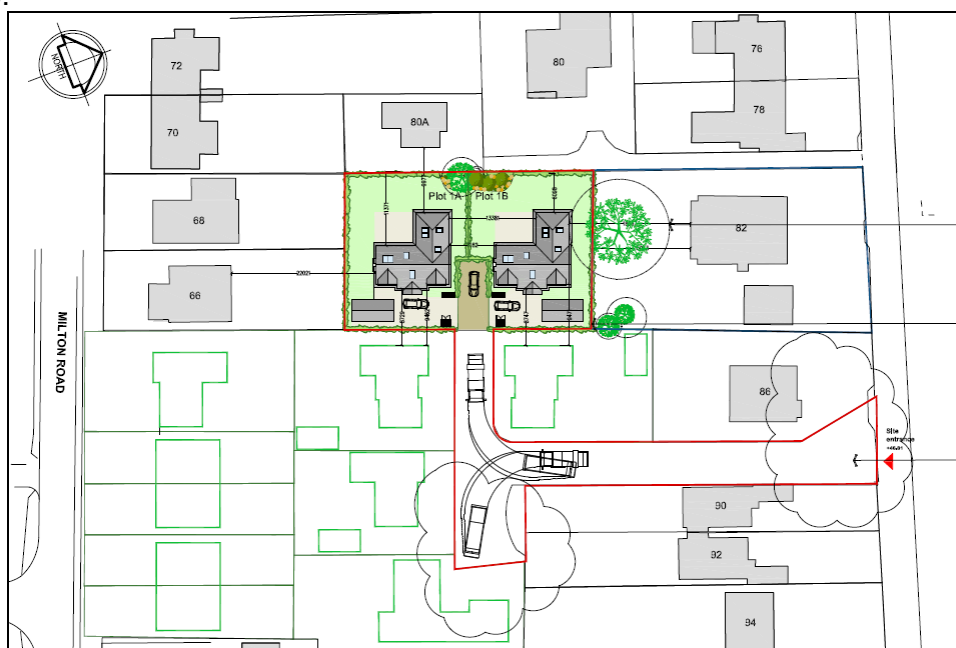
Application ref	Proposal	Decision
S/1995/1160	Construction of new garage following removal of old garage and outbuildings, 82 Britford Lane	Approved 11/09/1995
S/1990/0244	Outline application - erection of bungalow and garage and alteration to vehicular access, 82 Britford Lane	Refused 18/04/1990

The vehicular access from Britford Lane includes the adjacent former nursery site for which the following applications are relevant:

Application ref	Proposal	Decision
14/05111/OUT	Outline planning permission with all matters reserved (save for access and scale) for the proposed retention of existing dwelling and replacement of a commercial	Approved 20.03.15
15/08258/FUL	Redevelopment of nursery site with the erection of 11 dwellings with associated parking and access	Refused 18.12.15
16/05521/FUL	Replacement of a commercial nursery site with 9 dwellings including access, parking and landscaping	Approved 18 July 2016

## 5. The Proposal

The application is for two detached chalet bungalows in the rear garden of No. 82 Britford Lane, with vehicular access to the site from Britford Lane via the adjacent nursery site. The extract from the proposed block plan below shows the relationship of the new dwellings and those surrounding the site, including the dwellings approved under 16/05521/FUL (outlined in green):



## **6. Local Planning Policy**

### **The Wiltshire Core Strategy (WCS) - adopted by Full Council on the 20th January 2015:**

Core Policy 1: Settlement Strategy

Core Policy 2: Delivery Strategy

Core Policy 20: Spatial Strategy: Salisbury Community Area

Core Policy 41: Sustainable construction and low carbon energy

Core Policy 43: Providing affordable homes

Core Policy 57: Ensuring high quality design and place shaping

Core Policy 58: Ensuring the Conservation of the Historic Environment

Core Policy 60: Sustainable Transport

Core Policy 61: Transport and New Development

Core Policy 64: Demand Management

### **Saved policies of the Salisbury District Local Plan:**

R2 (Open Space Provision)

H8 (Salisbury Housing Policy Boundary)

### **Wiltshire Local Transport Plan 2011-2026:**

Car Parking Strategy

### **Government Guidance:**

National Planning Policy Framework (NPPF) March 2012

National Planning Policy Guidance (NPPG)

### **Supplementary Planning Guidance:**

Adopted Supplementary Planning Document 'Creating Places Design Guide' April 2006

## **7. Summary of consultation responses**

### **Salisbury City Council: Object**

On the grounds of overdevelopment.

**County Archaeologist:** Support subject to conditions (requiring a programme of archaeological works)

### **Dorset & Wiltshire Fire & Rescue:**

Comments relating to fire safety measures which could be added as an informative and recommendation for a condition requiring details for the provision of a water supply and fire hydrants necessary to meet the fire-fighting needs of the development to be agreed and implemented.

**Wiltshire Council Ecologist:** No comment

### **Wiltshire Council Highways:**

It is considered that the proposed development for two dwellings will not have any significant impact on highway safety and recommend that no highway objection be raised to it subject to conditions (first 10 metres of the access at Britford Lane to be consolidated and surfaced; scheme for discharge of surface water to be agreed; access and vehicle turning area to be provided and maintained)

For your information Britford Lane is a byway open to all traffic.

### **Wiltshire Council Public Protection:**

No objections subject to conditions (hours of construction/demolition & contaminated land - although there is no history of commercial greenhouses on the site where the properties are to be developed, there is historical evidence of greenhouses on the land) and informative regarding no burning of waste or other materials to take place on the development site.

**Wiltshire Council Rights of Way:**

Defer to advice from Wiltshire Council Highways as the access to the property is via a surfaced byway.

**8. Publicity**

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

**4 representations have been received objecting to the scheme, summarised as follows:**

- Overdevelopment of area and unacceptable high density (mass and scale of properties are too large in relation to plot size and in combination with 9 houses being constructed on adjacent old Souchez Nursery Site, which was previously refused for 11 on the grounds of scale and impact on adjoining neighbours)
- Proposal cannot be treated as a stand-alone development as it effectively extends the new Souchez Nursery development with access via this site with 6 dwellings accessed from Briford Lane
- Existing dwellings will be surrounded by development, loss of amenity value and detrimental to character of area
- Close proximity of development to adjacent dwellings (including plots 6 and 7 of approved adjacent scheme)
- Loss of privacy and overlooking to adjacent dwellings/gardens (site is at higher level to properties in Milton Road)
- Loss of semi-rural outlook from neighbouring dwellings (to mass of bricks and tiles of proposed elevations and roofs) and loss of daylight
- Increased noise and disturbance from use of access road to existing dwellings and from use of dwellings/gardens
- Britford Lane is unsuitable for additional traffic (unadopted with no pavements, street lights and surface drainage through soakaways only and surfacing being provided by local residents, with no facility for lorry turning). Access should be via Milton Road
- Are not affordable dwellings
- Concerns about a retaining wall to site boundary

**9. Planning Considerations**

**9.1 Principle of development**

The National Planning Policy Framework (NPPF) came into force on 27th March 2012 and makes it clear that planning law (Section 70(2) of the Town and Country Planning Act 1990 and section 38(6) of the Planning and Compulsory Purchase Act 2004) requires applications for planning permission to be determined in accordance with the development plan unless material considerations indicate otherwise. Paragraph 12 of the NPPF confirms that the 'NPPF does not change the statutory status of the development plan as the starting point for decision making' and proposed development that is in accordance with an up-to-date Local Plan should be approved and proposed development that conflicts should be refused unless other material considerations indicate otherwise.



The proposals are therefore to be considered in the context of the National Planning Policy Framework (NPPF) which sets out Central Government's planning policies, and the adopted Wiltshire Core Strategy (WCS) which also includes some saved policies of the Salisbury District Local Plan (SDLP).

At the heart of the NPPF is a presumption in favour of sustainable development and the Adopted Wiltshire Core Strategy seeks to build resilient communities and support rural communities but this must not be at the expense of sustainable development principles. The Settlement and Delivery Strategies of the Core Strategy are designed to ensure new development fulfils the fundamental principles of sustainability.

This means focusing growth around settlements with a range of facilities, where local housing, service and employment needs can be met in a sustainable manner. A hierarchy has been identified based on the size and function of settlements, which is the basis for setting out how the Spatial Strategy will deliver the levels of growth.

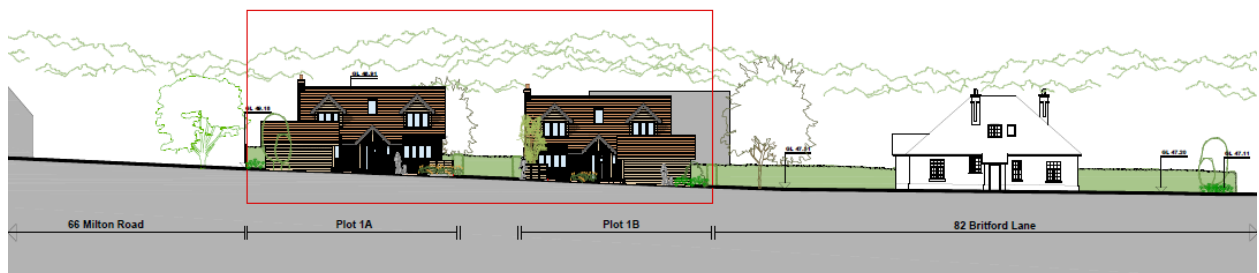
Core Policy 1 of the Wiltshire Core Strategy sets out the 'Settlement Strategy' for the county, and identifies four tiers of settlement - Principal Settlements, Market Towns, Local Service Centres, and Large and Small Villages. Within the Settlement Strategy, Salisbury is identified as being a Principal Settlement. Only the Principal Settlements, Market Towns, Local Service Centres and Large Villages have defined limits of development/settlement boundaries.

Core Policy 2 of the Wiltshire Core Strategy sets out the 'Delivery Strategy'. It identifies the scale of growth appropriate within each settlement tier, stating that within the limits of development, as defined on the policies map, there is a presumption in favour of sustainable development at the Principal Settlements, Market Towns, Local Service Centres and Large Villages. The site is within the Limits of Development for Salisbury (the Housing Policy Boundary of Salisbury under saved policy H8), and therefore the principle of the residential development is acceptable, subject to compliance with other relevant planning policies.

## 9.2 Impact to the character and appearance of the area

The National Planning Policy Framework sets out Central Government's planning policies. It states the purpose of the planning system is to contribute to the achievement of sustainable development. It defines core planning principles which include that planning should be genuinely plan-led, should always seek to secure high quality design.

Core Policy 57 of the WCS requires a high standard of design in all new developments through, in particular, enhancing local distinctiveness, retaining and enhancing existing important features, being sympathetic to and conserving historic buildings and landscapes, making efficient use of land, and ensuring compatibility of uses (including in terms of ensuring residential amenity is safeguarded).



The proposed development is set back from the road and being set behind existing dwellings, it is considered that it would have a limited effect on the character of the surrounding area.

### 9.3 Impact to residential amenity

Core Policy 57 also requires that development should ensure the impact on the amenities of existing occupants is acceptable, and ensuring that appropriate levels of amenity are achievable within the development itself, and the NPPF's Core Planning Principles (paragraph 17) includes that planning should 'always seek to secure high quality design and a good standard of amenity for all existing and future occupants of land and buildings.'

Objections to the proposal (summarised above) include that the proposal is in effect an extension of the adjacent former Nursery site which was approved for 9 dwellings having had an earlier scheme for 11 dwellings refused. However, the area of land where the dwellings are proposed was not included previously in the red line site for the applications that have been submitted on the Nursery site, and each application must be assessed on its own merits.

The proposed dwellings have been designed as chalet style dwellings with accommodation set within the roofspace. Dormer windows are proposed on the front (east facing) roof slopes, whilst the other roof slopes have rooflights only. The gable ends have no fenestration:



**East Elevation - Plots 1A and 1B**



**North Elevation - Plots 1A and 1B**



**West Elevation - Plots 1A and 1B**



**South Elevation - Plots 1A and 1B**

Nos 66 and 68 Milton Road are chalet style dwellings and their rear elevations face the south elevation of Plot 1A.

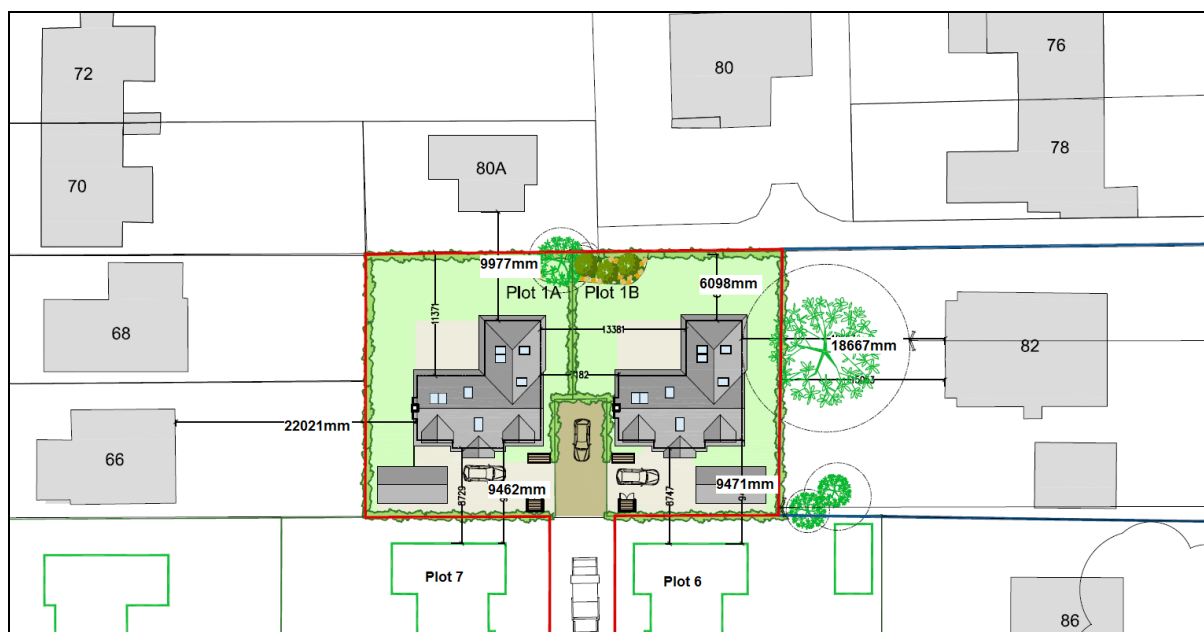
The rear elevation of No 82 Britford Lane to the north of the site will face towards the north elevation of plot 1B.

No 80A Britford Lane to the west of the site is a single storey dwelling approved under application 16/02342/FUL and the side (east) elevation facing towards the proposed development site has a ground floor sunroom and landing window only on the east elevation and faces the rear elevation of plot 1A.

The front elevation of No 80 Britford Lane faces the development site (the rear elevation of Plot 1B).

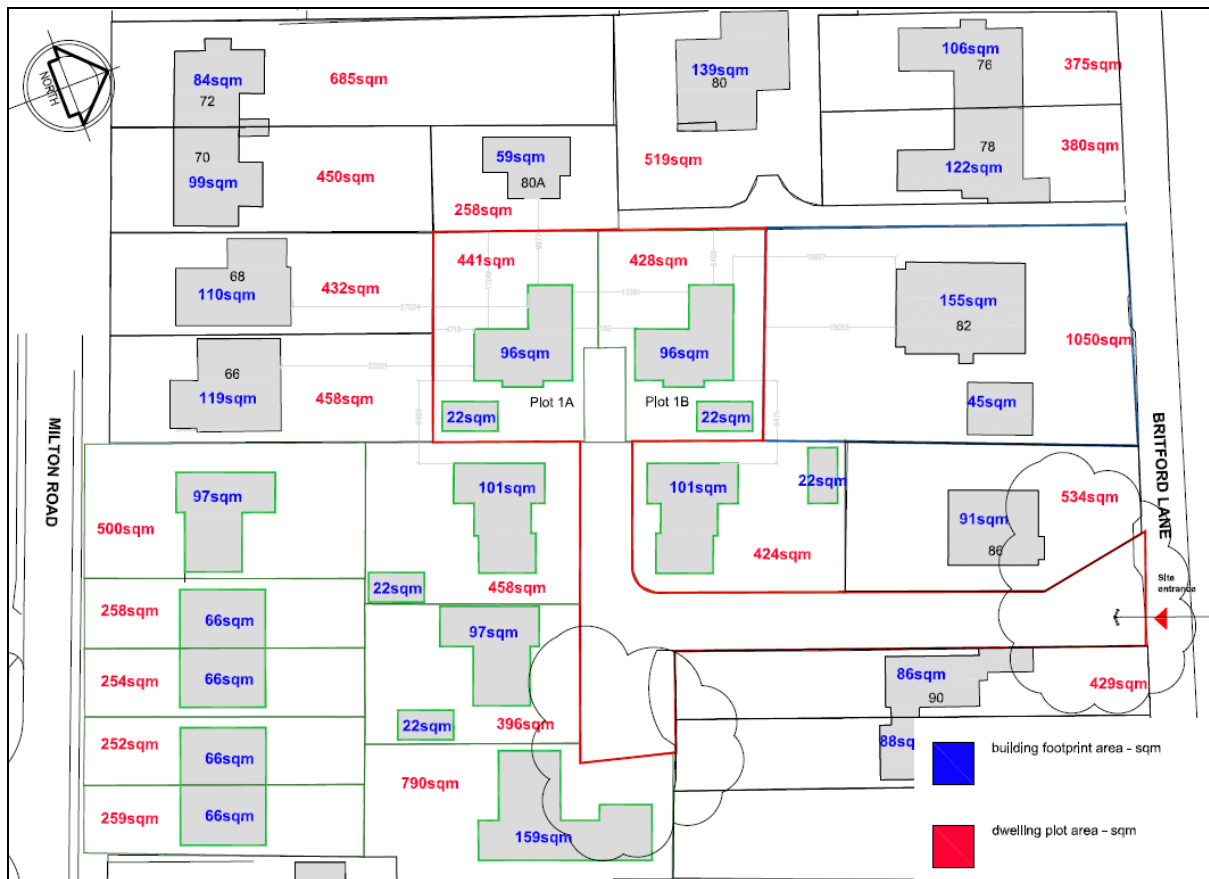
The dwellings approved under 16/05521/FUL include plots 6 and 7 along the east boundary of the site. Plots 6 and 7 are designed with only utility room access door and WC window at ground floor and bathroom/ensuite windows at first floor levels on the west facing elevation towards the front elevations of the proposed dwellings.

The block plan shows the distances between the dwellings surrounding the site:



It is considered that by reason of the distance between existing dwellings, their chalet style design with accommodation set within the roofslope (rather than full height two storey eaves), position of fenestration and with rooflights only proposed on the north, south and west facing roof slopes that the proposed scheme will not result in undue overlooking or overbearing impact upon outlook that would substantiate a reason for the refusal of the application.

The application documentation also includes a comparison plan of plot areas in the vicinity of the site:



Both dwellings have outside amenity space; such it is considered that appropriate levels of amenity are achievable within the development itself.

It is considered the proposed development would not result in an overdevelopment of the site and would not unduly disturb, interfere, conflict with or overlook adjoining dwellings to the detriment of existing occupiers.

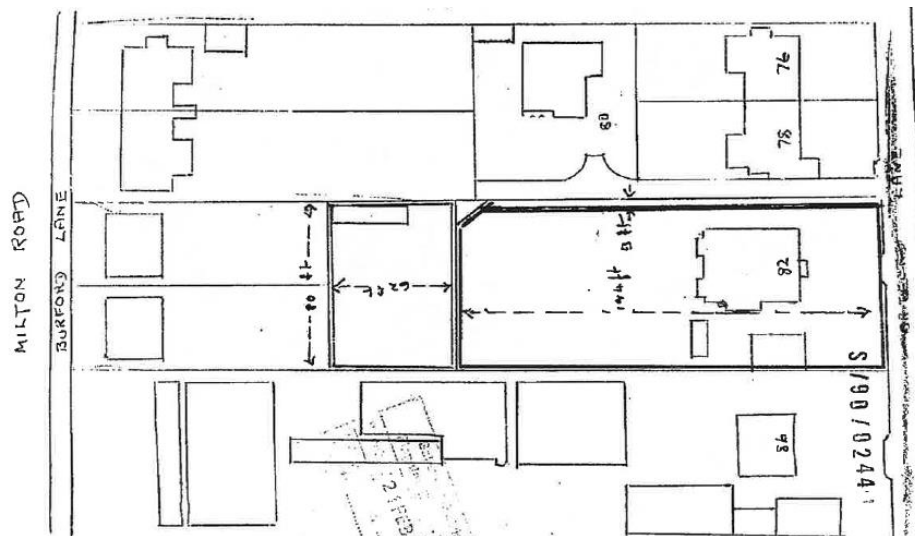
It will however be necessary to remove otherwise permitted development rights for extensions and for additional windows above ground floor level to ensure that neighbouring amenity will be maintained.

#### 9.4 Highway considerations

Outline planning permission was previously refused for development of this site with a bungalow under application S/1990/0244:

- (1) *The proposal would result in backland development which would be undesirable because of the unsatisfactory access and the adverse effect on the occupiers of the neighbouring property*
- (2) *Having regard to the size and shape of the plot and its relation to adjoining development, the proposed development would be detrimental to the visual amenities and the quiet enjoyment of the adjoining properties and its occupiers*
- (3) *The proposed access to the site is inadequate and its use would be detrimental to highway safety.*

This earlier application differed to that now proposed as it was only submitted in outline with no details of the proposed dwelling and only a very narrow access was proposed between Nos 78 and 82 Britford Road:



This application now proposes to utilise the access approved under the adjacent Nursery site.

The highways authority has confirmed that Britford Lane is a byway open to all traffic and has raised no objections to the proposed scheme subject to conditions (that the first 10 metres of the access at Britford Lane is consolidated and surfaced; a scheme for discharge of surface water from the access/driveway; and the access and vehicle turning area to be provided and maintained).

The proposed development is considered acceptable in terms of access, parking and turning provision, and would not be prejudicial in terms of highway safety.

### 9.5 Ecology

The application includes an ecological survey report which concludes that no protected or priority species were identified during a survey of the site and that the garden is of low ecological interest. The Council's ecologist has no comments to make on the application.

### 9.6 Archaeology

The Council's archaeologist explains that the site is of archaeological interest with significant archaeological findings nearby; including Bronze Age barrows with human remains just to the south-west and has recommended that a programme of archaeological works in the form of an archaeological watching brief is carried out as part of any development.

### 9.7 Sustainable Construction

The WCS' key strategic objective is to address climate change. It requires developers to meet this objective under Core Policy 41- Sustainable Construction which specifies sustainable construction standards required for new development.

For new build residential development the local planning authority is now seeking energy performance at "or equivalent to" Level 4 of the Code for Sustainable Homes via planning condition.

## **9.8 S106 obligations and CIL**

The Community Infrastructure Levy (CIL) came into effect on the 18th May 2015; CIL will be charged on all liable development granted planning permission on or after this date and would therefore apply to this application. However, CIL is separate from the planning decision process, and is administered by a separate department. If the application were to be approved, an informative would be added advising that the development would be subject to CIL.

The proposal results in a net gain of 2 residential units. However, in line with recent government guidance, taken by itself, the small scale proposal would not generate the need for S106 contributions. The large adjacent development to which it is intrinsically linked was subject of a viability appraisal, and it is understood that this was not subject to any S106 contributions. Thus, in this case, it is considered that no additional contributions are sought.

## **10. Conclusion**

Subject to conditions it is considered that the proposed re-development of the site will not have adverse impacts to the character and appearance of the area, residential amenity or highway safety.

### **RECOMMENDATION: APPROVE, 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:

Arboricultural Impact Assessment and Method Statement dated 19/09/2016, including Tree Protection Plan GH1652b, received by this office 21/09/2016

Plan Reference: P16-065 02-02-003, dated August 2016, received by this office 21/09/2016

Plan Reference: P16-065 02-03-001, dated August 2016, received by this office 21/09/2016

Plan Reference: P16-065 02-03-002, dated August 2016, received by this office 21/09/2016

Plan Reference: P16-065 02-05-001, dated August 2016, received by this office 21/09/2016

Plan Reference: P16-065 02-05-002, dated August 2016, received by this office 21/09/2016

Plan Reference: P16-065 02-02-002A, dated 07/11/2016, received by this office 11/11/2016

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

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

REASON: The application contained insufficient information to enable this matter to be considered prior to granting planning permission and the matter is required to be agreed with the Local Planning Authority before development commences in order that the development is undertaken in an acceptable manner, in the interests of visual amenity and the character and appearance of the area.

(4) No 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 occupied until surface drainage has been constructed in accordance with the approved scheme.

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



(5) No development shall commence within the area indicated (proposed development site) until:

- A written programme of archaeological investigation, which should include on-site work and off-site work such as the analysis, publishing and archiving of the results, has been submitted to and approved by the Local Planning Authority; and
- The approved programme of archaeological work has been carried out in accordance with the approved details.

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

(6) No development shall commence on site until an investigation of the history and current condition of the site to determine the likelihood of the existence of contamination arising from previous uses has been carried out and all of the following steps have been complied with to the satisfaction of the Local Planning Authority:

Step (i) A written report has been submitted to and approved by the Local Planning Authority which shall include details of the previous uses of the site for at least the last 100 years and a description of the current condition of the site with regard to any activities that may have caused contamination. The report shall confirm whether or not it is likely that contamination may be present on the site.

Step (ii) If the above report indicates that contamination may be present on or under the site, or if evidence of contamination is found, a more detailed site investigation and risk assessment has been carried out in accordance with DEFRA and Environment Agency's "Model Procedures for the Management of Land Contamination CLR11" and other authoritative guidance and a report detailing the site investigation and risk assessment shall be submitted to and approved in writing by the Local Planning Authority.

Step (iii) If the report submitted pursuant to step (i) or (ii) indicates that remedial works are required, full details have been submitted to the Local Planning Authority and approved in writing and thereafter implemented prior to the commencement of the development or in accordance with a timetable that has been agreed in writing by the Local Planning Authority as part of the approved remediation scheme. On completion of any required remedial works the applicant shall provide written confirmation to the Local Planning Authority that the works have been completed in accordance with the agreed remediation strategy.

REASON: The site includes the adjacent former Nursery Site and this condition is necessary to ensure that land contamination can be dealt with adequately prior to the use of the site hereby approved.

(7) The development hereby permitted shall not be first occupied until the first ten metres of the access, measured from the edge of Britford Lane, has been consolidated and surfaced (not loose stone or gravel). The access shall be maintained as such thereafter.

REASON: To ensure that the site access is laid out and constructed in a satisfactory manner.

(8) No part of the development hereby permitted shall be first occupied until the access and vehicle turning area has been completed in accordance with the details shown on the approved plans. These areas shall be maintained for these purposes at all times thereafter.

REASON: In the interests of highway safety.

(9) 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.

(10) 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 amenity.

(11) The development shall be completed in accordance with the Arboricultural Impact Assessment and Method Statement dated 19/09/2016, including Tree Protection Plan GH1652b, received by this office 21/09/2016.  
REASON: To enable the Local Planning Authority to ensure the retention of trees on the site in the interests of visual amenity.

(12) 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 to, or extensions or enlargements of 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 enlargements.

(13) Notwithstanding the provisions of the Town and Country Planning (General Permitted Development) Order 1995, or the Town and Country Planning Act 1990 (or any Order revoking and re-enacting that Order with or without modification), there shall be no additional windows, rooflights or dormer windows inserted above ground floor level in the roofslopes or gable ends of the dwellings.  
REASON: To secure adequate standards of privacy for the occupants of neighbouring premises.

**INFORMATIVE: Private Property/Access Rights**

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.

The applicant is advised to consider the third party comments re private rights and the developers should satisfy themselves/resolve matters before development commences. 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: Community Infrastructure Levy**

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](http://www.wiltshire.gov.uk/planninganddevelopment/planningpolicy/communityinfrastructurelevy).

**INFORMATIVE TO APPLICANT: Archaeology work**

The work should be conducted by a professionally recognised archaeological contractor in accordance with a written scheme of investigation approved by this office and there will be a financial implication for the applicant.

**INFORMATIVE TO APPLICANT: Dorset & Wiltshire Fire & Rescue**

The applicant should be made aware of the letter received from Dorset & Wiltshire Fire & Rescue Service regarding advice on fire safety measures. This letter can be found on the application file which can be viewed on the council's website against the relevant application record.

**INFORMATIVE TO APPLICANT:**

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

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16/09228/FUL  
Land at rear of 82 Britford Lane  
Harnham  
Salisbury  
Wiltshire  
SP2 8AJ



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## REPORT OUTLINE FOR AREA PLANNING COMMITTEES Report No. 9d

<b>Date of Meeting</b>	12 <sup>th</sup> January 2017
<b>Application Number</b>	16/09446/FUL
<b>Site Address</b>	Mayfield, White Way, Pitton, SP5 1DT
<b>Proposal</b>	Rear extension and raise roof to provide rooms within roofspace.
<b>Applicant</b>	Mr Juhkental & Miss Horvath
<b>Town/Parish Council</b>	PITTON AND FARLEY
<b>Electoral Division</b>	Winterslow
<b>Grid Ref</b>	421054 131434
<b>Type of application</b>	Full Planning
<b>Case Officer</b>	Christos Chrysanthou

### Reason for the application being considered by Committee

The application has been called in to committee by Councillor Devine. The application has generated objections, therefore requiring determination by the Southern Area Planning Committee.

#### 1. Purpose of Report

To consider the above application and the recommendation of the Head of Development Management that planning permission should be APPROVED.

#### 2. Report Summary

The main issues which are considered to be material in the determination of this application are listed below:

- Principle of development
- Design, Scale and Siting
- Impact on neighbour amenity

#### 3. Site Description

The application site is a detached bungalow situated within an established residential area. The site is situated within an adopted housing policy boundary and adjacent to a conservation area. The site is accessed off White Way via a driveway leading to the side of the property. The existing dwellinghouse is a modest non-descript 2 bedroom bungalow constructed with red brick and rendered exterior walls and plain roof tiles.

#### 4. Planning History

There is no planning history for the application site however the neighbouring property Journeys End has planning permission for the demolition of the existing bungalow and erection of a replacement 4 bed two storey home (application ref: 16/00127/FUL) granted 31/03/16.

#### 5. The Proposal

Planning permission is sought for the erection of a rear extension and raising the height of the roof ridge to provide habitable accommodation within the roofspace.



## 6. Local Planning Policy

National Planning Policy Framework (NPPF):

- Section 7 - Requiring good design

Wiltshire Core Strategy (WCS):

- Core Policy 57: Ensuring high quality design and place shaping

## 7. Summary of consultation responses

Pitton and Farley Parish Council	Objection (overdevelopment, overbearing, privacy, impact to street scene)
WC Archaeology	No objection
WC Conservation	No objection
WC Drainage	No objection (subject to conditions)
WC Highways	3 off street parking spaces would be required to comply with the Council's adopted parking standards (plan showing 3 parking spaces received 26/10/16)

## 8. Publicity

The application was advertised by site notice and neighbour consultation letters. Further consultation followed the submission of revised drawings (side rooflights omitted).

1 letter of no objection has been received and 17 (household) letters of objection have been received siting the following material planning considerations:

- Overdevelopment of the site
- Loss of amenity to neighbours
- Not in keeping with character of the area
- Surface water drainage
- Parking

## 9. Planning Considerations

### 9.1 Principle of Development

Core Policy 57 states a high standard of design is required in all new developments, including extensions, alterations, and changes of use of existing buildings. Development is expected to create a strong sense of place through drawing on the local context and being complimentary to the locality.

### 9.2 Design Scale and Siting

It is proposed to erect a 1 ½ storey extension to the rear of the property and raise the roof height of the existing dwellinghouse by 1.7m to provide sufficient headroom within the roofspace above to create habitable accommodation.

The application originally proposed 10no rooflights however following concerns raised by the LPA regarding the potential for overlooking to the neighbouring properties (Journeys End and Hollybank), the drawings have been revised omitting the 5no side facing rooflights to the rear extension.

The proposed materials are concrete interlocking roof tiles and brickwork to match the existing dwellinghouse. Officers consider that when viewed from the street scene the character of the bungalow would be maintained despite the raised roof height and inserted rooflights to the front elevation.

It is considered that the proposal would not result in overdevelopment of the site, as sufficient garden space would be retained.

In addition officers note that neighbouring property Journeys End has planning permission for the demolition of the existing bungalow and erection of a replacement 4 bed two storey home (application ref: 16/00127/FUL) which has a higher roof ridge than the development proposal.

The site is adjacent to and outside of a conservation area. The conservation officer has not raised an objection and therefore considers the proposal to be acceptable in the context of the adjacent conservation area.

The existing driveway would provide 3no parking spaces which are sufficient off-street parking provision in accordance with WC adopted parking standards.

It is considered that the development proposal is acceptable in terms of its overall scale, design, and siting in relation to the plot and its boundaries with no significant harm resulting to the character of the dwellinghouse and street scene.

### **9.3 Impact on Neighbour Amenity**

Regarding the scale of the development, whilst the proposal involves raising the roof height to provide additional accommodation within the roofspace, the floor levels of Hollybank are higher than the application site therefore despite being situated within 2m to the boundary the enlarged property would not be considered to be unduly overbearing.

Following concerns raised by the LPA regarding the rooflights on the side elevations that face the neighbours, the agent has submitting revised plans which omit the side facing rooflights thus eliminating the potential to overlook Hollybank and Journeys End.

To the rear elevation a large window assembly is proposed which would serve the master bedroom. The distance from the proposed rear elevation to the rear boundary is 18.5m which is well screened by mature trees and hedging. The distance between the proposed rear elevation (where the bedroom window is situated) to the rear elevation of the neighbour 4 David's Garden is 24m. Whilst the proposed rear first floor window would be visible through gaps in the boundary trees the distance between the two properties is considered sufficient to not result in any undue overlooking.

### **10. Conclusion**

By virtue of the design, scale, size and materials of the proposed development, the proposal is considered to be acceptable, with no significant impact to neighbouring or visual amenity. It is therefore considered to be in accordance with government guidance contained within the NPPF and Core Policy 57 of the adopted Wiltshire Core Strategy.

### **RECOMMENDATION: Approve with Conditions**

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

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

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

Application Form

Location Plan

Block Plan

Drawing No. 16053/1 G F Plan

Drawing No. 16053/2/A F F Plan

Drawing No. 16053/3/A Elevations

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

3) The brick and roof tile to be used in the construction of the external surfaces of the development hereby permitted shall match in material, colour and texture those used in the existing building.

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

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), no window, dormer window or rooflight, other than those shown on the approved plans, shall be inserted in the southeast or northwest roof slopes of the development hereby permitted.

REASON: In the interests of residential amenity and privacy.

5) No development shall commence on site until a scheme for the discharge of surface water from the site, incorporating sustainable drainage details together with permeability test results to BRE365 with determination of ground water levels to allow at least 1m of unsaturated soil between the base of any soakaway to the top level of groundwater taking into account of seasonal variations, has been submitted to and approved in writing by the Local Planning Authority.

REASON: To ensure that the development can be adequately drained

6) 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



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## REPORT OUTLINE FOR AREA PLANNING COMMITTEES Report No. 9e

<b>Date of Meeting</b>	12 <sup>th</sup> January 2017
<b>Application Number</b>	16/05643/FUL
<b>Site Address</b>	Land to the rear 22-30 High Street (The Old Garden Centre) and 98 Crane Street
<b>Proposal</b>	Change of use of existing retail unit/storage for restaurant use, extensions, landscaping and public access onto Avon riverside path and servicing access.
<b>Applicant</b>	Threadneedle Property Investments
<b>Town/Parish Council</b>	Salisbury City Council
<b>Electoral Division</b>	Salisbury St Edmund and Milford - Cllr. A. Hoque
<b>Grid Ref</b>	
<b>Type of application</b>	FULL
<b>Case Officer</b>	Mrs. Becky Jones

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

Cllr. Hoque has called the application to committee to be determined on the following grounds:

- Scale of development
- Visual impact upon the surrounding area
- Relationship to adjoining properties
- Design – bulk, height, general appearance
- Environmental/highway impact
- Car parking (use)

### 1. Purpose of Report

To consider the above application and the recommendation of the Area Development Manager that planning permission be **APPROVED**.

### 2. Report Summary

The main planning issues to consider are:

1. Principle of the development within the city centre
2. Impact on secondary shopping area and primary shopping frontage
3. Design and impact on the character of the Conservation Area, listed buildings and other heritage assets
4. Neighbouring amenities and public protection
5. Ecology and Archaeology
6. Drainage and Flood Risk
7. Highway safety and public rights of way
8. Trees
9. Community Infrastructure Levy
10. Waste, Recycling & Energy Efficiency

The application in its original form generated 1 letter of support from Salisbury City Council, 54 letters of objection and 3 letters of support. A further eleven letters of objection were received to the amended scheme. The City Council reiterated its support for the proposal.

### 3. Site Description and Proposal

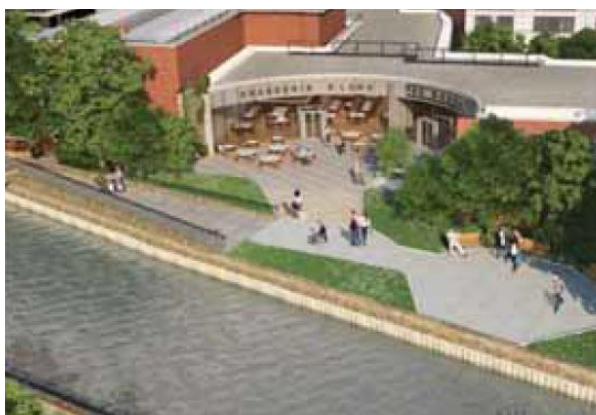
The application site was designated in the former Salisbury District Local Plan as part of the Salisbury Conservation Area and Secondary Shopping Area, in an Area of Special Archaeological Significance and the Salisbury Central Area. The site forms the now physically separated rear portions of a 1950s unit fronting High Street including New Look, which was formerly part of Woolworths and its allied garden centre. To the west is the River Avon Site of Special Scientific Interest and Special Area of Conservation (SSSI and SAC). Several listed buildings lie in close proximity to the site area including 96 Crane Street, Crane Bridge and Church House. Part of the application buildings (including the proposed seating area) are within flood Zones 2 & 3. 98 Crane Street is an unlisted building dating from late 19<sup>th</sup> century.



*Listed buildings, Flood Zones and Salisbury District Local Plan extract*

The applicant is proposing to:

- Change the use of the existing A1 retail unit (storage areas) to A3 use and provide two restaurant units (*approx.* 820 sqm).
- Demolition of western portion of the building and removal of the brick boundary wall
- Provide a single storey extension to the existing unit
- Tree works, tree removal (10 Category U trees), replacement trees and landscaping
- Public access onto the Avon riverside path.
- Outdoor seating area (piazza) with access from concave glazed frontage to restaurant to 16 tables and 64 chairs.
- Signage behind glazed frontage
- Servicing access through 98 Crane Street (including demolition and part reconstruction of No 98. Creation of delivery yard.



*Impression of riverside piazza and extension*

Suggested materials for the extension include red stock brick, aluminium and glass. For the 98 Crane Street unit, materials include matching roof tiles, painted timber sash windows,



reconstituted stone cills, hardwood doors (inward opening) and painted brick for the wall fronting Crane Street.

4. **Planning History:** None directly applicable to this proposal. Please refer to history in full.

## 5. Local Planning Policy

### National Planning Policy Framework (NPPF) Para 17, 23, 128, 135 and the NPPG

#### Wiltshire Core Strategy (WCS):

Core Policy 1: Settlement Strategy

Core Policy 2: Delivery Strategy

Core Policy 20: Spatial Strategy for the Salisbury Community Area

Core Policy 50: Biodiversity and Geodiversity

Core policy 51: Landscape

Core Policy 57: Ensuring high quality design and place shaping

Core Policy 58: Ensuring the conservation of the historic environment

Core Policy 60: Sustainable Transport

Core Policy 61: Transport and Development

Core Policy 67: Flood Risk

Core Policy 69: Protection of the River Avon SAC

Saved policy S2 Secondary Shopping Area

Saved policy S1 Primary Shopping Frontage

*These are saved policies of the adopted Wiltshire Core Strategy*

### The Community Infrastructure Levy Regulations 2010 (as amended)

**The Conservation of Habitats and Species Regulations 2010,  
EC Habitats Directive when as prescribed by Regulation 3(4) of the Conservation  
(Natural Habitats, &c.) Regulations 1994 (as amended).  
Circular 06/2005**

### Planning (Listed Building and Conservation Areas) Act 1990

Section 66: Special considerations affecting planning functions

Section 72: General duties of planning authorities

## 6. Summary of consultation responses

**Highways - no objection subject to conditions** relating to deliveries and cycle parking.

**Conservation - no objection**

**Historic England -** revised design is an improvement but issues raised have not been fully addressed by the proposal.

**Trees – No objection** - the revised documents are acceptable subject to a tree protection condition incorporating a pre commencement site visit with the tree officer.

**Public Protection – no objection** subject to conditions (see below)

**Environment Agency - no objection** subject to conditions

**Drainage – Support** subject to conditions relating to foul and surface water drainage

**Ecology – No objection** subject to a construction method statement condition.

**Archaeology – no objection** subject to a condition requiring a written programme of archaeological investigation and implementation of archaeological works.

**Natural England – no objection.** The River Avon System SSSI does not represent a constraint in determining this application

**Representations on original scheme:**

**Salisbury City Council - SCC supports this application** but notes the additional comments from Highways and the Conservation Officer. Subject to conditions to keep clear of public space, delivery time restrictions, opening hours, no external music, litter and rubbish, no takeaways and control of external illumination.

**Salisbury Conservation Area Panel** - *The Panel was unable to reach a unanimous view as to the precise merits in the present building on the site, but agreed that the proposed replacement building was not of sufficient quality to justify the demolition of the existing one. It was agreed that the riverside route was a very important one, and that any proposal affecting it needed to be very carefully thought out.*

**Salisbury Civic Society - object** to the demolition of 98 Crane Street and the building proposed as its replacement. *We would suggest that the new design for 98 Crane Street fails to meet the sort of standard which might conceivably justify its insertion into the street scene. It appears to try to retain elements of the mass and scale of the existing building, while also trying to articulate itself as a gate house. Architecturally it is a disappointing confusion of styles which is unsuitable for this important city centre location. The Civic Society is quite clear that as currently proposed, the loss of No 98 and its replacement with the building shown in the drawings is something to which it has to object.*

**Salisbury Civic Society Landscape and Townscape** - . *Notwithstanding the challenges of achieving service access (including the emergency services) to this landlocked site, the Civic Society also has concerns about the potential landscape/townscape impact of the proposed pedestrian access on the character and setting of this important riverside location within the Salisbury Conservation Area.*

*Impact on the Conservation Area - The Civic Society has no objection in principle to extending commercial activity into the quieter part of the area and welcomes the opportunity to initiate some enhancement works, but there are concerns that the interface between the existing public and proposed private realm has not been fully resolved in design terms. This access will be the main public entrance for users of both restaurants during the day and in the evenings at all times of year. However, the proposed pathway across Salisbury City land seems inadequate for the likely level of use. Furthermore, the treatment of the areas on either side of the proposed access path particularly on the north side between the existing site boundary and the ramp appears unresolved. People could approach through this area where there are existing trees because there is a pinch point on the adjacent footpath where it narrows at the top of the ramp to meet the footbridge. There is no clarity as to what will form the boundary between the public and private realm. Will diners be allowed to spill out into this area? How will it be controlled and managed? Furthermore, it is unclear as to what the impact of any lighting will be. Clarity is also needed as to the proposed surface treatment in this area.*

*The loss of open space and existing trees within the site is regrettable but there may be opportunities for additional enhancement planting along the riverside walkway. Whilst the Civic Society supports the development proposal in principle every opportunity should be taken to ensure a high quality design solution in terms of layout and materials for paving,*

*boundary walls, furniture, lighting, signage and planting in order to achieve an enhancement of this attractive and tranquil part of the Conservation Area. The transition between the public and private realm along this important, well used riverside route needs to be properly resolved in order to overcome the potential issues identified above.*

### **Representations on revised scheme:**

**Salisbury Civic Society** - Would prefer to see existing building retained and another means of access found. However the revised design is significantly better than the first one, and the Civic Society will not oppose it (see details below).

## **7. Publicity**

The application was advertised by site notice, press advert and neighbour consultation. The application was then amended and readvertised by these means. The application in its original form generated 54 letters of objection and 3 letters of support, on the following grounds:

### **Traffic and highway safety:**

- Traffic impact and congestion on Crane Street and Crane Bridge Road from more delivery vehicles. Dangerous. Needs a parking restriction in Crane Street. Danger to zebra crossing users. Any parking in Crane Street causes severe disruption and congestion. West approach is via blind bend over hump back bridge – poor visibility. Use of 98 Crane Street as an access will exacerbate problems. Too many access/egress pinch points. No safe parking area for taxis etc. Too many delivery vehicles already. More air pollution. Noise pollution and disturbance to residents in early hours. Can lorries turn in the site?
- Large vehicles over 7.5 tonnes waiting in the carriageway whilst loading / unloading will have a significant adverse effect on traffic entering and exiting Church House. It seems that the camber of the road is such that large vehicles can tilt too far towards the Church House building and damage the oriel window – frequency is likely to increase. Vehicles have to swing out across Crane Street. Accident waiting to happen. Narrow pavements and low wall over bridge. Danger and obstructions to pedestrians, wheelchair users, prams etc by vehicles and scaffolds etc. Can bridge take more traffic?
- Vacant areas should be accessed from High Street only.
- Local car parks often full – reduces accessibility to less mobile
- 98 Crane street was purchased some years ago by Woolworths with the intent of creating a delivery access from Crane Street. With repeated negative planning advice, a full application for this was never made.

### **Amenity:**

- Area is residential in character, not commercial.
- Noise from open air restaurants, noise from waste collection. Noise assessments required and noise impact from plant required. Already noise from pubs. Noise from patrons late at night. Curved bifold doors will amplify sound. Plant noise on roof becomes dominant sound at night. Noise reflected between buildings. Noise from tables and chairs being put away. Noise along river walk will increase.
- Light pollution
- Loss of visual amenity due to loss of tree cover and poor quality of flat roofs of existing buildings.
- Cooking smells from extractor fans- pollution

- Disturbance during construction to existing workplaces and vehicle pollution from new access.
- Difficult to enforce noise conditions at night
- Loss of privacy and disturbance to nearby residents
- Where is rubbish to be placed and collected from? Waste and rubbish will be unsightly and further encourage vermin and rats.

#### **Commercial Viability and Need for Restaurants:**

- Too many restaurants in Salisbury. More restaurants are not needed and are unviable, unsustainable. Could be a boarded up eyesore in future. Will not enhance Salisbury in any way. Units too large for independent traders.
- Object to local beauty studio business (independent trader at No 98) and loss of employment.
- Commercial abuse of area with no local benefits. Should develop for a surgery or housing to benefit residents

#### **Impact on Conservation Area, Riverside walkway and SSSI and loss of trees:**

- Object to loss of 98 Crane Street, replacement looks cheap, characterless gateway and would not enhance street.
- Would create a hideously cluttered impression of the Salisbury street scene.
- Harm to character of riverside walkway, seating areas and peaceful oasis of tranquillity. Loss of riverside wildlife and habitat, including trees. Conflict with The Living River and Save Our Salisbury Trees schemes. Loss of shade. Area already encroached upon by Wetherspoons. Would encourage crowds to peaceful place. Tourists desire open spaces too.
- Development would not enhance or preserve the Conservation Area
- Damage to oriel window on the front of Church House Grade I listed building.
- Object to loss of any trees. Trees on the north side screen the New Look building. Should put Protection Orders on the trees. New mature trees should be planted in their place.
- More clutter from adverts and A boards

#### **Conditions suggested by objectors:**

- Switch off extractors 11pm to 8am
- Cease trade and pack away tables and chairs by 11pm (and no extensions)
- No live or amplified music
- No takeaways of food or alcohol from premises to be permitted
- Needs to be appropriately screened with acoustic fence (4m)
- Deliveries between 7am and 7pm only. No deliveries along riverside path.
- No food or alcohol served before 11am
- Remove Council benches to prevent loitering

**3 letters in support:** *An excellent plan to regenerate old spaces and lend to the vibrancy of Salisbury's spaces. Full support! I think this is a great idea. Salisbury lacks quality eating places, and once devoted this could be a real asset to Salisbury. The city needs to move forward. It's not a museum. The area at present is not particularly attractive and the trees make it quite dark and uninviting place to sit and ponder. Obviously it is nice to sit by the river but no problem with there being a restaurant together with landscaping behind a seating area. Salisbury needs to move forward to enhance areas to make it attractive and welcoming to citizens and tourists alike.*

**The revised scheme and amended plans generated eleven further letters of objection on similar grounds to the above.**

## **8. Planning Considerations**

Planning permission is required for the development. The applications must be determined in accordance with the development plan unless material considerations indicate otherwise. (Section 70(2) of the Town and Country planning Act and Section 38(6) of the Planning and Compensation Act 2004). The NPPF is also a significant material consideration and due weight should be given to the relevant policies in existing plans according to their degree of consistency of the framework. (Paragraph 215 at Annex 1).

### **8.1 Principle of development**

Para 23 of the NPPF states that LPAs *should recognise town centres as the heart of their communities and pursue policies to support their viability and vitality. They should also promote competitive town centres that provide customer choice and a diverse retail offer and which reflect the individuality of town centres.* The proposed A3 use (restaurants and cafes) is a main town centre use and the NPPF goes on to say that LPAs should require applications for main town centre uses to be located in town centres. One of the NPPF's stated core principles is to encourage the effective use of land by reusing land that has been previously developed (brownfield land), provided that it is not of high environmental value. Therefore, the principle of the change of use from A1 to A3 and associated development within the settlement boundary of Salisbury is considered to be entirely in accordance with the sustainability objectives set out in the NPPF.

Core Policy 1 outlines the settlement strategy for Wiltshire and identifies the settlements where sustainable development will take place. Salisbury is listed as a Principle Settlement within the Salisbury Community Area. Core Policy 1 states:

*Wiltshire's Principal Settlements are strategically important centres and the primary focus for development. This will safeguard and enhance their strategic roles as employment and service centres. They will provide significant levels of jobs and homes, together with supporting community facilities and infrastructure meeting their economic potential in the most sustainable way to support better self containment.*

Core Policy 2 addresses the issue of development within settlement boundaries:

*Within the limits of development, as defined on the policies map, there is a presumption in favour of sustainable development at the Principal Settlements, Market Towns, Local Service Centres and Large Villages.*

The development is therefore acceptable in principle.

### **8.2 Impact on secondary shopping area and primary shopping frontage**

As discussed above, the NPPF supports the principle of main town centre uses being located within town centres, and also the re-use of previously developed (brownfield) land. The WCS provides more detailed policies when considering the secondary shopping area.

The site does not affect existing High Street units with frontages designated as Primary Shopping Frontage (Policy S1), such as New Look or TSB. Policy S1 would be satisfied in

this case, as the proposed use would not undermine or affect the existing retail function in the High Street. The floorspace within the application site is physically separated and set back from the primary frontage and is part of the Secondary Shopping Area (Policy S2).



The proposal seeks to change the use of vacant, unused areas surplus to the requirements of the existing stores fronting High Street. It is understood from the case officer's site visit that these vast, empty areas formed the rear parts of the Woolworths store and have been vacant and surplus to requirement since New Look took occupancy. These expanses of space are unused, unlit and have some gated access onto the riverside walk behind the walls of the site. They do not currently have any public access to them and do not have any accessible shopping frontage from the east or west side. The existing brick wall frontages are relatively bland and uninteresting, screened by the trees.

Policy S2 permits the change of use of ground floor premises to non shopping uses including A2 and A3 subject to four criteria and these would form the main retail tests for this application:

*(i) the retail function of the area is not undermined;*

The proposal could be considered as an opportunity to bring vacant floorspace back into use and create a restaurant frontage along the riverside, to the rear of units fronting the High Street, in the secondary shopping area. The Spatial Planning team and Major Projects officer have previously indicated their support for the development. The issue of financial viability and competition between any existing and new restaurants and A3 uses in the city centre is unfortunately not a planning issue for consideration, despite this being raised by objectors.

The existing Beauty Salon at No 98 Crane Street is a sui generis use and therefore, Policy S2 would not apply and no objection is raised to its loss in terms of retail impact.

*(ii) there is no adverse impact on the amenities of the occupiers of nearby residences;*  
*(iii) no traffic hazard through increased on-street parking will result; and*

Significant local objections have been raised on these grounds and these points are discussed below under highway safety and amenity.

*(iv) there is no loss of a residential unit.* This is not applicable in this case.

### **8.3 Design and impact on the character of the Conservation Area, listed buildings and other heritage assets**

Core Policy 57 of the WCS sets out the policy considerations for the development in terms of design principles. The site lies within a Conservation Area and several buildings in the vicinity, including Crane Bridge, 96 Crane Street and Church House are listed. 98 Crane Street is an unlisted building and an undesignated heritage asset.

There is a duty placed on the local planning authority under section 66 of the Planning (Listed Building and Conservation Areas) Act 1990, in considering whether to grant planning permission for development which affects a listed building or its setting to have special regard to the desirability of preserving the building and its setting. Section 72 requires local planning authorities to pay special attention to the desirability of preserving or enhancing the character or appearance of conservation areas.

Paragraph 132 of the NPPF states “*When considering the impact of a proposed development on the significance of a designated heritage asset, great weight should be given to the asset’s conservation. The more important the asset, the greater the weight should be. Significance can be harmed or lost through alteration or destruction of the heritage asset or development within its setting*”.

Core Policy 58 aims to ensure that Wiltshire’s important monuments, sites and landscapes and areas of historic and built heritage significance are protected and enhanced in order that they continue to make an important contribution to Wiltshire’s environment and quality of life. Heritage assets include listed buildings and conservation areas. Development should protect, conserve and where possible enhance the historic environment. Designated heritage assets and their settings will be conserved, and where appropriate enhanced in a manner appropriate to their significance.

Historic England offered the following advice to the original scheme:

*The principle of redeveloping this largely back land plots with a river frontage for retail and restaurant use is generally considered acceptable in principle. We agree that it will have neutral impact on the rear elevations of the High Street and Crane Street but that it has the potential to enhance the river frontage. We have concerns, however, regarding the proposed demolition of No. 98 Crane Street in order to provide access to the site.*

*It is acknowledged that access to the site is an issue at present due to the separation of this plot from that now used by New Look. These access problems have resulted in a scheme that proposes the demolition of 98 Crane Street in order to allow access. While the need for access is recognised, it is important that the potential harm caused by the demolition of 98 Crane Street, as a potential non-designated heritage asset and a building contributing to the Salisbury Conservation Area, are fully considered and justified.*

*No. 98 Crane Street is an unlisted building within the Salisbury Conservation Area. The building’s exterior represents a late 19<sup>th</sup> century building and makes a minor positive contribution to the streetscape and the setting of the nearby listed buildings and the Conservation Area. The Heritage Assessment provides a brief overview of the buildings form, stating that the building has been reduced in size. It does not however provide any detail as to the buildings surviving plan form or any features of interest. The Design and Access Statement provided with the application refers to 98 Crane Street as not being of ‘any merit in itself nor contributing to the character of the town’. The assessment to qualify this statement is however wanting and we would expect appropriately detailed street views to understand the way the existing and the proposed will impact on this wider setting.*



*Reference is made to the need for any replacement to be 'carefully considered' however in our view the design and functional requirements of the proposed replacement building mean that it will not provide the same quality of aesthetic value as that to be demolished. The change from active street frontage to 'gatehouse' is a considerable one and the resulting change of character needs to be considered and in our view would be a detrimental change.*

*Upon further assessment Wiltshire Council may consider No.98 Crane Street to be a non-designated heritage asset. If so, appropriate weight and consideration should be given to its demolition (Para. 135 of the National Planning Policy Framework (NPPF)). At present the information provided to support the application does not make sufficient attempts to assess the contribution that this building makes to the wider conservation area or to assess the fabric and architectural form of the building itself in order to understand what is being lost (Para. 128, NPPF). It's demolition should therefore be resisted until further assessment is taken and a full understanding of the full impact of the changes are known as well as a better assessment of the change the use and replacement building will have on the wider conservation area.*

The Conservation officer initially commented:

*The proposed works along the riverside path would appear to be likely to enliven this area of the city and potentially enhance the conservation area. The works to the existing buildings formerly occupied by Woolworths to the rear of the High St would have no impact on historic fabric, whereas the proposed southern extension toward the rear of the listed buildings on Crane St (92-96) would have an additional impact on their setting, although this should fall within the 'less than substantial' bracket (NPPF 134). Clear details of the west and south elevations should be provided to enable a fuller appreciation of the intended appearance.*

*I am concerned at the proposed demolition of 98 Crane St and the design of its replacement. The heritage statement tells us little about the building and its uses, and offers little assessment of the impact of demolition or the design of the replacement, as that apparently hadn't been determined as the proposal at the time of writing (para 1.3.2). The existing 98 Crane St building dates from c1890 and is an attractive element of the streetscene, incorporating an unusual central dormer above a completely symmetrical elevation. This is believed to predate the Masonic Hall rather than be inspired by it, and the heritage statement refers to these buildings with the former artists' supplies shop as a 'modern group', which stretches things somewhat. The replacement design is closely related in outline but has no fenestration, making for a rather uncharacteristic element in the streetscene, and the use of red brick makes it appear to be a plain mimic of the adjacent hall. Again, I would suggest that larger scale annotated drawings may assist in our appreciation of the intended appearance.*

*Signage is mentioned in the highways dept response and we need to know what's intended, both on the buildings and the access routes.*

After consideration of the objections received to this scheme, the proposals for the replacement building for 98 Crane Street were re-considered and amended by the architects:

*"This new design is based on a more 'domestic' aesthetic and relates more the adjacent terrace in its visual approach. The first floor level must be raised to accommodate suitable clear height for delivery vehicles below. We have created a gable feature that allows us to*

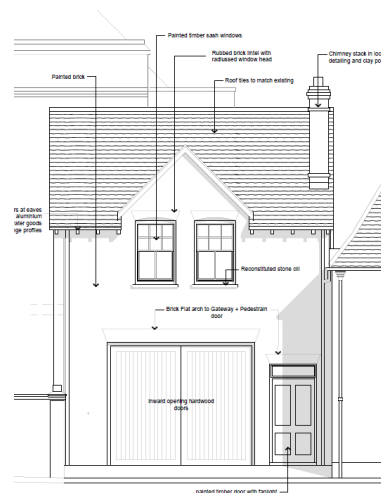
provide suitable window head and cill heights while keeping the eaves at a lower level that is more compatible with its neighbour. We are not particularly comfortable with providing windows where there is no functional need, but this arrangement creates the possibility for usable space at first floor. The gable adds interest and is a familiar form in the town centre. The façade finish will be painted brickwork and the windows will have painted timber frames.



To maintain the domestic 'feel' we have introduced a pedestrian door that will allow access without using the large vehicle gates. The gates themselves completely fill the opening, which is more typical of other similar gates in the area. In line with local detailing fascias are minimal and we would suggest exposing the rafter ends to add detail. To allow the first floor to be used we have introduced a stair accessed from the rear and rising sufficiently to allow the refuse space to be used below."



Existing



Proposed

The Civic Society made the following response to the **amended** scheme:

The Civic Society has considered the revised design submitted for the replacement building at 98 Crane Street. Its position is that it has no enthusiasm for this design, and would rather see the present building left in place and some other means found to access the site. If however that is not possible, and if as seems to be the case the council is minded to approve the overall scheme, then the revised design is significantly better than the first one, and the Civic Society will not oppose it. This is based on the Society's overall position, which is that it is broadly happy with the idea of the riverside restaurants, subject to the significant caveats expressed in its letter dated August 8<sup>th</sup>. However the revised design will need to be carried out with commitment, and in particular the 1st floor windows will need to look like

*proper windows, associated with some real function behind, rather than coming across as shallow gestures which don't actually do anything.*

Historic England has responded to the amended proposals in a similar vein:

*I have looked over the amendments and superseded plans. Although the design appears to be somewhat of an improvement, I don't feel the issues raised in our previous response have been addressed, and therefore still stand.*

Having considered these responses, the conservation officer has concluded:

*The design for the building proposed to replace 98 Crane St has been revised following earlier comments and discussion. The issues of the visual and physical relationship with adjoining buildings and street presence have largely been addressed, however one cannot help but feel that the proposal lacks the imagination and architectural confidence that might be hoped for in this sensitive location. The impact on the CA and setting of adjacent LBs could be neutral, depending on the quality of materials and workmanship of the replacement building.*

*In terms of the demolition itself, this will need to be carefully controlled to ensure that the listed building to the east (to which 98 is attached), and the Masonic Hall (and especially its front courtyard and boundary wall) are adequately protected.*

*With regard to concerns raised by respondents on the physical threat to surrounding buildings by delivery vehicles, the degree of risk appears to be directly related to the length of such vehicles. Certainly it would be impossible for an articulated lorry to access the delivery yard, and if the length were to be restricted to something like a LWB Transit then the risks could be limited to the corners of the western boundary wall and 96 Crane St; these should be further reduced by the installation of sturdy bollards, details of which will need to be provided in advance of any consent being granted. I see no reason to have concern about damage to buildings on the south side of the street.*

Para 134 of the NPPF requires the LPA to identify whether there would be any harm to the significance of any designated heritage asset. If so, that harm must be weighed against the public benefits of the proposal. No objection is raised to the riverside proposals and frontage, within the Conservation Area. However, whilst officers feel that the design for 98 Crane Street could perhaps have shown *more imagination and architectural confidence for this sensitive location* officers do not perceive that the development will cause harm to the significance of the Conservation Area or the setting of listed buildings, provided the demolition is adequately controlled by condition to safeguard adjacent listed buildings and structures and provided the quality of materials and workmanship of the replacement building is high. In conclusion, it is not perceived that the development would cause harm to the significance of the character and setting of the designated heritage assets (the Conservation Area and listed buildings) or undesignated heritage assets (98 Crane Street) and subject to the conditions set out above, the proposal would comply with Policy CP58 and the NPPF. The design of the proposed extension and glazed frontage to the piazza is considered to be acceptable in principle and likely to enhance the appearance of the area, subject to a condition requiring further details, in accordance with CP57.

#### **8.4 Neighbouring amenity, noise and public protection**

Core Policy 57 sets out the general principles for the design of development, including impacts on neighbours. It states:

*A high standard of design is required in all new developments, including extensions, alterations, and changes of use of existing buildings. Development is expected to create a strong sense of place through drawing on the local context and being complimentary to the locality. Applications for new development must be accompanied by appropriate information to demonstrate how the proposal will make a positive contribution to the character of Wiltshire through:*

*vii. Having regard to the compatibility of adjoining buildings and uses, the impact on the amenities of existing occupants, and ensuring that appropriate levels of amenity are achievable within the development itself, including the consideration of privacy, overshadowing; vibration; and pollution (such as light intrusion, noise, smoke, fumes, effluent, waste or litter).*

The proposal has generated a significant number of strong objections on amenity grounds. Many objectors are local residents who are extremely concerned about potential disturbance from noise from customers and restaurant users, particularly late at night as people leave and loiter, noise from the outdoor seating area, including the tables and chairs being put away, disturbance from music, noise from extraction and refrigeration equipment on the buildings, noise from deliveries and smells from cooking fumes. They are also concerned about a potential loss of privacy arising from the development, given its proximity to their homes. The comments are summarised earlier in this report. It is noted that no objection has been raised to the proposed single storey extension to the rear of Crane Street businesses and properties, and this is considered to be acceptable under Policy CP57 in this city centre location. The public protection officer initially raised a number of queries for the applicant to respond to, relating to noise from the courtyard area facing the river and noise breakout from the restaurant itself, the submitted noise assessment, odour and kitchen extraction systems and lighting.

Conditions relating to the following matters were initially recommended:

- a scheme of acoustic insulation and noise control is recommended, including the acoustic insulation and other measures to be put in place to prevent and control the emission of noise from the development including noise from externally mounted plant.
- all external windows and doors to be kept closed when the use is taking place (except when being used for access and egress)
- a scheme of works for the control and dispersal of atmospheric emissions, and in particular odour
- a scheme of external lighting, including the measures to be taken to minimise sky glow, glare and light trespass should be imposed.
- a construction management plan, including details of the measures that will be taken to reduce and manage the emission of noise, vibration and dust during the demolition and/or construction phase of the development.
- control hours of construction and demolition

The applicant considered the questions raised and responded:

*It should be borne in mind that this is a town centre location and there are examples of outdoor seating in the immediate area, e.g. The Kings Head Inn which also has an outdoor*

seating area along Avon Row. Furthermore, the restaurant seating will be used by dining customers only and the noise generated from this use is expected to be lower than the neighbouring beer garden.

- *The proposed operating hours for the restaurant are 09.00 – 12.00 midnight, 7 days per week including bank holidays.*
- *16 tables and 64 chairs are proposed to be placed outside as per Drawing No. 230-PL-120.P3.*
- *The proposed hours for the use of outside tables and chairs are the same as the opening hours*
- *Proposed hours of deliveries and waste collections. Ideally, all of our servicing requirements will be met through the use of smaller delivery vehicles and we would accept a condition proposed by highways to restrict deliveries from larger vehicles to between the hours of 10.00 – 15.30. With regard to waste collection, as the operators for the units are unconfirmed the volume and frequency of waste collections are still uncertain. As such, we would accept a pre-occupation condition requesting a delivery and servicing management strategy to be approved by the Council.*
- *Level of sound insulation, how many covers are proposed, and will live or recorded music be played? The fixed double-glazed typically have a db reduction of 30. We are not anticipating live music but low-key recorded music inside the restaurants is likely.*

The public protection officer then concluded with the following recommendations:

#### **Noise from outside seating area**

We have significant concerns about the proposal for 16 tables, 64 outside seats to be used 09:00 – 12:00 midnight. The Kings Head does have outside seating but there are no residential properties directly opposite, overlooking the area and it is close to other noise sources such as traffic on Fisherton Street and electricity substation. The position of the proposed outside seating area will have much lower background noise levels so noise from customers will be more noticeable and there are residential balconies and windows approximately 35m away overlooking the area. This proposal is to introduce a difficult to manage noise source to a reasonably quiet area where there are residential properties. It is reasonably foreseeable that noise from customers the outside seating in the evening will at times have a significant adverse impact at the residential properties. This is likely to mostly be a problem in the summer months when the outside seating area is in greater use and the residents want to have their windows and balcony doors open.

Conditions to the following effect should be attached to any planning permission granted.

**Without restrictions of this nature we would have to recommend this application is refused.**

- a) No music to be played outside.
- b) Outside seating area shall only be used between the hours of 09:00 – 18:00 Monday to Saturday and 10:00 – 17:00 Sundays and Bank Holidays. Outside of those hours the use shall cease with all furniture being removed from the external seating area.

#### **Noise breakout from restaurants**

I am not aware of a way that an enforceable condition can be written that restricts the playing of music to only background music. If recorded music is not restricted there is the potential that the restaurant operators may choose to play music at a higher volume resulting

in unacceptable noise levels outside that may impact on residents. The playing of recorded music in these restaurants cannot be controlled through the licensing regime before 23:00. Conditions c and d are therefore recommended. The requirement in condition d) is designed to ensure that there would be no increase in the ambient noise level:

c) No live music to be played.

d) No recorded music to be played until suitable scheme of acoustic insulation and noise control has been approved. The scheme should specify the acoustic insulation and other measures to be put in place to prevent and control the emission of noise from inside of the restaurant including noise from music and customers.

#### **Noise from kitchen extraction and ventilation**

e) A condition requiring a scheme of acoustic insulation and noise control to be submitted before the use commences, is required. The scheme should specify the acoustic insulation and other measures to be put in place to prevent and control the emission of noise from the development including noise from externally mounted plant.

#### **Noise from deliveries and waste collections**

There are residential properties on Crane Street that have windows to habitable rooms facing the delivery area. As well as the restriction for deliveries from large vehicles we have to recommend a time restriction for deliveries from vehicles under 7.5T. The noise and disturbance from lights, engines, cages, pallets being moved and people can be significant at night and in the early hours of the morning. Waste collections can cause similar disturbance. We have considerable experience investigating complaints of this nature in mixed use areas. Conditions to the following effect are therefore recommended:

f) No deliveries from vehicles over 7.5Tonnes outside of the hours of 10:00 and 15:00.

g) No deliveries or waste collections outside of the hours of 07:00 and 20:00 Monday to Saturday, 09:00 and 18:00 Sundays and Bank Holidays.

#### **Odour**

h) A condition requiring a scheme to control the dispersal of atmospheric emissions and in particular odour is required.

In conclusion, significant concerns have been raised by local residents to the use on amenity grounds. However, it is acknowledged that this is a city centre location and the proposed development is acceptable in policy terms. Therefore, the applicant has considered the comments from the public protection officer and has agreed to accept the recommended conditions. End users have not yet been identified for the development and so future occupiers of the development would need to comply with any conditions imposed to control the amenity impacts arising from the restaurant use. Officers do not feel that there are sufficient reasons to refuse this application on amenity grounds, because the potential impacts can be mitigated by the recommended conditions. On balance of all the issues raised and the recommendations made by the public protection officer, it is concluded that by imposing appropriate conditions can appropriate levels of amenity be achievable within the development itself, in compliance with CP57.

## **8.5 Ecology and Archaeology**

### **Ecology**

An ecological report has been submitted. Core Policy 50 seeks to ensure that all development proposals incorporate appropriate measures to avoid and reduce disturbance of sensitive wildlife species and habitats throughout the lifetime of the development. The NPPF para 118 states:

*118. When determining planning applications, local planning authorities should aim to conserve and enhance biodiversity by applying the following principles:*

- *if significant harm resulting from a development cannot be avoided (through locating on an alternative site with less harmful impacts), adequately mitigated, or, as a last resort, compensated for, then planning permission should be refused;*
- *development proposals where the primary objective is to conserve or enhance biodiversity should be permitted;*
- *opportunities to incorporate biodiversity in and around developments should be encouraged*

The NPPG also sets out guidance. Natural England has assessed the application using the Impact Risk Zones data (IRZs). They advise that the proposal, if undertaken in strict accordance with the details submitted, is not likely to have a significant effect on the interest features for which River Avon Special Area of Conservation (SAC) has been classified. The LPA is **not** required to undertake an Appropriate Assessment to assess the implications of this proposal on the site's conservation objectives.

In addition, Natural England is satisfied that the proposed development being carried out in strict accordance with the details of the application, as submitted, will not damage or destroy the interest features for which the River Avon System SSSI has been notified. Therefore, the Site of Special Scientific Interest does not represent a constraint in determining this application.

The ecologist has also recommended a condition for a construction method statement to ensure that contractors take precautions not to cause pollution of the River Avon SAC. In conclusion, no objection is raised to the proposed ecological mitigation, in accordance with Core Policies 48 and 50, the guidance in the NPPG and the ODPM circular 06/2005.

### **Archaeology**

Core Policy 58 aims to ensure that Wiltshire's important monuments, sites and landscapes and areas of historic and built heritage significance are protected and enhanced in order that they continue to make an important contribution to Wiltshire's environment and quality of life. Heritage assets include Listed Buildings and Conservation Areas.

The Archaeologist has considered para 128 of the NPPF and stated:

*This site is of archaeological interest. The heritage assessment which accompanies the application confirms this, particularly in relation to the medieval and post-medieval periods. It also recognises that buried archaeological remains are likely to have been impacted by later development, but that the extent and severity of this is currently unknown.*

*In this case, I consider that the archaeological assessment meets the requirement of para 128. Field evaluation is clearly very difficult, given the existing buildings on the site.*



*The NPPF also says: 141. Local planning authorities should make information about the significance of the historic environment gathered as part of plan-making or development management publicly accessible. They should also require developers to record and advance understanding of the significance of any heritage assets to be lost (wholly or in part) in a manner proportionate to their importance and the impact, and to make this evidence (and any archive generated) publicly accessible.*

It is therefore recommended that a programme of archaeological works is carried out as part of any development. It is likely that this will involve elements of watching brief and possibly archaeological excavation, but the exact nature of the works and when they can be undertaken will form part of a written scheme of investigation agreed with this office. The applicant should be aware that, if archaeological remains are encountered, this may have an effect on their programme of works. If human remains are encountered during the works, they cannot be removed without the appropriate permissions.

In conclusion, no objection is raised under CP58 and the NPPF provisions, subject to a condition requiring a written programme of archaeological investigation.

## **8.6 Drainage and Flood Risk**

The site lies partly within Flood Zones 2 and 3. The Flood Risk Assessment (FRA) recommends that finished floor levels be set 600mm above the River Avon 1% annual probability plus climate change flood level (the design flood level). This equates to 46.90 metres AOD, as noted in the FRA. Existing floor levels are set at 46.89 metres AOD, hence only 1cm below that recommended in the FRA. The EA has no objection to a slightly smaller freeboard allowance but recommends a condition to ensure the finished floor level of the existing building and proposed extension is set no lower than existing. A condition to deal with any contamination found during development is also recommended to protect controlled waters from pollution.

The drainage team have raised no objection subject to conditions relating to schemes for the discharge of surface and foul water from the site. The ecologist has also requested a construction method statement condition to prevent pollution during construction.

## **8.7 Impact on highway safety and public rights of way**

The site is considered to be in the city centre and in a highly sustainable location, close to public transport and city centre car parks. The highways officer has raised no objections to the proposal or the proposed servicing arrangements. An informative, advising the applicant that a licence will be required from the local highway authority before any works are carried out the highway, is recommended.

The transportation team has noted that the Transport Assessment shows that vehicles up to 7.5t in size should be able to access/egress the proposed service yard. Vehicles larger than this would not be able to use the service yard. This causes a potential problem in that vehicles such as beer drays delivering draught beer/lager wouldn't be able to access the proposed service yard. The only option for such vehicles to load/unload would be to do so from the highway. Crane Street forms part of the route to Churchfields Industrial Estate for over height vehicles (vehicles that cannot fit under the Fisherton Street Railway Bridge) and is subject to use by traffic seeking to avoid the city centre 'one way' system and the A36 Churchill Way, particularly, during the morning and afternoon peak travel periods. Therefore, highways advise that a condition is imposed to ensure that any deliveries to restaurant

premises involving vehicles that can't access the proposed service yard can only take place between 10.00am and 3.00pm.

Several third parties have asked whether vehicles can turn in the delivery yard. Highway responded: *Based solely on the swept path analysis in the applicants Transport Statement then yes they would be able to turn around in the services – albeit that it is incredibly tight for a 7.5t vehicle. The ability for any vehicle to turn in the service yard though is reliant on the yard being laid out exactly as shown in the Transport Statement and it being kept clear. It should be made clear to the developer that parking must not be allowed to take place in the service yard at any point.*



7.5T Panel Van Swept Path Analysis showing turning manoeuvre

Drawing 230-PL-120.P3 shows a widened the pathway between the existing walkway and the proposed outdoor seating area in line with design comments and includes four visitor cycle parking spaces. This is based on the peak trip numbers of around 60 per hour. The applicant has stated they will provide 6 spaces for employees which is also acceptable.

The impact on Church House has also been considered by highways. The ability for vehicles to load and unload to the proposed new restaurants from Crane Street is unlikely to unduly impact on the ability to access Church House. All vehicles that can physically fit into the restaurants service yard would be required to use this area to load and unload, and in practical terms only a small number of vehicles should need to load and unload from Crane Street. It is considered unlikely that the ability for vehicles to service the proposed new restaurant from Crane Street would increase the likelihood of the oriel window being struck. Vehicles servicing the restaurants would be located on the opposite side of the road to the window and in consideration of the entrance to the service yard, vehicles would likely park closer to the traffic signals at the junction of High Street / Crane Street / New Street to minimise the distance that goods would have to be moved when being load and unloaded.

If significant problems with accessing Church House arise as a result of vehicles servicing the proposed new restaurants then the introduction of further loading restrictions to control where loading and unloading can take place within Crane Street could be considered by Wiltshire Council.

In conclusion, the proposed layout is considered to be acceptable. Subject to the above conditions and informatives, the proposed development has the highway team's support.

## **8.8 Trees**

The site lies within the Conservation Area and trees are a material consideration for this application. A total of 25 trees have been identified within or adjacent to the site in the Arboricultural survey. This includes two groups of trees and two felled trees. The survey recorded two category B trees (T10 Indian bean tree and T11 Japanese cherry) at the front of the site, 13 category C trees (including silver maples T1 and T2 by the riverside entrance to the site) and 12 category U trees, including the two felled trees. Category B and C trees represent a material consideration for development and effort should be made to retain any category B trees. Whilst category C trees should be retained where possible, they should not be retained where they would present a serious constraint to development.

The retained trees would be protected through the erection of tree protection fences in order to create an exclusion zone and the use of root protection areas for any retained trees. An arboricultural method statement has been submitted to explain how the retained trees would be protected during development. 10 Category U trees are proposed for removal. The category B trees (T10 and T11) and the two category C silver maples at the front of the site (T1 and T2) would be retained and protected.

The tree officer has considered the application and the submitted documentation. He has recommended that the revised report is acceptable and a tree protection condition should be imposed on any permission, requiring a pre commencement site visit. A landscape plan (including any replacement trees) should also be required by condition. The proposal would therefore comply with CP57 and it is perceived that there would be no harm to the character of the Conservation Area arising from the development.

## **8.9 Community Infrastructure Levy**

The Community Infrastructure Levy (CIL) is a charge that local authorities in England and Wales can put on new development in their area to raise funds to help deliver the infrastructure necessary to support this development. All development containing at least 100 square metres of new build is chargeable. An informative would be placed on any permission to advise the developer regarding CIL.

## **8.10 Waste and Recycling and Energy Efficiency**

As the scheme is not classified as a major development, the applicant is not *required* to submit a waste audit or management strategy under the Waste Core Strategy Policy WCS6. This issue has also been considered under the amenity section of this report and appropriate conditions would be imposed requiring a delivery and servicing management strategy, as suggested by the applicant.

This development affects approximately 820sqm of existing retail floorspace. For new build development exceeding 1,000sqm gross, a condition would normally be applied under Core Policy 41 requiring evidence that the "very good" BREEAM standard (or any such equivalent

national measure of sustainable building which replaces that scheme) has been achieved for the development. However, as the proposal is for less than 1,000 sqm, the condition will not be applied for viability reasons.

## **Conclusion**

The proposal seeks to convert existing vacant and previously developed land in the city centre for an A3 (main town centre) use. The NPPF considers this to be a sustainable form of development in principle. The development would provide an enhancement to the river frontage, it is likely to improve the vitality of the city centre and provide additional employment.

Officers have raised no objections to the proposals, subject to conditions that would secure appropriate levels of amenity within the development and ensure that neighbouring amenities are not unduly affected by the increased activity. Highways have also recommended conditions to manage deliveries.

The replacement of 98 Crane Street, which is an unlisted heritage asset, is considered unlikely to cause harm to the character of the Conservation Area and the tree officer has raised no objection to the proposed removal of a number of trees, whilst important specimens on the river front would be protected during construction.

## **RECOMMENDATION: APPROVE 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. Notwithstanding the provisions of the Town and Country Planning (General Permitted Development) (England) Order 2015 (or any Order revoking or re-enacting or amending that Order with or without modification), the site shall be used solely for purposes within Class A3 of the Schedule to the Town and Country Planning (Use Classes) Order 1987 (as amended)(or in any provisions equivalent to that class in any statutory instrument revoking or re-enacting that Order with or without modification).

REASON: The proposed use is acceptable but the Local Planning Authority wish to consider any future proposal for a change of use, other than a use within the same class, having regard to the circumstances of the case.

3. There shall be no demolition of 98 Crane Street until details of:
  - i) all eaves, verges, windows (including scaled drawings of head, sill and window reveal details), doors, rainwater goods and chimneys
  - ii) proposed materials
  - iii) a scheme (of bollards or similar means) to protect 96 Crane Street and the boundary wall and pier of the Masonic Hall from delivery vehicles during and after construction

have been submitted to and approved in writing by the Local Planning Authority. Development shall be carried out in accordance with the approved details and maintained in perpetuity.

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 demolition takes place in order that the development is undertaken in an acceptable manner, in the interests of visual amenity and the character and appearance of the Conservation Area and to protect heritage assets from damage by vehicles at the access point.

4. There shall be no demolition of 98 Crane Street until a demolition protection plan to demonstrate how
  - i) 96 Crane Street and
  - ii) The Masonic Hall and its boundary wall and pier

shall be protected during the demolition works has 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 demolition takes place in order that the development is undertaken in an acceptable manner, to protect the adjacent listed building and heritage assets/features within the Conservation Area.

5. Any gates onto Crane Street shall open inwards only, in perpetuity.

Reason: In the interests of highway safety.

6. The development shall be carried out in accordance with the Arboricultural Survey and Impact Assessment ref LIPL103/003/001/001 and Arboricultural Method Statement ref LIPL103/004 both dated November 2016 by Thomson Ecology. The trees shall be protected in accordance with the approved reports and statements throughout the period of development, unless the Local Planning Authority has given its prior written consent to any variation. A pre-commencement site visit (to include the owner, the site foreman and the Arboricultural Officer) shall be take place before any development activities commence on site.

REASON: To comply with the duties indicated in Section 197 of the Town and Country Planning Act 1990, so as to ensure that the amenity value of the important trees, shrubs and hedges growing within or adjacent to the site is adequately protected during the period of construction. The pre-commence site visit is to ensure that the protective fencing is in place and all aspects of tree protection are understood by all parties.

7. Any replacement trees and landscaping comprised in the approved arboricultural reports and site plans shall be carried out in the first planting and seeding season following the first occupation of the building or the completion of the development whichever is the sooner. All shrubs, trees and hedge planting shall be maintained free from weeds and shall be protected from damage by vermin and stock. Any trees or plants which, within a period of five years, die, are removed, or become seriously damaged 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.

8. a. No music shall be played outside the buildings shown on the approved plans.
- b. No live music shall be played within the red line of the application.
- c. No recorded music to be played within the buildings until a suitable scheme of acoustic insulation and noise control has been submitted to and approved in writing by the Local Planning Authority. The scheme should specify the acoustic insulation and other measures to be put in place to prevent and control the emission of noise from inside of the restaurant including noise from music and customers. The approved scheme shall be implemented in full before the music is played in the restaurants and maintained at all times thereafter.

Reason: In the interests of neighbouring amenities.

Informative: In discharging this condition the applicant should engage an Acoustic Consultant. The scheme should demonstrate entertainment noise levels from inside the restaurant will not exceed 10dB below the existing  $L_{Aeq, 5minutes}$  without the entertainment noise when measured at the boundary of any residential property.

9. The outside seating area (or piazza) hereby approved shall only be used between the hours of 09:00 – 18:00 Monday to Saturday and 10:00 – 17:00 Sundays and Bank Holidays. Outside of those hours the use shall cease and all furniture shall have been removed from the external seating area before 20:00 hours.

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

10. Before the A3 use hereby approved commences a scheme of acoustic insulation and noise control shall be submitted to and approved in writing by the Local Planning Authority. The scheme should specify the acoustic insulation and other measures to be put in place to prevent and control the emission of noise from the development including noise from externally mounted plant. The approved scheme shall be implemented in full before the use commences and maintained at all times thereafter.

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

Informative: In discharging this condition the applicant should engage an Acoustic Consultant. The externally mounted plant and any associated enclosures shall be selected, designed and positioned so that the sound levels in section 4 on page 3 of the submitted Acoustic and Engineering Consultants Ltd Plant Noise Assessment Reference P3274/L01a/DB dated 22<sup>nd</sup> April 2016 are met.

11. No deliveries or waste collections shall take place outside of the hours of 07:00 and 20:00 Monday to Saturday, 09:00 and 18:00 Sundays and Bank Holidays.

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

12. No deliveries from vehicles over 7.5Tonnes (and any other vehicles that cannot physically enter the delivery yard) shall take place outside of the hours of 10:00 and 15:00 on any day of the week. There shall be no obstruction of the delivery and service yard by parked cars at any time.

Reason: In the interests of highway safety and to ensure that delivery vehicles can access, turn within and egress the yard in a forward gear.

13. Before the A3 use hereby approved commences a scheme of works for the control and dispersal of atmospheric emissions, and in particular odour has been submitted to and approved in writing by the Local Planning Authority. The approved scheme shall be implemented in full before the development is first brought into use and shall be maintained in effective working condition at all times thereafter.

Reason: In the interests of neighbouring amenities.

Informative: In discharging this condition the applicant must consult the Guidance on the Control of Odour and Noise from Commercial Kitchen Exhaust Systems (DEFRA 2005.)

14. All external windows and doors shall be kept closed when the approved A3 use is taking place except only when the doors are being used for access and egress.

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

15. No external lighting shall be installed on site until a scheme of external lighting, including the measures to be taken to minimise sky glow, glare and light trespass, has been submitted to and approved in writing by the Local Planning Authority. The external lighting scheme shall be designed so as to meet the criteria for Environmental Zone E3 as defined by the Institute of Lighting Professionals 'Guidance Notes for the Reduction of Obtrusive Light' 2012. The approved scheme shall be implemented in full before the development is first brought into use and shall be maintained in effective working order at all times thereafter.

Reason: To minimise the impact of lighting and in the interests of neighbouring amenities.

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

17. No development shall commence on site until a construction management plan has been submitted to and approved in writing by the local planning authority. The plan shall include details of the measures that will be taken to reduce and manage the emission of noise, vibration and dust during the demolition and/or construction phase of the development. It shall include details of the following:

- i. The movement of construction vehicles;
- ii. The cutting or other processing of building materials on site;
- iii. Wheel washing and vehicle wash down facilities;
- iv. The transportation and storage of waste and building materials;
- v. The recycling of waste materials (if any)
- vi. The loading and unloading of equipment and materials
- vii. The location and use of generators and temporary site accommodation
- viii. Pile driving (If it is to be within 200m of residential properties)

The construction/demolition phase of the development will be carried out fully in accordance with the construction management plan at all times.



Reason: In the interests of neighbouring amenities.

18. 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. 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

19. 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. 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

20. The finished floor levels of the development shall be set no lower than the existing levels at 46.89 metres AOD.

Reason: To reduce the risk of flooding to the proposed development.

21. If, during development, contamination not previously identified is found to be present at the site then no further development (unless otherwise agreed in writing with the local planning authority) shall be carried out until the developer has submitted a remediation strategy to the local planning authority detailing how this unsuspected contamination shall be dealt with and obtained written approval from the local planning authority. The remediation strategy shall be implemented as approved.

REASON: To protect controlled waters from pollution.

22. No development shall commence on site until a construction management plan to protect the River Avon SAC during construction has been submitted to and agreed in writing by the Local Planning Authority. The development shall be implemented in accordance with the details to be approved.

REASON: To protect controlled waters from pollution.

23. The development shall be implemented in accordance with the Recommendations in Chapter 8 of the Ecology Survey by Thomson Ecology, ref ATNP101/001/001/001 dated Nov 2014, unless otherwise agreed in writing by the Local Planning Authority.

Reason: To protect the interest features for which the River Avon System SSSI has been notified.

24. No development shall commence within the area indicated (proposed development site) until:

- i) A written programme of archaeological investigation, which should include on-site work and off-site work such as the analysis, publishing and archiving of the results, has been submitted to and approved by the Local Planning Authority; and

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

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

25. No part of the development shall be brought into use until the cycle parking facilities shown on the approved plans have been provided in full and made available for use. The cycle parking facilities shall be retained for use in accordance with the approved details at all times thereafter.

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

26. The development hereby permitted shall not be brought into use until the refuse and recycling facilities shown on the approved plans have been provided and made available for use. These facilities shall thereafter be maintained in accordance with the approved details thereafter.

REASON: To ensure the provision of satisfactory facilities for the storage of refuse and recycling.

27. No development shall commence on site until the exact details and samples of the materials to be used for the external walls and roofs of the restaurant building 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 Conservation Area.

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

Location and Existing Site Plan 230-PL-100.P4 dated August 2014  
Design and Access Statement by Denning Male Polisano Issue P2 14 November 2016  
Planning Statement by Indigo Planning Ltd dated May 2016  
Heritage Assessment by Wessex Archaeology ref 112080.01 dated Jan 2016  
Transport Assessment by Caneparo Associates Ltd dated March 2016  
Letter let.015.EG.SD.00030274 dated 13/10/16 from Indigo Planning Ltd  
Flood Risk Assessment dated May 2016 by GVA Bilfinger ref 01B604958  
Arboricultural Survey and Impact Assessment ref LIPL103/003/001/001 and Arboricultural Method Statement ref LIPL103/004 both dated November 2016 by Thomson Ecology.  
Ecology Survey by Thomson Ecology, ref ATNP101/001/001/001 dated Nov 2014  
Further Bat Surveys by Thomson Ecology, ref ATNP101/002/001/001 dated Oct 2015 and May 2016  
Proposed Elevations East and South ref 230-PL-123.P4 dated August 2014  
Proposed Elevations West and South (part) ref 230-PL-122.P3 dated August 2014  
Proposed Sections AA and BB ref 230-PL-124.P2 dated August 2014  
Proposed Roof Plan ref 230-PL-121.P3 dated August 2014  
Proposed Floor and Site Plans 230-PL-120.P4 dated August 2014  
Plans, Elevations and Sections 98 Crane Street Existing and Proposed 230-PL-125.P3 dated August 2014  
Façade Detail, 98 Crane Street Proposed 230-PL-126.P2 dated August 2016

Plant Noise Assessment by Acoustic & Engineering Consultants Limited dated 22/4/16  
Sustainability Statement by Denning Male Polisano Issue P3 11 May 2016  
Drainage Statement by Campbell Reith ref 12333 dated 20/5/16

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

29. The extension and curved glazed frontage to the restaurants hereby approved shall not be commenced until details at a suitable scale of:
- i) all eaves, verges, windows and doors
  - ii) all proposed materials for the extension and piazza surfaces including any means of enclosure

have been submitted to and approved in writing by the Local Planning Authority. Development shall be carried out in accordance with the approved details and maintained in perpetuity.

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 demolition takes place in order that the development is undertaken in an acceptable manner, in the interests of visual amenity and the character and appearance of the Conservation Area.

#### **INFORMATIVES:**

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](http://www.wiltshire.gov.uk/planninganddevelopment/planningpolicy/communityinfrastructurelevy).

The archaeological work should be conducted by a professionally recognised archaeological contractor in accordance with a written scheme of investigation approved by this office and there will be a financial implication for the applicant.

The consent hereby granted shall not be construed as authority to carry out works on the highway. The applicant is advised that a licence will be required from the local highway authority before any works are carried out on any footway, footpath, carriageway, verge or other land forming part of the highway. Please contact the Council's Vehicle Crossing Team on [vehicleaccess@wiltshire.gov.uk](mailto:vehicleaccess@wiltshire.gov.uk) and/or 01225 713352.

In view of the potential flood risks in this locality, the Environment Agency advise that any developer of this site gives consideration to the use of flood resilient construction practices and materials in the design and build phase. Choice of materials and simple design

modifications can make the development more resistant to flooding in the first place, or limit the damage and reduce rehabilitation time in the event of future inundation. Guidance is available within the Department for Communities and Local Government publication 'Improving the Flood Performance of New Buildings – Flood Resilient Construction, May 2007' available at:-

<https://www.gov.uk/government/publications/flood-resilient-construction-of-new-buildings>

In addition to any other permission(s) that may have already been obtained, e.g. planning permission, an environmental permit may be needed for flood risk activities (formerly known as Flood Defence Consent prior to 6 April 2016) for carrying out work:

- in, under, over or near a main river (including where the river is in a culvert)
- on or near a flood defence on a main river
- in the flood plain of a main river
- on or near a sea defence

Any works within 8m of culverted water course (the 300mm pipe) will need LDC application and approval

For further information and to check whether a permit is required please visit:

<https://www.gov.uk/guidance/flood-risk-activities-environmental-permits>

There may be ordinary watercourses within or in close proximity to the site. If it is intended to obstruct the flow in the watercourse (permanently or temporarily, including culverting) prior Land Drainage Consent will be required from Wiltshire Council as the Lead Local Flood Authority. The Drainage Team can be contacted to discuss their requirements:-

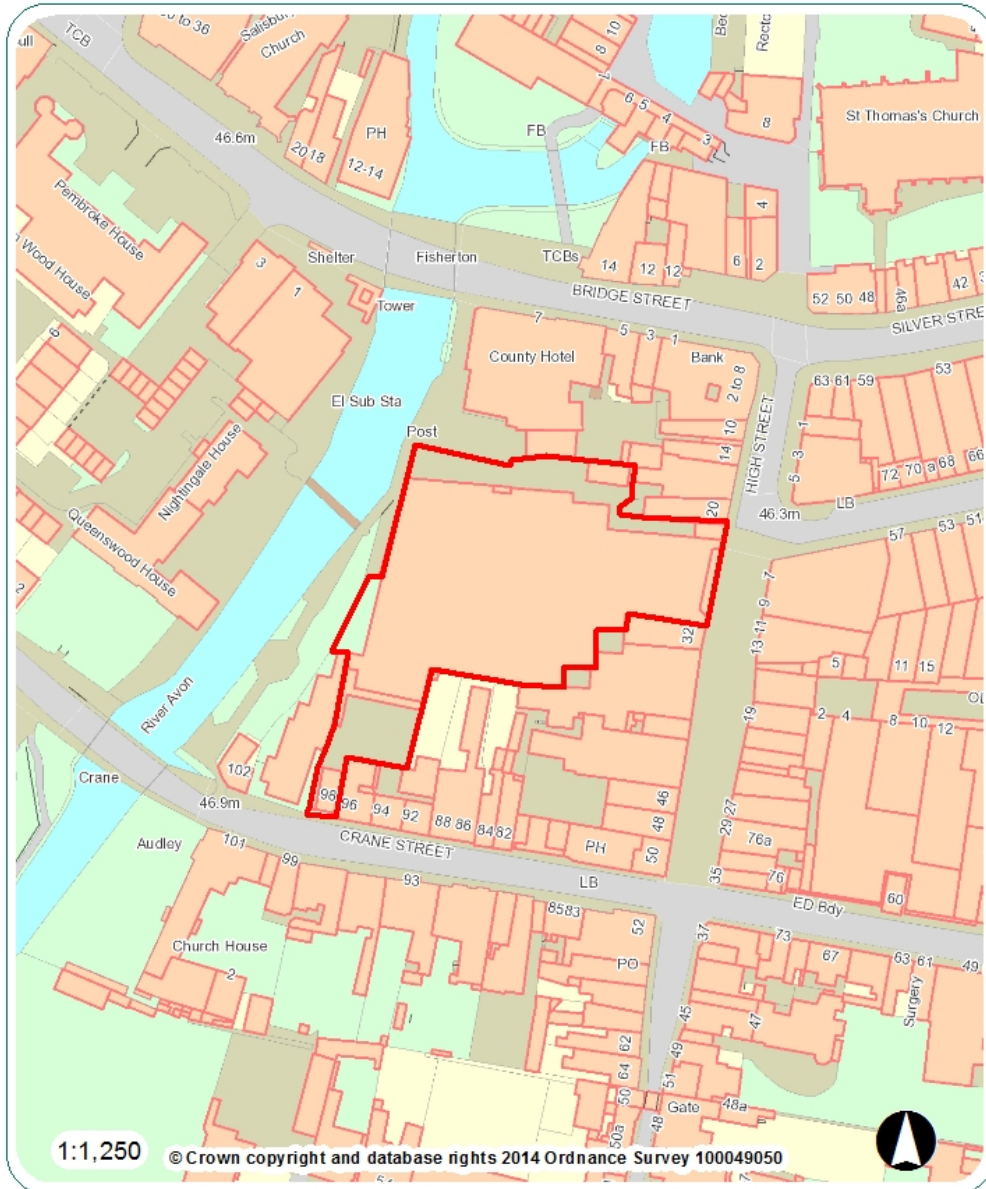
<http://www.wiltshire.gov.uk/communityandliving/civilemergencies/drainage/drainageordinarywatercourseconsent.htm>

With reference to Condition 22, Safeguards should be implemented during the construction phase to minimise the risks of pollution from the development. Such safeguards should cover:

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

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16/05643/FUL  
Land to the rear of 22-30 High Street  
(The Old Garden Centre) and  
98 Crane Street  
Salisbury  
Wiltshire



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<b>Date of Meeting</b>	12 <sup>th</sup> January 2017
<b>Application Number</b>	S/2003/1016
<b>Site Address</b>	E V Naish Ltd Crow Lane Wilton Salisbury Wiltshire SP2 0HD
<b>Proposal</b>	Demolition of Existing Buildings to Facilitate the Mixed Use Development of the Site to Provide 61 Residential Units, Two Commercial Units of B1 Use, One Retail Unit, and Associated Car Parking.
<b>Applicant</b>	Mr Geoff Naish
<b>Town/Parish Council</b>	WILTON
<b>Electoral Division</b>	WILTON AND LOWER WYLYE VALLEY – Cllr Peter Edge
<b>Grid Ref</b>	409605 131348
<b>Type of application</b>	Full Planning
<b>Case Officer</b>	Adam Madge

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

**This application was previously considered by members of Salisbury District Council's Western area committee in March 2004 when it was resolved to grant planning permission for the development subject to a legal agreement and conditions. The legal agreement was never signed and therefore the planning application remains 'live' this application is for the same proposal as considered by the Western area committee with minor revisions (described below).**

#### 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 application be approved.

#### 2. Report Summary

The main issues to be considered are –

- a) Principle of development
- b) Affordable housing
- c) Employment
- d) Conservation
- e) Design
- f) Highways
- g) Other infrastructure, sewage etc
- h) Effect on SSSI and SAC
- i) Environmental health issues
- j) Contaminated land

- k) Flooding
- l) Protected species
- m) Archaeology
- n) Education
- o) Section 106 issues
- p) Other matters

### 3. Site Description

The Naish Felts factory site in Wilton. It lies close to Wilton town centre, outside the settlement framework boundary in the core strategy in the Conservation area. It is a low-lying site alongside river channels (which form part of the River Avon system SSSI and SAC) and is currently occupied by buildings of a variety of ages and styles. None are listed though there is a Victorian two-storey red brick building with stone dressings and a weather vane that is of historic interest. It has cast iron columns internally and is in poor condition. The other buildings are of little interest and are aesthetically poor.

The site is surrounded on its southwest and southeast sides by residential development with the Castle lane playing fields to the north. Across the river to the south is the Wilton Community centre, which is separated from the site by a wall. Access to the site is poor, be it from Crow Lane or Castle Lane. Both are single vehicle width with tight corners at the access and egress. 51 –53 North Street is a two storey building with a large workshop area within that was formerly occupied by Wilton Coachworks. It is an unattractive building with a rendered ground floor and poor quality brick upper floor. It adjoins a listed terrace of Fisherton Grey brick cottages.

### 4. Planning History

S/1999/0052	PROPOSED REDEVELOPMENT SCHEME OF EXISTING BUILDINGS
S/1983/0576	NEW OPENINGS TO FACTORY BUILDINGS FOR GANTRY CRANE
S/1998/0590	VARIOUS SURGERY TO HORNBEAM AND HAZEL
S/1994/0613	C/A CONSENT - DEMOLITION OF REDUNDANT PRODUCTION BUILDING & LINK (PASSAGE) BLOCK
S/1989/1124	ERECTION OF NEW INDUSTRIAL BUILDINGS
S/1994/1126	EXTENSION TO FACTORY
S/1989/1193	L/B APPLICATION - DEMOLITION OF SOME OF EXISTING BUILDINGS
S/1989/1231	ERECTION OF NEW INDUSTRIAL BUILDINGS - (REVISED APPLICATION)
S/1985/1451	RELOCATION OF EXISTING PREFABRICATED BUILDING
S/1993/1461	CONSTRUCTION OF TOILET BLOCK
S/1989/1757	REPOSITIONING OF EXISTING PORTAKABIN AND ERECTION OF NEW PORTAKABIN

### 5. The Proposal

The proposal is to demolish all the existing buildings on site and to erect 61 dwellings, mainly in the form of terraces and apartment blocks, to demolish 51 -53 North Street and erect a new building containing a shop, B1 use over and a flat on the upper floor. This building is two storeys with a third storey in the roof.

There have been some changes from the original 2003 proposal which are as follows –

The number of dwellings proposed has been reduced from 62 to 61, which is the result of three main changes. Firstly, the residential unit on North Street has been removed, as dry access to this property along Castle Lane would have been difficult in the event of flooding. Secondly, two units have been removed adjacent to the leat within the site due to the presence of water vole burrows.

Finally, two additional dwellings have been incorporated into one of the apartment blocks to represent dwelling unit sizes, which reflect the market requirements locally but within the same floor plate.

As per the original application there will be new bridges across the river and an enhancement of the river corridor. A footpath link is provided through the site to the footpath and Flouse Hole to the North West. The applicants are aiming to relocate to elsewhere in Wilton or the surrounding area, as the site is currently inadequate for their needs.

## 6. Local Planning Policy

a) - Adopted development plan – Wiltshire Core strategy

CP1 – Settlement strategy  
CP2 – Housing Delivery strategy.  
CP3 – Infrastructure requirements  
CP33 – Wilton community area  
CP35 – Existing employment sites  
CP36 – Economic regeneration  
CP41 – Sustainable construction  
CP43 – Affordable Homes  
CP45 - Meeting Wiltshire's Housing needs  
CP50 - Biodiversity and geodiversity  
CP51 - Landscape  
CP55 – Air Quality  
CP56 – Contaminated land  
CP57 - Design and place shaping  
CP58 - Conservation of the historic environment  
CP60 – Sustainable transport  
CP61 – Transport and new development  
CP62 – Development impacts on the transport network  
CP67 – Flood risk

Saved policies of the Salisbury district local plan

G1- General principles for development  
G2- General criteria for development  
G3 – The water environment  
G5 – Water services  
G9 – Planning obligations  
D1 – Design, Extensive development.  
D8 – Public Art  
H1 – Housing  
H16 – Housing policy boundaries  
H22 – Application of housing policy boundaries  
H23 – land outside housing policy boundaries  
H25 – Affordable housing  
E16 – Employment General  
CN3 – Affect on listed building  
CN4 – Change of use of historic buildings  
CN5 – Development within or outside the cartilage of a listed building  
CN8 – Development in conservation areas  
CN9 – Demolition of buildings in a conservation area  
CN11 – Views in conservation areas  
CN21 – archaeology  
CN22 – archaeology  
CN23 – archaeology

C11 – Nature conservation  
C12 – Protected species  
C17 – conservation and enhancement of rivers and watercourses  
C18 – Water quality  
TR11 – Parking guidelines  
TR14 – Bicycle parking  
R2 – residential development open space  
R16 – river frontages

Creating places - design guide

a. Neighbourhood Planning

Wilton town council do not have a neighbourhood plan at present.

National Planning Policy context.

Policies and guidance contained within the NPPF and the NPPG

## 7. Summary of consultation responses

### Wilton Town Council

#### Planning application S/2003/1016

At its extraordinary meeting held on 10th May 2016 at the Community Centre on West Street in Wilton, the Town Council discussed the above application. and resolved the following:

**To support this outline planning application in principle**, but to advise Wiltshire Council that the Town Council has grave concerns about the impact of the proposed development on the issues of flooding, drainage, traffic and highways access into and out of the site, and the proposed destruction of Wilton's industrial heritage, and to request that the appropriate conditions addressing the councillors and public's concerns are attached to any planning consent that might be issued.

During the discussion, councillors echoed the concerns raised in the public session, and suggested the steps that should be taken to allay these concerns. These were as follows:

- *Flooding*- a new flood risk assessment should be undertaken to take account of the flood alleviation work currently being undertaken jointly by the Town Council, the Environment Agency and Wiltshire Council, and in particular the impact this work will have on the water flows into, through and out of the development, and on water run-off into other areas of Wilton. The developer will need to liaise closely with the Town Council with regards to the Town's Flood Management Plan.
- *Sewage & Drainage System*- a full and comprehensive survey of the drainage system should be undertaken in the area of West Street, Crow Lane, North Street and Castle Lane to analyse the impact of the development on the existing system as it is considered that the existing is totally inadequate to deal with the consequences of the development. The survey should also suggest solutions to mitigate that impact.

- *Water Storage*-the developer should work closely with Wilton Town Council as to the nature and type of storage proposed. Any system should undergo annual inspection and maintained accordingly.
- *Transport & Access to Site*- the two site entrances via Crow Lane and Castle Lane are considered to be totally inadequate to service the proposed development and number of vehicle movements expected, being too narrow. A full and up to date transport/traffic survey should be undertaken, concentrating on the centre of the town, particularly on the junctions of West St & Crow Lane, North Street & Crow Lane, and North Street & Castle Lane. It should be noted that North Street is one way. The transport survey provided is not relevant, concentrating as it does on the development at Wilton Hill. The impact of the potential reduction in bus services needs to be taken into account, as it should be noted that with the full occupation of the Wilton Hill/Erskine Park site, the population of Wilton will have increased by 25% since 2003.
- *Parking*-the number of parking spaces provided should be increased from the proposed 112 up to 133, to comply with the Wiltshire Council policy standard for this size of development. On street parking is not acceptable, as this is already a considerable problem in Wilton. It is noted that the three proposed commercial units to be located at 51/53 North Street have inadequate parking facilities- just one space for each unit.
- *Industrial heritage*-the councillors do not support the proposed demolition and replacement of the red brick factory building to the right of the Crow Lane entrance, and wish to see it retained, in order to confirm the link to Wilton's industrial heritage and history.
- *Miscellaneous* - properties to be built opposite existing dwellings should front onto the road, and be set back equidistant from the road as the dwellings opposite.

Although it was noted that these are not planning issues, the Town Councillors also raised two legal matters:

- *Riparian owners* – any riparian ownership responsibilities should be written into the title deeds to the relevant properties, so that the owners are aware of them, and can take the necessary action, as appropriate.
- *Access from properties/site onto the adjacent Castle Meadow recreation ground* -Castle Meadow is owned by Wilton Town Council, and automatic right of access onto its property has not be agreed by the Town Council. This must be subject of prior discussion with the developer/property owner.

**(Application no 16/07192)**

Wilton Town Council objects to this application.

Wilton Town Council has grave concerns about the proposed destruction of Wilton's industrial heritage. Building 4 is of local historical interest within a Conservation Area, and the focus should be on retaining it, and possibly Building 2 as well.

It was noted that although an estimate of £12,000 was given to remove the asbestos from Building 4, no other costs have been given for the removal of asbestos from other buildings, and the Town Council feels that a detailed report needs to be given on this for health & safety as well as financial reasons.

The Town Council disagreed strongly with the Heritage Assessment produced by Elaine Milton Heritage & Planning on behalf of EV Naish Ltd, which asserts that there would not be

a substantial impact on the Wilton Conservation Area should the buildings be demolished. It would like a reassessment of the given figures, which councillors feel to be overstated, as they do not take into account the costs that would be incurred anyway (such as asbestos removal), nor any potential grants to retain an historic building. If these were to be taken into consideration, Building 4 may be viable for retention and development.

### **Natural England –**

The application site is in close proximity to the River Avon Special Area of Conservation (SAC) which is a European site. The site is also notified at a national level as a Site of Special Scientific Interest (SSSI) and the following advice also applies in respect of this designation.

The consultation documents provided by your authority do not include information to demonstrate that the requirements of Regulations 61 and 62 of the Habitats Regulations have been considered by your authority, i.e. the consultation does not include a Habitats Regulations Assessment (HRA).

In advising your authority on the requirements relating to Habitats Regulations Assessment, it is Natural England's advice that the proposal is not necessary for the management of the European site. Your authority should therefore determine whether the proposal is likely to have a significant effect on any European site, proceeding to the Appropriate Assessment stage where significant effects cannot be ruled out.

Based on the information provided, Natural England's initial view is that it should be possible to avoid a significant effect on the River Avon SAC. However, we advise that a Habitat Regulations Assessment screening is undertaken to confirm that the likelihood of significant effect can be ruled out.

However, we advise that a Habitat Regulations Assessment screening is undertaken to confirm that the likelihood of significant effect can be ruled out.

In considering the European site interest, Natural England advises that you, as a competent authority under the provisions of the Habitats Regulations, should have regard for any potential impacts that a plan or project may have<sup>1</sup>. The Conservation objectives for each European site explain how the site should be restored and/or maintained and may be helpful in assessing what, if any, potential impacts a plan or project may have.

Cranborne Chase & West Wiltshire Downs Area of Outstanding Natural Beauty – Advise consultation with AONB partnership/Conservation Board.

The development is 2 kilometres from the Cranborne Chase & West Wiltshire Downs Area of Outstanding Natural Beauty (AONB). We therefore advise you to seek the advice of the AONB Partnership / AONB Conservation Board. Their knowledge of the location and wider landscape setting of the development should help to confirm whether or not it would impact significantly on the purposes of the AONB designation. They will also be able to advise whether the development accords with the aims and policies set out in the AONB management plan.

Other advice

We note that the ecology report says that the river should not be shaded by tree planting (e.g. paras 5.3.4 and 5.4.4). We advise that limited shading of the river would be ecologically beneficial, and advise a number of native trees (e.g. willow) should be planted along the restored riverbank. We also suggest that from a green infrastructure perspective, consideration should be given to providing access into the river so that, for example, children can play in it.

We would also expect the Local Planning Authority (LPA) to assess and consider the other possible impacts resulting from this proposal on the following when determining this application:

local sites (biodiversity and geodiversity)

local landscape character

local or national biodiversity priority habitats and species.

Natural England does not hold locally specific information relating to the above. These remain material considerations in the determination of this planning application and we recommend that you seek further information from the appropriate bodies (which may include the local records centre, your local wildlife trust, local geoconservation group or other recording society and a local landscape characterisation in order to ensure the LPA has sufficient information to fully understand the impact of the proposal before it determines the application. A more comprehensive list of local groups can be found at [Wildlife and Countryside link](#).

### **Protected Species**

We have not assessed this application and associated documents for impacts on protected species.

Natural England has published Standing Advice on protected species. The Standing Advice includes a habitat decision tree which provides advice to planners on deciding if there is a 'reasonable likelihood' of protected species being present. It also provides detailed advice on the protected species most often affected by development, including flow charts for individual species to enable an assessment to be made of a protected species survey and mitigation strategy.

You should apply our Standing Advice to this application as it is a material consideration in the determination of applications in the same way as any individual response received from Natural England following consultation.

The Standing Advice should not be treated as giving any indication or providing any assurance in respect of European Protected Species (EPS) that the proposed development is unlikely to affect the EPS present on the site; nor should it be interpreted as meaning that Natural England has reached any views as to whether a licence may be granted.

If you have any specific questions on aspects that are not covered by our Standing Advice for European Protected Species or have difficulty in applying it to this application please contact us at with details at [consultations@naturalengland.org.uk](mailto:consultations@naturalengland.org.uk).

### **Biodiversity enhancements**

This application may provide opportunities to incorporate features into the design which are beneficial to wildlife. The authority should consider securing measures to enhance the biodiversity of the site from the applicant, if it is minded to grant permission for this application. This is in accordance with Paragraph 118 of the NPPF. Additionally, we would draw your attention to Section 40 of the Natural Environment and Rural Communities Act



(2006) which states that *'Every public authority must, in exercising its functions, have regard, so far as is consistent with the proper exercise of those functions, to the purpose of conserving biodiversity'*. Section 40(3) of the same Act also states that *'conserving biodiversity includes, in relation to a living organism or type of habitat, restoring or enhancing a population or habitat'*.

## **Environment Agency**

We have **no objection** to the proposed development subject to the following **conditions and informatives** being included in any planning permission granted. We also recommend an amendment to the site plan.

### **Sequential Test**

We would take this opportunity to remind the LPA that the Sequential Test will be applicable to the application.

### **Flood Risk Assessment (FRA)**

We can reiterate that the applicant's FRA, including hydraulic modelling, is satisfactory. It is important that the development proposal comes forward in accordance with the submitted FRA.

### **CONDITION**

The development permitted by this planning permission shall only be carried out in accordance with the Flood Risk Assessment (ARUP, Revision A, dated February 2009 and the Supplementary Report on Flood Risk, WHS, December 2012, including the Arup Report, Job No. 207325, dated 22 November 2012 contained within Appendix 3) and the mitigation measures detailed therein:-

- 1.** Finished floor levels and site ground levels, including safe access routes in times of flood, as described in chapter 12 of the FRA, and shown on Figure 5 in Appendix 3 of the Supplementary Report on Flood Risk.
- 2.** Provision of compensatory flood storage on the site as detailed in Chapter 3 of the Supplementary Report on Flood Risk.

### **REASON**

To reduce the risk of flooding to the proposed development and future occupants, and prevent flooding elsewhere by ensuring that compensatory storage of flood water is provided.

### **NOTE TO LPA**

The Council's Emergency Planners should be consulted in relation to flood emergency response and evacuation arrangements for the site. We strongly recommend that the applicant prepares a Flood Warning and Evacuation Plan for future occupants. The Local Planning Authority may wish to secure this through an appropriate condition. We can confirm that the site does lie within a Flood Warning area. The Environment Agency does not normally comment on or approve the adequacy of flood emergency response and evacuation procedures accompanying development proposals, as we do not carry out these roles during a flood. Our involvement with this development during an emergency will be limited to delivering flood warnings to occupants/users.

### **Wilton Flood Alleviation Scheme (FAS)**

Our plans for improvements to the Wilton Flood Alleviation Scheme (FAS) remain live. At present we are carrying out scheme design work, with construction of the low flood defence embankment and other associated works planned to be carried out sometime in the next

couple of years.

The low embankment will tie in to the existing development (existing external wall of a building), hence during re-development of the site, when this building wall will be demolished, there will be a requirement for the developer to make good the low bund and tie it to the proposed road 'raised table' in close proximity to proposed plots 33 & 15, as shown on Figure 5 in Appendix 3 of the Supplementary Report on Flood Risk (Wallingford HydroSolutions Ltd, December 2012).

The penstock at the upstream end of the bypass channel is an Environment Agency owned and operated structure and shall be retained under the development proposal as previously agreed. **We recommend an amendment to the proposed site plan because at present the penstock is positioned at the left bank of the leat channel and does not appear to be shown.** We highlighted this in previous correspondence but as far as we can tell no amendments to the proposed site plan(s) have been made to reflect the position of the existing penstock.

If the applicant wishes to discuss our proposed improvements to the Wilton FAS or arrangements at the penstock (as described above) in any more detail, in the first instance please contact Aysha Musson, FCRM Officer, Asset Performance Team, aysha.musson@environment-agency.gov.uk, Tel: 02030259281.

The applicant's attention is drawn to the requirement to obtain an environmental permit before commencing demolition or construction work at the site. The informative below details this requirement:

#### INFORMATIVE

In addition to any other permission(s) that you may have already obtained, e.g. planning permission, you may need an environmental permit for flood risk activities (formerly known as Flood Defence Consent prior to 6 April 2016) if you want to carry out work:

- in, under, over or near a main river (including where the river is in a culvert)
- on or near a flood defence asset (penstock, embankment, wall, or other flood defence structure) on a main river
- in the flood plain of a main river

For further information and to check whether a permit is required please visit:  
<https://www.gov.uk/guidance/flood-risk-activities-environmental-permits>

For any further advice, please contact your local Environment Agency FRA Permitting Officer, daniel.griffin@environment-agency.gov.uk / yvonne.wiacek@environment-agency.gov.uk

#### NOTE TO LPA:

Please consult the flood risk management team at the Council, in their role as the Lead Local Flood Authority (LLFA), to seek their comment in respect of surface water drainage.

#### Water Efficiency and Climate Change

The incorporation of water efficiency measures into this scheme will provide resilience to some of the extremes of weather conditions that climate change brings. It benefits future residents by reducing water bills, and also benefits wider society by allowing more water to go round in times of shortage. The following condition has been supported in principle by the Planning Inspectorate.

#### CONDITION

No development approved by this permission shall commence until a scheme for water efficiency has been submitted to and approved in writing by the Local Planning Authority.

The scheme shall be implemented in accordance with the agreed details.

#### REASON

In the interests of sustainable development and climate change adaptation.

#### INFORMATIVE

The development should include water efficient systems and fittings. These should include dual-flush toilets, water butts, water-saving taps, showers and baths, and appliances with the highest water efficiency rating (as a minimum). Greywater recycling and rainwater harvesting should be considered.

An appropriate submitted scheme to discharge the condition will include a water usage calculator showing how the development will not exceed a total (internal and external) usage level of 110 litres per person per day.

#### NOTE TO LPA

By ensuring that any scheme submitted meets the standards given above you do not need to consult the Environment Agency on discharging the above condition.

#### Construction Environmental Management Plan (CEMP)

#### CONDITION

No development approved by this permission shall be commenced until a Construction Environmental Management Plan, incorporating pollution prevention measures, has been submitted to and approved by the Local Planning Authority. The plan shall subsequently be implemented in accordance with the approved details and agreed timetable.

#### REASON

To prevent pollution of the water environment

#### INFORMATIVE

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

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

#### **Historic England –**

**(S/2003/1016)** This site has been subject to extensive consultation and advice with Historic England and its predecessor English Heritage. We are aware that no decision has been made on the application S/2003/1016 which is now being considered with some minor amendments and that the consent for demolitions of buildings in the Conservation Area (granted under application no: S/2003/1017) has now expired as confirmed by Wiltshire Council. I am aware that English Heritage provided three separate letters of advice on the scheme in 2003 and 2004 however these do not appear to be on the Council's website and I do not have a copy to refer too. As such these comments are made afresh based on the information provided. It has also not been possible to make a site visit to date, but it may be useful to undertake one at a future date.

More recent correspondence with Historic England (Previously English Heritage) in April 2016 by my colleague Caroline Power advised that the application did not provide sufficient assessment of justification to support the proposals which will have an impact on the Conservation Area and buildings which could be considered positive contributors to the Conservation Area and non-designated heritage assets in their own right.

The applicant has now submitted two documents aimed at providing the required level of justification; A Heritage Assessment by Elaine Milton and a Report on the Viability of the Conservation by Savills. The Heritage Assessment concludes that Building 4 provides a positive contribution to the Conservation Area and that its demolition would result in 'less than substantial harm' to it, while the viability study continues to fail to assess the viability of re-using this building within the context of the scheme as a whole. Our initial objections to the proposals are therefore outstanding.

### **Heritage Assessment and Potential Impact of Proposals on Significance**

The Heritage assessment provided by Elaine Milton is a thorough and helpful document that provides an understanding of the individual merits of each building on the site and their contribution to the surrounding Conservation Area. Elaine identifies building 4 within the site as being of local interest and making a positive contribution to the Conservation Area, a statement that Historic England agrees with. We further suggest that the overall industrial character of the wider site plays a part in understanding the development, use and interaction between this part of the Conservation Area and the predominantly residential character that surrounds it. We are therefore concerned that the proposal being put forward does not give sufficient weight to this contribution or attempt to reflect or preserve it within the new scheme. This may result in an overall scheme that fails to 'better reveal their significance' (Para. 137 & 138 NPPF). Wiltshire Council may consider Building 4 to also be a non-designated heritage asset. As such, paragraph 135 of the NPPF states that 'the effect of an application on the significance of a non-designated heritage asset should be taken into account in determining the application. In weighing the applications affect directly or indirectly non designated heritage assets, a balanced judgement will be required having regard to the scale and any harm or loss and the significance of the heritage asset'.

The Heritage Assessment concludes that the loss of Building 4 would result in 'less than substantial harm' to the Conservation Area. We agree with this assessment and therefore it is necessary for the proposals to fulfil the requirements in paragraph 134 Paragraph 134 of the National Planning Policy Framework (NPPF) which states that '*Where a development proposal will lead to less than substantial harm to the significance of a designated heritage asset, the harm should be weighed against the public benefits of the proposal, including securing its optimum viable use.*'

Given the level of potential harm identified it is essential that Wiltshire Council are confident that the viability and optimum viable use of the building has been appropriately considered, alongside whether the public benefits of the scheme outweigh the harm being caused. At present Historic England is not convinced that this is the case.

### **Viability Assessment**

The application attempts to justify the proposed demolition of Building 4 on the grounds of cost of conversion and viability. Historic England is concerned that the 'Report on the

Viability of Conversion' provided by Savills only considers the cost of conversion of Building 4 in isolation, rather than within the wider development of the site as a whole. We would advise that the scheme as a whole needs to be reassessed in light of the historic interest and positive contribution this building makes and that appropriate consideration is given to alternative schemes and uses that may make its retention possible.

Any revised scheme should also better assess the way in which the history of the site can continue to play a role in the new developments future, ensuring that the industrial character it lends to the conservation area is reflected or understood in some way. Assumptions made in the Viability Report, including that the' ground floor levels do not meet the EA's requirement for sage access' should be further investigated or confirmed.

## **Recommendation**

The additional information provided goes some way to providing a better understanding of the individual buildings on the site and their contribution to the wider Conservation Area. It recognises that the demolition of Building 4 will cause 'less than substantial' harm to the overall conservation area. Additional to this we would suggest that the residential scheme being proposed in replacement of the existing industrial scheme fails to consider the contribution that the character of this industrial site within a predominantly residential area makes to a wider understanding of the Conservation Areas Development and the interactions and relationships between the buildings in it.

Given the extent of harm being proposed Wiltshire Council must be confident that the application provides a robust justification and that the benefits of the scheme outweigh that harm. Historic England is concerned that alternative schemes may be possible and that the Viability Assessment provided with the scheme fails to consider the re-use of Building 4 within the wider context of the whole site, thereby diminishing its ability to provide adequate justification.

Given the length of time that has passed since the initial application was submitted and the the change in planning legislation that has been implemented the site should be reviewed afresh in order to find proposals that better attempt to 'preserve and enhance' the character of the Conservation Area.

**(16/07192/ful)** Having received Savills Report on the 'Retention Versus Replacement of Building 4', November 2016, we wish to raise a number of questions which require clarification before the decision to demolish Building 4 can be taken.

Whilst the case has been put forward stressing the unviability of retaining Building 4, there has been no assessment or confirmation that the demolition and rebuilding of this element of the wider scheme is in fact a more viable option, taking into account the Environment Agency's flood defence requirements for the new build. We remain unconvinced that the complete rebuilding is the only viable option available. The report states throughout that the later extensions will be removed as insignificant elements of this historic asset, thereby reducing its floor space - can appropriate new additions be made to Building 4 to retain and enhance its usability whilst providing a more attractive floor space offering.

Additionally we question whether the full extent of repair and structural alterations is necessary, as well as the accuracy of the sales values. We recommend that these are

verified by a quantity surveyor experienced in dealing with historic structures before the validity of the report is accepted. Only once these issues are fully examined can an accurate planning balance be considered to determine the building's retention.

### **Highways England – No objections**

#### **The Victorian Society –**

Thank you for consulting the Victorian Society on this application – I apologize for the slight delay in responding to you. Having looked through the submitted documentation, we wish to register our objection to the proposals. We fully endorse the comments made by Historic England in their submission to you of 5 September 2016 and would also be pleased to be re-consulted when new information is forthcoming.

#### **Wiltshire housing –**

We can confirm that there is an affordable housing need in Wilton and surrounding areas and can advise that a 40% on-site affordable housing contribution at nil subsidy would be sought from the proposals in line with policy approaches. As this outline application is proposing 61 new residential dwellings, this would equate to 24 dwellings being required for affordable housing. On this site we would expect a tenure mix of 60% (14) affordable rented units and 40% (10) shared ownership units.

#### **Wiltshire Education –**

PRIMARY CONTRIBUTION REQUIREMENTS: Current Primary cost multiplier = £16,979 per place

We require a developer contribution of 16 places x £16,979 = £271,664 (to be index linked) on this application, towards expansion of primary places provision at the new Fugglestone Red Primary School.

SECONDARY CONTRIBUTION REQUIREMENTS: Current Secondary cost multiplier = £21,747 per place

- We require a developer contribution of 11 places x £21,747 = £239,217 (to be index linked) on this application, towards expansion of secondary places provision at Sarum Academy.

#### **Wiltshire Council public protection –**

##### 1 BS4142 Assessment

The assessment makes predictions of noise levels from equipment used at C&O Tractors which is adjacent to plots 45 and 46. Unfortunately the results of the BS4142 assessment indicates there would be a significant adverse impact at proposed residential properties from activities such as chainsaw testing; tractor testing; pressure washers; forklift operations and hammering metal. The results of the assessment of these activities are not borderline, are all more than +10dB over the typical background noise level some as much as 24-26dB higher; this is a very significant result. While it is accepted these activities are not continuous and may not be that frequent we cannot recommend permission is approved when the results of the noise impact assessment indicate there could be a significant adverse impact. Sound

levels like this are also likely to give rise to complaints. If this department was to receive complaints from any future residents about noise from C&O Tractors we would have a duty to investigate under the provisions of the Environmental Protection Act 1990. If evidence of a statutory noise nuisance was gained we may have to take formal action against C&O Tractors.

## 2 Mitigation measures

The discussion in section 8 indicates that these sound levels can be overcome with the use of acoustic glazing. While this may be the case for internal space if the windows are closed, residents are entitled to open their windows and if they did so the protection of the glazing would be lost. At that point noise from these activities would likely be intrusive within their properties and sound levels would be above those recommended in BS8233:2014. It may be possible to change the layout and move properties further from C&O Tractors; arrange these properties so that the windows facing C&O Tractors are not habitable rooms and/or the windows could be sealed closed. Sealing windows is not an ideal solution; ideally the residential properties would be further away from C&O Tractors and/or the noise would be mitigated at source.

## 3 External Amenity Areas

Glazing will not help protect external amenity areas. Residents may also complain about noise impacting on them in their gardens. Although I don't believe it is currently included in the design, even with a 1.8m high wall around the gardens noise from C & O Tractors will still be more than 10dB above background. This will be a difficult problem to overcome.

## 4 Recommendation

The assessment tries to argue that some weeks may be quiet and C&O Tractors and some weeks busy. While this may be an attempt to demonstrate the impact will be low this actually increases our concerns. Prospective residents may view the houses on a quiet week and not appreciate the house is adjacent to an agricultural engineering company. They then move in and are surprised to find they are disturbed by very loud noise when C&O Tractors is busy.

Section 8.3 of the report highlights how the NPPF requires noise impacts to be mitigated and new developments not place unreasonable restrictions on continuation of existing businesses. If this development was to go ahead as currently proposed the evidence indicates that the proximity of residential properties to C&O Tractors may well result in restrictions being placed on C&O Tractors in the future; particularly if formal action has to be taken under the Environmental Protection Act 1990.

As a way forward we recommend the applicant reconsider the layout and design of dwellings in this corner of the site. There may be scope for moving dwellings further away from C&O Tractors or creating a layout that results in the buildings themselves creating a noise barrier. Ideally noise would be mitigated at source if possible. If the rear door at C&O Tractors is the main cause of noise escape perhaps some discussion around this could take place with C&O Tractors.

As it currently stands we have a noise assessment that indicates a significant adverse impact, we therefore have to recommend refusal of this application. It is recommended the



applicant investigate how good acoustic design can be used to mitigate these noise levels so that there is not predicted be an adverse impact on residential amenity.

#### 5 Flue at C&O Tractors

While visiting the site it was noted there is a flue sticking out of the roof of C& O Tractors, picture attached. We would like to know what this flue is connected to and what it is used for. Emissions from this flue has the potential to impact at the development site.

#### 6 Other noise matters

As previously mentioned, if permission is ultimately approved it is likely we will recommend conditions regarding construction and demolition; control over the A1/B1 units such as hours of use; deliveries; lighting and noisy plant. It would be beneficial if the applicant could provide some proposed hours of use/delivery for the commercial units to inform our recommendation.

#### **Wiltshire Council highways –**

This application, dating from 2004, is unusual insofar as it has previously been resolved to approve subject to the completion of a s106 agreement.

The submitted transport statements, which update the 2003 TA submission, adequately demonstrates that local traffic impacts will not be severe, because of the off-setting effects of the traffic associated with existing uses of the site. The proposals will actually re-focus the main traffic activities away from Crow Lane and onto Castle Lane, which is now an adopted highway where it serves the site.

The internal road layout is very tight, but not significantly changed from the previously deemed satisfactory arrangement.

Whilst I would not wish to stand in the way of the redevelopment of the site, it will be necessary for all the previous requirements to be completed. Works are proposed on the highway at Crow Lane and Castle Lane, and a s278 agreement will be required to ensure that these are undertaken in the public interest. It is not considered necessary to restrict movements on Crow lane, despite its obvious constraints for the movement of two way traffic. Service vehicles, such as refuse lorries, will have some difficulties in accessing parts of the site, and formal restrictions for parking may be necessary on any adopted lengths of road within the site, to ensure that obstruction is minimised.

I have no objection to the development subject to a planning agreement and the following conditions, which are more extensive than previously proposed.

#### Planning Obligations

To secure a financial contribution towards the making of a traffic regulation order to help to ensure the estate road network is not obstructed by parked vehicles.

Advisory: Works in Crow Lane and Castle Lane will be dealt with under the provisions of a s278 agreement.

#### Conditions

No development (including any demolition) shall take place until the strengthening works to the watercourse road bridge at the junction of North St/Castle Lane has been completed in accordance with details which shall first have been submitted to and agreed with the local planning authority.

REASON: In the interests of highway safety.

No building on plots 1 –14 or plots 101-110 shall be occupied until the proposed alterations to Crow Lane have been completed in accordance with details which shall first have been submitted to and approved by the local planning authority

REASON: In the interests of highway safety.

No dwellings served from Castle Lane shall be occupied until alterations to Castle Lane have been completed in accordance with details which shall first have been submitted to and approved by the local planning authority

REASON: In the interests of highway safety.

One of the footbridges connecting the north-east and south west parts of the site, together with connecting footpaths shall be available for use before the occupation of more than 25 dwellings; the bridge and paths shall be in accordance with details which shall first have been submitted to and approved by the local planning authority.

REASON: To ensure adequate accessibility within the site and to encourage sustainable travel

No dwelling shall be occupied until the footbridge immediately to the north west of the site has safety guardrails ( or similar) installed and the footpath has been resurfaced. The works shall be undertaken in accordance with drawings which shall first have been submitted to and approved by the local planning authority

REASON: In the interests of pedestrian safety for users of the footpath originating from the site.

No development shall commence on site until details of the estate roads, footways, footpaths, verges, junctions, street lighting, sewers, drains, retaining walls, service routes, surface water outfall, vehicle overhang margins, embankments, visibility splays, accesses, carriageway gradients, drive gradients, car parking and street furniture, including the timetable for provision of such works, have been submitted to and approved by the Local Planning Authority. No dwelling shall be first occupied until the estate roads, footways, footpaths, verges, junctions, street lighting, sewers, drains, retaining walls, service routes, surface water outfall, vehicle overhang margins, embankments, visibility splays, accesses, carriageway gradients, drive gradients, car parking and street furniture on roads serving that dwelling have all been constructed and laid out in accordance with the approved details, unless an alternative timetable is agreed in the approved details.

REASON: To ensure that the roads are laid out and constructed in a satisfactory manner

All car parking spaces provided on the site shall be used only for the parking of motor vehicles and for no other purpose.

REASON: To ensure that an adequate provision of car parking is made on the site and available for use.

Prior to the commencement of the development a Construction Traffic Management Plan shall be submitted to and approved by the local planning authority. The Plan shall include details of arrangements for dealing with the demolition and removal of waste from the site, and the delivery of goods to the site (including local temporary signage for both operations), provision of parking for site operatives, the proposals for keeping local roads free from detritus, and proposals to address matters arising through the provisions of Highways Act s59. The development shall be undertaken in complete accordance with the agreed details.

REASON: In order to ensure that demolition and construction operations do not unacceptably interfere with traffic conditions in Wilton town centre.

The development hereby permitted shall not be first occupied, until the cycle parking facilities shown on the approved plans have been provided in full, including the provision of stands which prevent the spaces being used by cars, and made available for use. The cycle parking facilities shall be retained for use in accordance with the approved details at all times thereafter.

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

No development shall commence on site until a Travel Plan has been submitted to and approved in writing by the Local Planning Authority. The Travel Plan shall include details of operational and monitoring proposals and shall be implemented in accordance with these agreed details. Monitoring reports shall be made available to the Local Planning Authority on request, together with any changes to the plan arising from the Plan targets not having been achieved.

#### **Wiltshire Council archaeology –**

It is recommended that a programme of archaeological works, in the form of an archaeological watching brief, is carried out during any demolition works.

Therefore in line with the NPPF (2012), PPS5 (2010) and the earlier Planning Policy Guidance Note 16: Archaeology and Planning (DoE 1990) the following recommendations are made:

Recommendation: Full condition

No development shall commence within the area indicated (proposed development site) until:

- A written programme of archaeological investigation, which should include on-site work and off-site work such as the analysis, publishing and archiving of the results, has been submitted to and approved by the Local Planning Authority; and
- The approved programme of archaeological work has been carried out in accordance with the approved details.

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

Further Recommendations: The work should be conducted by a professional recognised archaeological contractor in accordance with the written scheme of investigation agreed by this office and there will be a financial implication for the applicant.

### **Wiltshire council public art –**

Public art would be in line with Core Policies 3 (Infrastructure Requirements) and 57 (Ensuring high quality design and place shaping) of the Wiltshire Core Strategy and the guidance note (attached) that we have been developing for a more cohesive countywide approach to art and design in the public realm (or public art). This is also supported by the PPG which states that “Public art and sculpture can play an important role in making interesting and exciting places that people enjoy using.”

Art and design in the public realm will help to mitigate the impact of development by contributing to good design, place-shaping, infrastructure and engage communities with the development and is listed within the Planning Obligations SPD.

An indicative contribution figure would be £300 per dwelling and £3 per square metre or commercial/non-residential land. Ideally this would be given to the council prior to commencement of the development towards integrating the work of artists.

**Dorset and Wiltshire Fire and Rescue –** Objects to the proposal. The objection can be overcome with the imposition of a suitable condition requiring the installation of fire hydrants.

### **8. Publicity**

Members should note that some representation letters support the development in principle but raise a number of detailed issues as follows -

#### **26 letters of objection raising the following points-**

- A) Considers that there are mistakes and inaccuracies in the heritage statement in that the nearest listed building is located next to the former coachworks.
- B) Has the structural integrity of the roads been tested for construction and other traffic?
- C) Has there been any road traffic survey other than the one in 2003 as traffic has increased significantly in that period.
- D) Concerns expressed about blocking out daylight to the neighbouring window from the new commercial buildings on North street also about access to maintain the adjacent property.
- E) There would be the loss of four parking spaces on North Street, considers that the parking provision does not meet the Wiltshire Council guidance.
- F) Questions if there is really any need for more retail units on North Street as existing units are already empty on the street.

- G) Concern about the loss of building 2, considers alternative uses should be considered for building 2 as it is part of the heritage of Wilton.
- H) Consider that emergency vehicles including fire engines and ambulances could not reach the site.
- I) Consider that the proposed apartment building should be no higher than the existing building to be demolished and should only be three storeys in height. The proposed building would have the ability to affect the amenity of the adjacent Moat House.
- J) Dislike of the glass stairway on building 2 which it is considered does not fit with the character of the area. It would also cause light pollution when lit.
- K) Considers that placing a large block of flats in a flood risk area with narrow street access is a health and safety concern.
- L) Considers that the loss of building 4 would do substantial harm to the Wilton Conservation area.
- M) Pointed out that the site River and its tributaries which surround the site are designated as a SSSI.
- N) Concern is expressed by residents about flooding as they are paying a lot more money for their house insurance because their property is in a flood plain.
- O) Concern that traffic will increase as it has with the building of new houses in Wilton Avenue.
- P) Objection to buildings 2, 4, 7 and 9 as these are buildings that are inextricably linked to the industrial heritage of Wilton. Does not consider that the proposals to replace these buildings will enhance the conservation area. Notes that Wilton town council also objected to the loss of these buildings.
- Q) Surveys should be carried out of buildings in the surrounding area to ensure that building works on the site do not damage neighbouring properties.
- R) Costs in relation to the retention of building 2 should also be provided as well as building 4. Grant funding should be explored in relation to the historic buildings on the site.
- S) Considers that there is an error in the red line on land that is included in the public highway and that there is no possibility of increasing the width of the road immediately adjacent 52 and 53 North Street.
- T) Queries what precautions will be in place to prevent residents from the toxicity of asbestos removal?
- U) Access from Crow Lane is inadequate. There are now five further properties that weren't there in 2003 and these now need to be considered.
- V) North Street only must be used for construction and not Crow lane because of the traffic impacts of construction vehicles.
- W) Recommend that the existing proposal is reduced by 20% to take account of the increase in traffic and inadequate parking in the area.
- X) Regret that there is no connection to the community centre at the rear of the site.
- Y) There is no provision for a children's play area.
- Z) The Weed catcher in the river is dangerous and needs removing.

**CPRE** - The proposals include a loss of several buildings that retain Wilton's industrial heritage; this would be detrimental to the conservation area. It would be better for these to be converted sensitively. It is evident that the Heritage statement ignores several listed buildings close too or bordering the site.

Other doubts concern flooding, parking and especially ingress/egress; Crow Lane seems to be too narrow. For all these reasons, the proposal should be revisited.

### **Salisbury Civic Society –**

The Society understands the arguments presented for demolition and accepts there is justification of financial viability presented, but nonetheless regrets the loss of the more prominent historic structures on the site. It is fully recognized that there are public benefits to the site's redevelopment, but the question of ultimate viability must surely be limited only by net worth of the site following redevelopment. We would encourage the Council to consider whether factors such as Section 106 contributions could be negotiated that might allow a compromise situation in this particular instance, to help mitigate the negative impact of costs. Were a suitable proposal for development, retaining one or two of the larger character buildings on this site, be possible for less profit that would ultimately be to the cultural and environmental benefit of the Wilton's Conservation Area and the community, this opportunity should be fully explored.

### **Wilton and District business Chamber –**

Although it could be argued that removing the commercial traffic on the accesses during weekly business hours would alleviate the problem of pedestrian versus, the development of 61 houses would generate more traffic in and out of the site on a 24-hour, seven days a week basis, possibly 100 traffic movements a day, including deliveries and other service vehicles, in both directions on a single-carriageway lane.

This will cause demonstrable harm to the area and to the shoppers and schoolchildren using the lane.

For this reason we object to the development as the site is unavailable for housing development on this scale until a suitable ingress and egress can be agreed that meets modern traffic requirements. Suggests using an access through the C and O tractors site. If permission is granted, a Section 106 Agreement must show benefits to the town, its community, and the area surrounding the site, including the Town Council's interest in the pavilion and playing field, and the natural environment bordering the site, and the Castle Lane access.

## **13 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 site is previously developed land directly adjacent to the town centre in Wilton, however in terms of the Wiltshire Core strategy it lies outside the defined limits of development on the policy map as such Core policy 2 of the Wiltshire Core strategy is important this states that housing will be developed within the defined limits of development and there is a

presumption in favour of such development within the defined limits. Outside of these defined limits, (as this site is) development will usually only be allowed, where other policies in the local plan allow for it or through subsequent site allocation DPD's.

None the less there are important considerations here which weigh in favour of the principle of redevelopment which are that the site is very closely bound to the town centre of Wilton and effectively forms part of the fabric of the town as a brownfield site. It should be borne in mind that had it not been for various legal issues originally effecting the signing of the S106 agreement, the site could already have been built on for housing following Western area committee's original resolution on the application. The site is brownfield where the government through the NPPF is encouraging housing. It is a relatively sustainable location so close to Wilton town centre with easy access to all the facilities in the town centre, as such 61 new dwellings will help to maintain the economic viability of the town centre.

It is therefore considered that the principle of developing on this brownfield site close to the town centre is acceptable subject to the other issues which are discussed in the rest of this report below.

### **Affordable Housing**

The council's current policy, Wiltshire core strategy policy 43, requires a 40% provision of affordable housing on a site of this size. The councils housing officer has stated that –

*We can confirm that there is an affordable housing need in Wilton and surrounding areas and can advise that a 40% on-site affordable housing contribution at nil subsidy would be sought from the proposals in line with policy approaches. As this outline application is proposing 61 new residential dwellings, this would equate to 24 dwellings being required for affordable housing. On this site we would expect a tenure mix of 60% (14) affordable rented units and 40% (10) shared ownership units.*

At present the applicant considers that the site would not be viable to provide affordable housing and therefore no affordable housing is proposed to be provided. Members should note that if it were resolved to approve the application further work would be carried out by the applicant on the viability issues and this may allow for some form of affordable housing. This is not currently proposed as part of the application.

### **Employment –**

The primary policy of the Wiltshire Core strategy relating to existing employment sites and their redevelopment is policy CP35 this states that -

*Wiltshire's Principal Employment Areas (as listed in the Area Strategies) should be retained for employment purposes within use classes B1, B2 and B8 to safeguard their contribution to the Wiltshire economy and the role and function of individual towns. Proposals for renewal and intensification of the above employment uses within these areas will be supported.*

*Within the Principal Settlements, Market Towns, Local Service Centres and Principal Employment Areas proposals for the redevelopment of land or buildings currently or last used for activities falling within use classes B1, B2 and B8 must demonstrate that they meet, and will be assessed against, the following criteria:*

*i. The proposed development will generate the same number, or more permanent jobs than could be expected from the existing, or any potential employment use.*



- ii. Where the proposal concerns loss of employment land of more than 0.25 ha in the Principal Settlements, Market Towns or Local Service Centres it is replaced with employment land of similar size elsewhere at that settlement.*
- iii. It can be shown that the loss of a small proportion of employment floorspace would facilitate the redevelopment and continuation of employment uses on a greater part of the site, providing the same number or more permanent jobs than on the original whole site.*
- iv. The site is not appropriate for the continuation of its present or any employment use due to a significant detriment to the environment or amenity of the area.*
- v. There is valid evidence that the site has no long term and strategic requirement*

*to remain in employment use; the ability of the site to meet modern business needs must be considered, as well as its strategic value and contribution to the local and wider economy both currently and in the long term. It must be shown that the site is no longer viable for its present or any other employment use and that, in addition, it has remained unsold or un-let for a substantial period of time (at least 6 months), following genuine and sustained attempts to sell or let it on reasonable terms for employment use, taking into account prevailing market conditions.*

- vi. The change of use is to facilitate the relocation of an existing business from buildings that are no longer fit for purpose to more suitable premises elsewhere within a reasonable distance to facilitate the retention of employment.*

Wilton is a local service centre and as such the policy applies to this site, although the site provides for two B1 uses and a retail use on the redeveloped site, the majority of the site will no longer be in employment use. The loss of this employment use will however bring environmental benefits in terms of noise and disturbance to surrounding residents from what is an existing B2 use on the site, were it to intensify. In addition it will see the removal of larger trucks and lorries in the long term from the narrow lanes that currently access the site. Buildings at the corner of Crow Lane have been struck in the past and the roads that must be traversed to reach this site are narrow and contain historic buildings. Many of the buildings on the site are unsightly. The proposal has the potential to bring considerable visual benefit to the conservation area as well as the reduction in HGVs in its streets.

There are also ecological benefits. The river running through this site forms part of the river Avon system which is a SAC and SSSI. It is currently in a concrete sided channel for much of its length and a small section is culverted. Trees will be opened up to provide sloping riverbanks and will be planted with ecologically suitable species. Which will enhance the habitat of the river corridor. The poor access for commercial vehicles makes the site unsuited for significant commercial use.

Therefore whilst it does not meet all the criteria of the above policy it is considered that there are sufficient grounds to balance the loss of employment against other matters which weigh in support of the proposal.

## **Conservation**

The site lies within the conservation area. Its current character is industrial and this has traditionally been an industrial site. Most of the buildings on the site are unsightly and of poor quality, but there are two of aesthetic value. One is a 1920s red brick warehouse, the other in a 19th century brick former mill building with Bath Stone dressings. This latter building was listed, and then de listed in 1999. Its chimney (from when it was converted to stream) has since been removed and the rear of the building contains extensions which have had a deleterious effect on its main structure. Nevertheless this is an attractive building in the

conservation area, which should ideally (in the terms of the NPPF) be converted rather than demolished. It is what is now termed a heritage asset despite it not being listed and therefore must be considered as part of this application.

In 1999 permission was given for demolition in the context of an industrial redevelopment, as the building was not economic to convert for employment purposes. It is in poor condition. The levels on the site means that the grounds floor could not be converted to residential or commercial accommodation because it would be at risk from flooding unless the floor levels were substantially raised, which would be seriously detrimental to its character. Owing to the importance of this building in the context of the CA (and because it contains a bat roost) the applicants were required to demonstrate that it would not be financially viable to convert to residential use with parking on the ground floor.

This they have done. English Heritage (and the councils conservation officer) remain concerned about the loss of this heritage asset and members will see from English Heritage's comments at the top of the report that they maintain they're objection to the proposal to demolish this building.

The development as proposed, although in outline, has layout, siting, and means of access as details to be approved now. It also has a design statement to set the detailing of future buildings and has detailed plans of the building on North Street and the apartment block to be sited on the 'island' to replace the brick 1920s building currently on the site. (Which it follows in design). The layout is predominantly terrace housing, as reflects the character of the North Street area of Wilton but with apartment blocks to reflect the 'chunkier' industrial aesthetic of the site. It is considered, overall to present an aesthetic enhancement to the character of the conservation area and to comply with policy 58.

## **Design**

The design remains largely unchanged from that which was previously shown to the Western area committee of Salisbury District Council. The comments of the case officer at the time of that application therefore remain pertinent –

*The layout and siting of houses are for current approval, with the actual detailing of each individual house to be considered as a reserved matter. Nevertheless a design statement has been provided and it is considered that the applicants have taken into account the context of the site, its views and its linkages.*

*There is a footpath link through the site to Flouse Hole and some dwellings are designed to face the recreation ground to provide an improved visual backdrop to the current industrial buildings and to link it in with the settlement. In the centre of the site a clear view is provided between the playing field and Wilton Church. It had been hoped to provide a pedestrian link through but this was unacceptable to the Community Centre.*

*Vehicular access to the site is split between Crow Lane and Castle Lane but there is an emergency link between and a pedestrian link. There will be highway improvements to Crow Lane (pavements and bollards), which should improve its appearance.*

*The proposal is therefore considered to comply with policy D1 Detailed designs have been submitted for 51- 53 North Street, revised from those considered by the Architects Panel. There will inevitably be conflict between the conservation ideals and highway safety and the scheme put forward now is essentially a compromise. The scheme does not turn the corner for reasons of pedestrian safety but reflects the corner treatment of other buildings in North Street that present a gable end to the side road or stream. As this will be the main access to the site (particularly for construction vehicles) it is important to be able to turn out of Castle Lane without damage to property or pedestrian safety. The build out of the kerbs (which need a different aesthetic treatment from the main footway) will assist this. It is therefore considered that the proposal complies with policy D1.*

Clearly policy has moved on in that time and there has been the introduction of the NPPF (and accompanying NPPG) at a national level and the adoption of the Wiltshire Core Strategy and Creating Places Design guide at a local level. The Wiltshire core strategy has introduced Core policy 57 which has similar aims to that of the saved policy D1 of the former Salisbury District local plan. Policy 57 seeks to ensure a high quality of design and place shaping which it is considered this proposal continues to achieve. The policy outlines a number of criteria, that such development must meet and it is considered that this proposal meets these criteria.

### **Highways, access, traffic, parking & public transport**

A Traffic Impact Assessment was submitted with the original application and this has been updated with a supplementary traffic assessment for this application

Although this site may generate more traffic in total when redeveloped, this will be mainly cars rather than commercial vehicles as at present. The impact shows an improvement in Crow Lane (currently the only access to the site that is utilised) but a significant increase in Castle Lane.

However, it should be remembered is that an access to the site in Castle Lane exists which could be utilised if a more intensive industrial use took over the site.

Although the TIA has been criticised by objectors, The Highways Agency raise no objection to the development in the context of impact on the A36 and the councils highways officer consider's the development to be acceptable subject to a number of offsite works being carried out.

These are:

*Strengthening and improvement to the bridge at the Castle Lane/North Street junction.*

As it is necessary to carry this work out before development of this site (and indeed before demolition which could attract heavy vehicles) Temporary traffic orders would be needed whilst the work takes place, which the developer would have to fund. This can be achieved by a Grampian condition requiring the works to be done before commencement of development.

*Works to the footpath to the north west of the site.*

The bridges require safety improvements for children and the path needs resurfacing. WCC originally required reconstruction of the bridges as it provides a shortcut to Wilton Middle School.

However this school has now closed It is therefore considered reasonable only to ask for improved surfacing to the footpath, and safety railings at the side of the bridge to encourage use of the footpath for recreational purposes and to provide a link to the Ditchampton area.

*Works to Crow Lane*

This is to improve pedestrian safety at the entrances and provide traffic calming in the centre by raised paved areas. It is considered this should be carried out before those dwellings that are to be served by Crow Lane are occupied and can be achieved by Grampian condition.

The use of the site for employment purposes is hampered by the poor access to the site. Both Crow Lane and Castle Lane lack footways in part and are narrow. This limits the size of vehicles that can be used and it makes its redevelopment for employment purposes an unattractive and unrealistic proposition. Whilst the width of Crow Lane limits what can be achieved to traffic calming measures (it is to remain two way); the demolition of Wilton coachworks facilitates the widening of the entrance to Castle Lane, the provision of a footway on the southern (stream) side and improved radii to the junction. Sightlines will be maintained by build outs at the junction in North Street to prevent parking close to the corners of the road, which currently occurs. Castle Lane is not wide enough for two-way traffic along all its length and so the single carriageway part will be defined by a raised shared surface table as a traffic-calming feature. There will be a need to protect the Ash Tree adjacent. This will improve access sufficiently for highways to consider it suitable

to serve the development proposed providing it is done first. It will also improve the existing vehicular access to the playing field and pavilion. Castle Lane will then be to adoptable standards.]

Within the site, the layout complies with the councils adoptable standards, parking is provided to an overall ratio of 1:5 per unit though with 2 spaces per dwelling for the 3 and 4 bedroomed dwellings whose occupants are more likely to have two cars. The road widths (which are to adoptable standards) are sufficient to permit casual on street parking in places.

### **Other Infrastructure – sewerage, surface water drainage**

Wessex Water previously agreed a sewerage scheme with the developer, which discharges to the existing sewers to the north and south of the site. By splitting the outflow in this manner, Wessex Water consider there is adequate capacity. Local objectors have raised sewerage as an issue and the need for a sealed system. There will be the advantage of getting rid of the old system on the site and its replacement by new. A condition is proposed that this be designed to prevent ingress of groundwater into the foul system. Wessex Water raise no objection to this application.

### **Effect on SSSI & SAC**

An Appropriate Assessment has been carried out by the council's qualified ecologist. The appropriate assessment shows that there will be no significant detrimental effect on the special area of conservation, providing appropriate conditions are imposed in respect of contaminated land, method statements for demolition and construction incorporating measures to protect the watercourse, landscaping to ensure suitable species on the banks, surface water drainage to SUDS if possible, improvement to river channel and the protection of water voles.

The scheme has the potential to enhance the ecology of the river corridor by removal of concrete channel sides and appropriate planting.

The one area where there is potential to cause detriment is by increased water abstraction arising from a significantly higher water demand, However Wessex Water previously advised they have adequate capacity and a condition requiring water saving features in the detailed house design is acceptable to the EA.

### **Environmental Health Issues**

As can be seen from the above comments of the councils public protection officers they have concern that noise and disturbance from the C and O tractors site may affect the amenity of residents in this corner of the site, however officers (and the applicants agent) consider that by ensuring that no habitable windows directly face the direction of this site and by ensuring that the correct glazing and ventilation is used on windows in this corner of the site this particular issue can be overcome with the use of conditions. A suitable condition has therefore been proposed at the end of this report.

51 –53 North Street were last used as a B8 at the front, although this was some considerable time ago. North Street shares a boundary with the site and therefore the proposed uses of shops with B1 and a flat over are more compatible with the adjacent residences than the existing uses. There are therefore environmental benefits arising from this proposal. However, there is also, a need to restrict hours of demolition and construction and the siting of any site compound away from residential properties. These are matters that can be addressed by condition.

### **Contaminated Land**

A contamination assessment and proposals for remediation were submitted with the application and a subsequent supplementary report also submitted. .  
The EA are now satisfied with it but still require a condition to deal with unexpected contamination. The council's environmental health officer requires conditions to cover this issue.

### **Flooding**

Flooding has been a significant issue in the hold up of the grant of planning permission on this site. Following legal issues with the signing of the section 106 legal agreement, the Environment Agency changed its flooding advice and as such the project was held up further whilst further studies took place and negotiations with the Environment Agency occurred. As members can see the Environment Agency no longer object to the application subject to a number of conditions. The applicants have submitted a report on the flood risk of the site. The Environment Agency have however pointed out that it is the local authorities responsibility either ensure the applicant carries out a sequential test or for the local authority to carry this out itself. Because the council can demonstrate a full 5 year land supply of housing in the area this development would fail a sequential test which seeks to ensure that sites at least risk of flooding are developed first.

The site is located in Zone 2 (equivalent to a 1 in 1000 year flood event) and partly 3 (equivalent to a 1 in 100 year flood event). These are the zones most at risk from flooding. However the Environment Agency consider that with the correct conditions applied to the permission to prevent the worst effects of flooding at this site it could be developed satisfactorily.

### **Protected species.**

An ecological survey was carried out in 2015 which has assessed the impact on bats, voles, badgers, Otters and other species. Previously in 2003 a bat survey was carried out and Bats were found in two of the buildings on site.

There are water voles present on site. The proposed enhancement of the banks could be beneficial but in the interim it is important that their habitat is protected as far as possible during demolition/construction. The new report makes a number of recommendations including mitigation measures at the end of the report. The report has been assessed by the council's ecologist who has concluded that it would be appropriate to condition that should planning permission be granted the mitigation and recommendations in the report are implemented in full. A condition is therefore proposed to this effect.

### **Archaeology**

An archaeological assessment was submitted with the application. This has identified that the site has potential for archaeological finds and conditions are required to this effect. (see consultee response above)

### **Education**

The council's education department consider that a sum of £271,664 for primary education and £239,217 for secondary education are required. These sums are not covered by CIL payments. The applicant's viability study suggests that paying these sums (along with other section 106 payments) would not be viable and they are therefore not proposed to be paid as part of this application at present. It is considered that the payments are justified.

### **Other issues raised by Town Council and neighbours**

The Ash tree in Castle Lane was examined by the council's tree officer who considers it not to be worthy of a tree preservation order.

The majority of objections are on traffic grounds but the council's highways officers have no objection to the proposal (subject to conditions). Although Naish felts do not currently use the Castle Lane access they could do and there is a potential for considerable increase in traffic in Castle Lane if the existing use on the site intensified, which could occur without planning permission.

Residents in Castle Lane currently park on street but no one has a right so to do. There is therefore no reason to provide replacement parking for on street parking lost; the proposal does not remove any private off street parking. 51 –53 North St currently has no off street parking but 5 spaces will be provided for the replacement building as part of this proposal which will be a gain.

Similarly, loss of on street parking in North Street is not a matter to be addressed by this development, as no-one has the right to park on the public highway 55 North Street has a side window on the boundary. This is a secondary window and the proposal will leave a gap of approx 1 metre, therefore not completely removing all light. There is currently a building along the boundary, whereas the proposal, although taller, is set back from the boundary.

#### **14 S106 contributions**

At present the applicant's viability study shows that the development if built would not be viable for the provision of affordable housing, education contributions, bins and waste or public art, which would normally be required with a development of this scale. The councils officer with responsibility for assessing such viability issues does not at present agree with the conclusions of the applicants study and has asked that further work be carried out on this issue. The applicants have agreed to carry out more work but do not wish to incur this cost prior to being assured by a committee resolution that the rest of the development is acceptable to the council. The officer recommendation is therefore to delegate the matter back to officers if members resolve to approve the application in order that the viability of the scheme can be fully completed.

#### **15 Conclusion**

This is a difficult proposal to make a recommendation on because of the number of issues affecting the site. Negatively this includes the fact the development is not within the town boundary as defined by the core strategy the very narrow access's to the site from both Crow Lane and Castle Lane for the proposed traffic which third parties are concerned about. The demolition of historic buildings on the site, the fact that the site is vulnerable to future flooding and that it may well be an unviable development for affordable housing and other S106 contributions. Balanced against this is the fact that the site is not well suited to either the current business activity or substantive amounts of other business activity in the future. The redevelopment of the site would give the present owner the opportunity to relocate locally to a more efficient, newer site to carry on the business activity and provide continuing employment opportunities. It would also provide 61 new dwellings and potential significant habitat enhancements to the waterways running through the site. Weighing all these issues up it is considered that on balance subject to all the conditions outlined below and subject to the provision of a satisfactory revised viability study showing that the development would not

be viable for affordable housing or other S106 contributions that the application be approved.

**RECOMMENDATION – To delegate the decision to approve the application to the Head of Development Management subject to the receipt and agreement with officers and the chairman of Southern Area committee of a satisfactory viability study and subject to the signing of a S106 agreement in respect of the highway matters and the conditions below.**

**If agreement cannot be reached on the viability of the scheme within six months of the date of committee, to delegate refusal of the application on the grounds of non provision of affordable housing and other community contributions.**

(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 external appearance of the development;

(b) 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) An application for the approval of all of the reserved matters shall be made to the Local Planning Authority before the expiration of three years from the date of this permission.

REASON: To comply with the provisions of Section 92 of the Town and Country Planning Act 1990.

(4) Before development is commenced, a schedule of materials and finishes, and, where so required by the Local Planning Authority, samples of such materials and finishes, to be used for the

external walls and roofs of the proposed development shall be submitted to and approved in writing by the Local Planning Authority. Development shall be carried out in accordance with the approved details.

Reason: To secure a harmonious form of development.

(5) The development permitted by this planning permission shall only be carried out in accordance with the Flood Risk Assessment (ARUP, Revision A, dated February 2009 and the Supplementary Report on Flood Risk, WHS, December 2012, including the Arup Report, Job No. 207325, dated 22 November 2012 contained within Appendix 3) and the mitigation measures detailed therein:-



1. Finished floor levels and site ground levels, including safe access routes in times of flood, as described in chapter 12 of the FRA, and shown on Figure 5 in Appendix 3 of the Supplementary Report on Flood Risk.
2. Provision of compensatory flood storage on the site as detailed in Chapter 3 of the Supplementary Report on Flood Risk.

#### REASON

To reduce the risk of flooding to the proposed development and future occupants, and prevent flooding elsewhere by ensuring that compensatory storage of flood water is provided.

(6) No development approved by this permission shall commence until a scheme for water efficiency has been submitted to and approved in writing by the Local Planning Authority. The scheme shall be implemented in accordance with the agreed details.

#### REASON

In the interests of sustainable development and climate change adaptation.

#### INFORMATIVE

The development should include water efficient systems and fittings. These should include dual-flush toilets, water butts, water-saving taps, showers and baths, and appliances with the highest water efficiency rating (as a minimum). Greywater recycling and rainwater harvesting should be considered.

An appropriate submitted scheme to discharge the condition will include a water usage calculator showing how the development will not exceed a total (internal and external) usage level of 110 litres per person per day.

(7) No development approved by this permission shall be commenced until a Construction Environmental Management Plan, incorporating pollution prevention measures, has been submitted to and approved by the Local Planning Authority. The plan shall subsequently be implemented in accordance with the approved details and agreed timetable.

REASON In the interests of preventing pollution of the river course

(8) Prior to commencement of development a scheme to provide a buffer zone / maintenance strip shall be submitted and approved in writing by the Local Planning Authority. This scheme shall incorporate a detailed site survey and there shall be no development (other than the provision of hard and soft landscaping) within 4 metres of the river channels. This strip shall be provided and maintained thereafter in accordance with the approved scheme.

Reason: In the interests of the water environment and SSSI

(9) No development shall take place until there has been submitted to and approved by the Local Planning Authority a scheme of hard and soft landscaping, which shall include indications of all existing trees and hedgerows on the land, and details of any to be retained, together with measures for their protection in the course of development.

Reason: To enable the Local Planning Authority to secure a satisfactory standard of design and implementation for the landscaping of the proposed development, in the interests of visual amenity.

(10) All planting, seeding or turfing comprised in the approved details of landscaping shall be

carried out in the first planting and seeding seasons following the occupation of the buildings or the completion of the development, whichever is the sooner; and any trees or plants which within a period of 5 years from the completion of the development die, are removed or become seriously damaged or diseased shall be replaced in the next planting season with others of similar size and species, unless the Local Planning Authority gives written consent to any variation.

Reason: To enable the Local Planning Authority to secure the satisfactory implementation of all approved landscaping works, in the interests of visual amenity.

(11) Before development commences, a scheme for the discharge of surface and foul water from the buildings and hard surfaces hereby permitted shall be submitted to and approved by the Local Planning Authority, and shall be carried out as approved. Drainage of hard surfaced areas must include petrol/oil interceptors and anti pollution devices. Foul drainage shall be designed to prevent infiltration by groundwater.

Reason: In the interests of the water environment and to reduce risk of pollution

(12) Before the development hereby permitted commences on the site, a soil survey of the site shall be undertaken and the results provided to the Local Planning Authority. The survey shall be taken at such points and to such depth as the Local Planning Authority may stipulate. A scheme for decontamination of the site shall be submitted to and approved by the Local Planning Authority in writing and the scheme as approved shall be fully implemented and completed before any unit hereby permitted is first occupied.

Reason: In the interests of health and safety for occupants of, or visitors to, the proposed development.

(13) If, during construction, contamination not previously identified is found to be present at the site, then no further development (unless otherwise agreed in writing by the LPA) shall take place until the developer has obtained the written approval of the LPA for an addendum to the method statement which shall detail how this unsuspected contamination shall be dealt with.

Reason: To ensure the development complies with the approved details in the interests of protection of the controlled waters.

(14) Before any demolition is commenced, the river channels shall be protected from materials from the demolition hereby permitted falling into the river in accordance with a scheme to be submitted to and approved in writing by the Local Planning authority. The scheme shall incorporate measures for the protection of the water vole habitat and for protection of the river corridor during construction works.

Reason: To protect the river corridor in the interests of protection of the controlled waters.

(15) The demolition of existing buildings, structures and foundations, together with the removal of debris resulting therefrom, shall take place only between the following hours: - 8.00am to 6.30 pm on Mondays to Fridays; 8.00am to 1.00pm on Saturday; and not at all on Sundays and Public Holidays.

Reason: To avoid the risk of disturbance to nearby dwellings / the amenities of the locality during unsocial hours.

(16) No development shall take place within the area of the application site until the applicants, their agents or successors in title have secured the implementation of a

programme of archaeological work in accordance with a written scheme of investigation which has been submitted by the applicant and approved in writing by the Local Planning Authority.

Reason: To enable the Local Planning Authority to exercise adequate control over any development which would affect the area of archaeological interest.

(17) No site works shall take place within the area of the application site until the applicants, their agents or successors in title have secured the implementation of a programme of building recording in accordance with a written brief and specification which has been submitted by the applicant and approved in writing by the Local Planning Authority

Reason: To enable the Local Planning Authority to exercise adequate control over any development which would affect the area of archaeological interest.

(18) Prior to the commencement of the demolition of the buildings hereby permitted, a scheme for the methodology of demolition shall be submitted to and approved in writing by the Local Planning Authority and the demolition shall be carried out in accordance with the approved scheme.

Reason: In the interests of the amenity of the locality as the buildings are known to contain asbestos and to prevent pollution of the watercourse on the site.

(19) Prior to the construction of any buildings or roadways, pathways or bridges hereby permitted a method statement for their construction including measures to prevent pollution of the watercourses shall be submitted to and approved in writing by the Local planning Authority. Development shall then be carried out in accordance with the method statement thus approved.

Reason: To protect the watercourse and water environment and SSSI & SAC.

(20) No development (including any demolition) shall take place until the strengthening works to the watercourse road bridge at the junction of North St/Castle Lane has been completed in accordance with details which shall first have been submitted to and agreed with the local planning authority.

REASON: In the interests of highway safety.

(21) No building on plots 1 –14 or plots 101-110 shall be occupied until the proposed alterations to Crow Lane have been completed in accordance with details which shall first have been submitted to and approved by the local planning authority

REASON: In the interests of highway safety.

(22) No dwellings served from Castle Lane shall be occupied until alterations to Castle Lane have been completed in accordance with details which shall first have been submitted to and approved by the local planning authority.

REASON: In the interests of highway safety.

(23) Prior to commencement of development, details of all hard surfacing shall be submitted to and approved in writing by the LPA. Development shall then be carried out as approved and completed in its entirety before the 56th dwelling is occupied.

Reason: In the interests of the amenity of the development and highway safety

(24) One of the footbridges connecting the north-east and south west parts of the site, together with connecting footpaths shall be available for use before the occupation of more than 25 dwellings; the bridge and paths shall be in accordance with details which shall first have been submitted to and approved by the local planning authority.

REASON: To ensure adequate accessibility within the site and to encourage sustainable travel

(25) No dwelling shall be occupied until the footbridge immediately to the north west of the site has safety guardrails ( or similar) installed and the footpath has been resurfaced. The works shall be undertaken in accordance with drawings which shall first have been submitted to and approved by the local planning authority

REASON: In the interests of pedestrian safety for users of the footpath originating from the site.

(26) No development shall commence on site until details of the estate roads, footways, footpaths, verges, junctions, street lighting, sewers, drains, retaining walls, service routes, surface water outfall, vehicle overhang margins, embankments, visibility splays, accesses, carriageway gradients, drive gradients, car parking and street furniture, including the timetable for provision of such works, have been submitted to and approved by the Local Planning Authority. No dwelling shall be first occupied until the estate roads, footways, footpaths, verges, junctions, street lighting, sewers, drains, retaining walls, service routes, surface water outfall, vehicle overhang margins, embankments, visibility splays, accesses, carriageway gradients, drive gradients, car parking and street furniture on roads serving that dwelling have all been constructed and laid out in accordance with the approved details, unless an alternative timetable is agreed in the approved details.

REASON: To ensure that the roads are laid out and constructed in a satisfactory manner

(27) All car parking spaces provided on the site shall be used only for the parking of motor vehicles and for no other purpose.

REASON: To ensure that an adequate provision of car parking is made on the site and available for use

(28) Prior to the commencement of the development a Construction Traffic Management Plan shall be submitted to and approved by the local planning authority. The Plan shall include details of arrangements for dealing with the demolition and removal of waste from the site, and the delivery of goods to the site (including local temporary signage for both operations), provision of parking for site operatives, the proposals for keeping local roads free from detritus, and proposals to address matters arising through the provisions of Highways Act s59. The development shall be undertaken in complete accordance with the agreed details.

REASON: In order to ensure that demolition and construction operations do not unacceptably interfere with traffic conditions in Wilton town centre.

(29) The development hereby permitted shall not be first occupied, until the cycle parking facilities shown on the approved plans have been provided in full, including the provision of stands which prevent the spaces being used by cars, and made available for use. The cycle parking facilities shall be retained for use in accordance with the approved details at all times thereafter.

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

(30) No development shall commence on site until a Travel Plan has been submitted to and approved in writing by the Local Planning Authority. The Travel Plan shall include details of operational and monitoring proposals and shall be implemented in accordance with these agreed details. Monitoring reports shall be made available to the Local Planning Authority on request, together with any changes to the plan arising from the Plan targets not having been achieved.

REASON: In the interests of road safety and reducing vehicular traffic to the development.

(31) The development shall be carried out in full accordance with the recommendations of the CTM wildlife Ecological assessment 2015. Further details of replacement bat habitats within the new buildings proposed shall be submitted to and approved in writing by the LPA before any development (including demolition) takes place.

Reason: In the interests of nature conservation

(32) Before development commences a Conservation Management Plan to cover all proposed works, and planting within the river corridor, the protection of habitats and species of flora and fauna, the timing of any works and provision for the future maintenance of the river corridor shall be submitted to and approved in writing by the LPA. The plan shall then be carried out as approved.

Reason: In the interests of nature conservation.

(33). Before any development is commenced on the site, including site works of any description, all the existing trees to be retained shall be protected by a fence, of a type and in a position to be approved by the Local Planning Authority, erected around each tree or group of trees. Within the areas so fenced, the existing ground level shall be neither raised nor lowered and no materials, temporary buildings, plant, machinery or surplus soil shall be placed or stored thereon. If any trenches for services are required within the fenced areas, they shall be excavated and backfilled by hand and any tree roots encountered with a diameter of 2 inches (50mm) or more shall be left unsevered (See British Standard BS 5837:1991, entitled 'Trees in relation to Construction'.

Reason: In the interests of the amenity and the environment of the development.

(34) No development shall take place until details of the treatment of boundaries of the site have been submitted to and approved in writing by the Local Planning Authority. Any tree screening, hedges, walls or fences thus approved shall be planted/erected prior to the occupation of the buildings.

Reason: In the interests of the amenity and the environment of the development.

(35) Notwithstanding the provisions of Schedule 2 to the Town & Country Planning (General Permitted Development) Order there shall be no windows inserted into the south west elevation of plot 11 without the prior express consent of the LPA.

Reason: To ensure adequate privacy for the occupants of neighbouring premises.

(36) There shall be no obstruction to the riverside footpath which shall provide a link through the site from north west to south east.

Reason: To ensure permeability of the site.

(37) No dwelling shall be occupied until the footbridge immediately to the north west of the site has safety guardrails ( or similar) installed and the footpath has been resurfaced with 'as dug' gravel.

Reason: In the interests of pedestrian safety for users of the footpath originating from the site.

(38) Notwithstanding the provisions of Class[es] A-H of Schedule 2 (Part 1) to the Town and Country Planning (General Permitted Development) Order 1995, (or any Order revoking and re-enacting that Order with or without modification), there shall be no alterations or extensions to the dwellings nor the erection of any structures within the curtilage nor satellite dishes installed unless otherwise agreed in writing by the Local Planning Authority upon submission of a planning application in that behalf.

Reason: In the interests of the visual amenity of the Conservation area, the water environment and to reduce the risk of flooding.

(39) No development ( including demolition) shall take place until the siting of the site office & compound has been submitted to and agreed in writing by the LPA. The site compound shall then be sited as agreed and hours of working shall be restricted to -8.00am to 6.30 pm on Mondays to Fridays; 8.00am to 1.00pm on Saturday; and not at all on Sundays and Public Holidays.

Reason: In the interests of the amenities of nearby residential properties.

(40) Prior to first occupation of the dwellings on plot 45 and 46 a scheme for noise insulation of the two dwellings on this plot from noise associated with the C and O tractors site shall be submitted to and approved in writing by the local planning authority.

Reason in the interests of amenity of the occupiers plots 45 and 46.

(41) 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 GN01:2011, 'Guidance for the Reduction of Obtrusive Light' (ILP, 2011), 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, the biodiversity of the site and to minimise unnecessary light spillage above and outside the development site.

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

71092-24 P1 Site Location Plan  
Land Contamination Assessment (2004)  
Transport Assessment (2003)  
Archaeological Assessment (2004)  
New/Updated documents:  
Site Layout Plan 12029-005 (2016)

Design and Access Statement (2016)

Including:

71092-16 P1 Site Sections

71092-17 P3 Apartment Building Elevations

71092-18 P2 North Street and Crow Lane Feature Buildings Elevations

71092-20 P1 Visual 1 – Apartment Building

71092-21 B Visual 2 – Crow Lane River Crossing

71092-34 North Street Feature Buildings Elevations

71092-35 Crow Land Feature Buildings Elevations

71092-36 P1 Flats 301-303 Plan and Elevations

71092-37 P1 Flats 401-403 Plan and Elevations

71092-39 Typical 3 Bed House Plans and Elevations

CPM2268/01b Landscape Design Principles

CPM2268/06b Indicative Landscape Scheme

Site Layout Annotated 12029-004 Rev J (2016)

Planning Statement (2016)

Proposed Floor Plans (2016) (within Site Layout Plan)

Proposed Roof Plans (2016) (within Site Layout Plan)

Site Sections/ Levels (2016) (within Site Layout Plan and Flood Risk Assessment)

Flooding Information Pack:

Covering Note on Flood Risk (2014)

Supplementary Report on Flood Risk (2012)

Flood Risk Assessment (2009)

Flood Risk Sequential Test Statement (2013)

Ecological Assessment 2015 (v2.1 2016)

Transport Assessment Addendum (2016)

Measured Area Report/Floor Area Survey Report (2015)

Waste Audit (2016) (In Planning Statement)

Noise Impact Assessment (2016)

Statement of Community Involvement (2016) (In Planning Statement)

Relevant CIL Forms (2016)

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



## Appendix A

Resolution of Western area committee on the 2<sup>nd</sup> March 2004

**PLANNING APPLICATION S/2003/1016 – OUTLINE APPLICATION –  
DEMOLITION OF EXISTING BUILDINGS AND THE ERECTION OF 62  
DWELLINGS, TWO COMMERCIAL (BI UNITS) AND ONE RETAIL UNIT: E V  
NAISH LIMITED, CROW LANE AND 51/53 NORTH STREET, WILTON,  
SALISBURY – FOR E V NAISH LTD C/O FPD SAVILLES LTD**

At the Chairman's discretion, objectors and supporters were given ten minutes for each side to make their representations in relation to the above application.

Speaking in objection were :-

Mr Knapman, Chartered Surveyor of Knapman Bayment, agent for F H Coombes & Sons, owners of land in Castle Lane.

Mr Batchelder, a resident of Castle Lane.

Mrs Finney, on behalf of herself and other Castle Lane residents.

Lady Rumbold, a resident of West Street.

Mrs Heseltine, an adjacent resident to the proposed development.

Mr Evans of Charter Architects and Mr Whittingham of MWA Ltd spoke in support of the proposal on behalf of the applicant.

Following receipt of these statements, the Committee considered the previously circulated report of the Head of Development Services, together with the schedule of late correspondence circulated at the meeting.

### **RESOLVED –**

(1) That subject to:-

All persons concerned entering into an agreement under S106 of the Town & Country Planning Act 1990 (as amended) for;

1. The provision of a minimum of 16 'affordable' housing units, to be located in two or more areas of the site and to be of a variety of sizes and to be in the first instance for the local needs of Wilton and to be for rent (grant permitting)
2. The provision of a minimum of 4 x1 bed roomed open market 'starter' homes,
3. Provision of recreational open space under policy R2
4. A contribution towards indoor community facilities (if required)
5. A contribution towards public transport facilities in the locality.

Then the above application be approved for the following reasons

The development is in compliance with local plan policy and Government guidance in PPG3.

It will enhance the character of the conservation area and provide an improvement to the habitats of the SSSI.

And subject to conditions

## Appendix B

### Letter from the applicant

ESTABLISHED 1800

**naish**

E. V. NAISH LIMITED  
Registered Office  
Crow Lane, Wilton  
Salisbury, Wiltshire SP2 0HB

Telephone: 01722 743505  
Fax: 01722 743910

28<sup>th</sup> Nov 2016

Adam Madge  
Principal Planning Case Officer  
Wiltshire Council  
Development Services  
The Council House  
Bourne Hill  
Salisbury  
Wiltshire  
SP1 3UZ

Dear Mr Madge,

Re: E.V.NAISH LTD, CROW LANE & 51/ 53 NORTH STREET, WILTON  
S/2003/1016 - OUTLINE PLANNING APPLICATION

At our recent meeting on site, you requested that I set out the background of E V Naish Ltd's intentions to move from the site and our onward plans. This letter sets out the background to the application before you, which you are, no doubt, well versed in.

It has always been the intention that this application is an enabling application to re-invest in a new site and buildings for Naish Felts Ltd and Wallgate Ltd, who both operate on the site, to continue trading.

Both companies operate out of a range of inefficient buildings of different size, age and condition; most buildings are of poor to very poor, substandard condition for modern manufacturing and do not enable an efficient, competitive manufacturing process to be continued on site. The application aims to enable the companies to relocate to modern industrial buildings, which will

- be much more efficient for production,
- be much more energy efficient,
- be sited in a suitable location for such a use, not within a surrounding residential neighbourhood, and
- have appropriate access for the regular heavy goods vehicles, supplies, deliveries and collections that take place many times a day.

These constraints of the current site mean that it is only a matter of time before operations from the site in Wilton for these two firms become impossible.

The application has sought to replace the current unneighbourly use with one that can benefit Wilton as a whole; we have had a long tradition of involvement in the town and are committed to our legacy. The benefits to Wilton of this application would be to:

- remove an industrial use from the centre of a town, within a residential environment,
- replace the unneighbourly use with a more neighbourly comparable residential use,
- remove heavy goods vehicles having to navigate the tight roads (and pavements) in Wilton to the site several times a day

- provide homes within walking distance of the town centre, helping to support the shops in the town centre,
- open up the site to the public, providing a riverside walk with ecological enhancements enabling access to the adjacent playing fields.

The alternative of remaining on this site with its serious access and building conditions problems, operating out of 18 current buildings, is not viable in the medium or long term.

We have not yet directed significant energy at pursuing alternative sites due to the length of time that this application has taken, but clearly with a significant existing local and loyal workforce that we would wish to retain, we are keen to remain within South Wiltshire. Redevelopment of the site would enable such a move and it is clearly in our interests to move locally and retain our existing workforce.

A positive resolution to the planning application currently before you on this site will enable us to look to move to a more suitable site and to continue to manufacture in the Wilton/Salisbury area, which is our preferred approach.

I hope that Wiltshire Council will be able to help in its role in enabling the retention rather than the loss of employment locally through the approval of this application in the near future.

Please feel free to discuss any element of this letter with me should you need clarification.

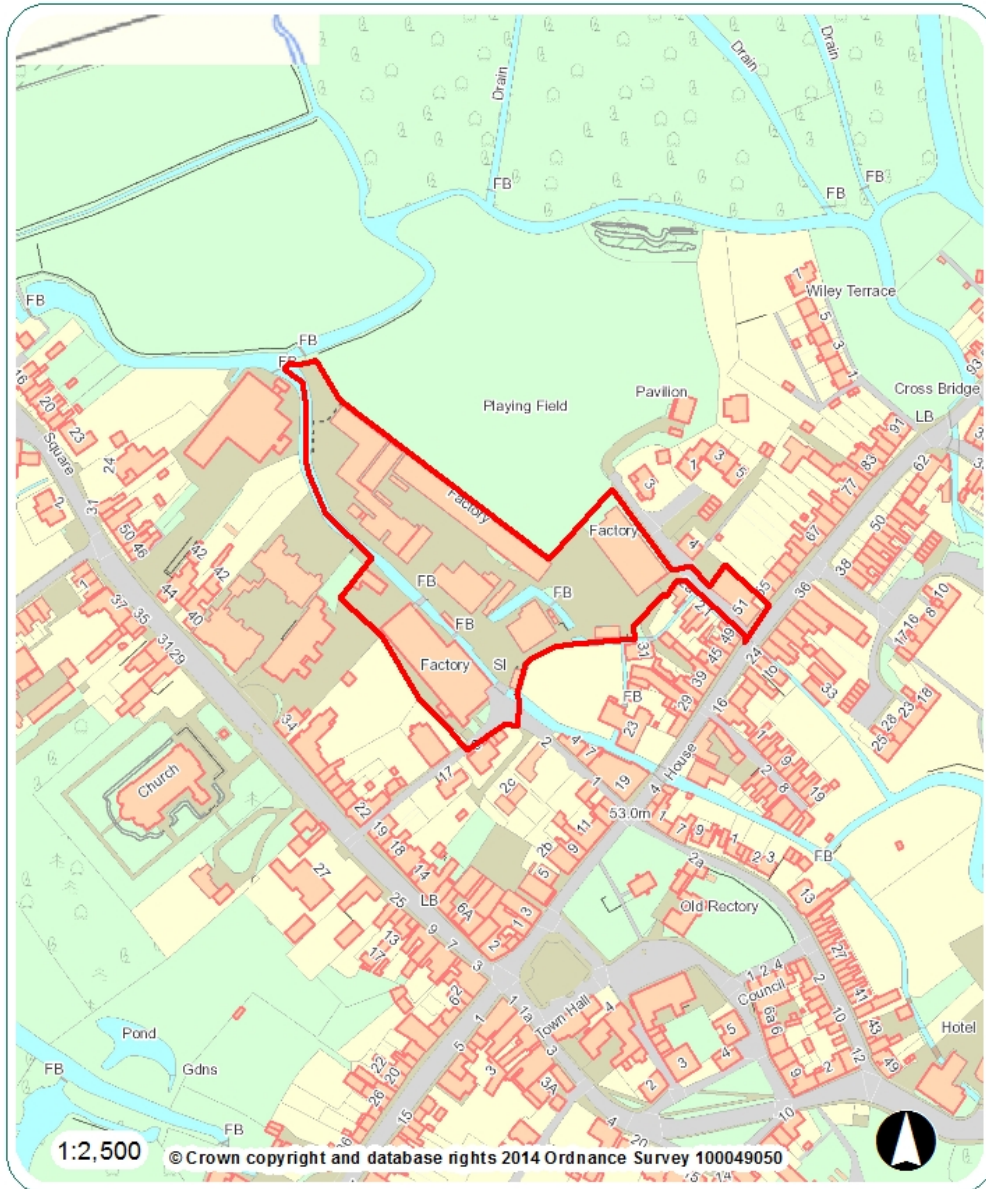
Yours sincerely,



Geoff Naish  
Director



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**REPORT OUTLINE FOR AREA PLANNING COMMITTEES**

**Report No. 9g**

<b>Date of Meeting</b>	12 <sup>th</sup> January 2017
<b>Application Number</b>	16/07192/FUL
<b>Site Address</b>	E V Naish Ltd Crow Lane Wilton Salisbury Wiltshire SP2 0HD
<b>Proposal</b>	Demolition of Existing Buildings to Facilitate the Mixed Use Development of the Site to Provide 61 Residential Units, Two Commercial Units of B1 Use, One Retail Unit, and Associated Car Parking.
<b>Applicant</b>	Mr Geoff Naish
<b>Town/Parish Council</b>	WILTON
<b>Electoral Division</b>	WILTON AND LOWER WYLYE VALLEY – Cllr Peter Edge
<b>Grid Ref</b>	409605 131348
<b>Type of application</b>	Full Planning
<b>Case Officer</b>	Adam Madge

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

**This application accompanies application S/2003/1016 but only considers the demolition of buildings currently on the site.**

**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 application be approved.

**2. Report Summary**

The main issues to be considered are –

- a) Whether the demolition of buildings on site are acceptable.

**3. Site Description**

The Naish Felts factory site in Wilton. It lies close to Wilton town centre, outside the settlement framework boundary in the core strategy in the Conservation area. It is a low-lying site alongside river channels (which form part of the River Avon system SSSI and SAC) and is currently occupied by buildings of a variety of ages and styles. None are listed though there is a Victorian two-storey red brick building with stone dressings and a weather vane that is of historic interest. It has cast iron columns internally and is in poor condition. The other buildings are of little interest and are aesthetically poor.

The site is surrounded on its southwest and southeast sides by residential development with the Castle lane playing fields to the north. Across the river to the south is the Wilton Community centre, which is separated from the site by a wall. Access to the site is poor, be it from Crow Lane or Castle Lane. Both are single vehicle width with tight corners at the access and egress. 51 –53 North Street is a two storey building with a large workshop area within that was formerly occupied by Wilton Coachworks. It is an unattractive building with a rendered ground floor and poor quality brick upper floor. It adjoins a listed terrace of Fisherton Grey brick cottages.

#### **4. Planning History**

S/1999/0052	PROPOSED REDEVELOPMENT SCHEME OF EXISTING BUILDINGS
S/1983/0576	NEW OPENINGS TO FACTORY BUILDINGS FOR GANTRY CRANE
S/1998/0590	VARIOUS SURGERY TO HORNBEAM AND HAZEL
S/1994/0613	C/A CONSENT - DEMOLITION OF REDUNDANT PRODUCTION BUILDING & LINK (PASSAGE) BLOCK
S/1989/1124	ERECTION OF NEW INDUSTRIAL BUILDINGS
S/1994/1126	EXTENSION TO FACTORY
S/1989/1193	L/B APPLICATION - DEMOLITION OF SOME OF EXISTING BUILDINGS
S/1989/1231	ERECTION OF NEW INDUSTRIAL BUILDINGS - (REVISED APPLICATION)
S/1985/1451	RELOCATION OF EXISTING PREFABRICATED BUILDING
S/1993/1461	CONSTRUCTION OF TOILET BLOCK
S/1989/1757	REPOSITIONING OF EXISTING PORTAKABIN AND ERECTION OF NEW PORTAKABIN

#### **5. The Proposal**

The proposal is to demolish all the existing buildings on site and to erect 61 dwellings, mainly in the form of terraces and apartment blocks, to demolish 51 -53 North Street and erect a new building containing a shop, B1 use over and a flat on the upper floor. This building is two storeys with a third storey in the roof. This application only relates to the demolition of the buildings.

#### **6. Local Planning Policy**

##### **7.**

- a. Adopted development plan – Wiltshire Core strategy

CP58 - Conservation of the historic environment

Saved policies of the Salisbury district local plan

CN9 – Demolition of buildings in a conservation area

Creating places - design guide

b. Neighbourhood Planning

Wilton town council do not have a neighbourhood plan at present.

National Planning Policy context.

Policies and guidance contained within the NPPF and the NPPG

## **8. Summary of consultation responses**

### **Wilton Town Council**

#### **Planning application S/2003/1016**

Wilton Town Council objects to this application.

Wilton Town Council has grave concerns about the proposed destruction of Wilton's industrial heritage. Building 4 is of local historical interest within a Conservation Area, and the focus should be on retaining it, and possibly Building 2 as well.

It was noted that although an estimate of £12,000 was given to remove the asbestos from Building 4, no other costs have been given for the removal of asbestos from other buildings, and the Town Council feels that a detailed report needs to be given on this for health & safety as well as financial reasons.

The Town Council disagreed strongly with the Heritage Assessment produced by Elaine Milton Heritage & Planning on behalf of EV Naish Ltd, which asserts that there would not be a substantial impact on the Wilton Conservation Area should the buildings be demolished. It would like a reassessment of the given figures, which councillors feel to be overstated, as they do not take into account the costs that would be incurred anyway (such as asbestos removal), nor any potential grants to retain an historic building. If these were to be taken into consideration, Building 4 may be viable for retention and development.

### **Historic England –**

**(16/07192/ful)** Having received Savills Report on the 'Retention Versus Replacement of Building 4', November 2016, we wish to raise a number of questions which require clarification before the decision to demolish Building 4 can be taken.

Whilst the case has been put forward stressing the unviability of retaining Building 4, there

has been no assessment or confirmation that the demolition and rebuilding of this element of the wider scheme is in fact a more viable option, taking into account the Environment Agency's flood defence requirements for the new build. We remain unconvinced that the complete rebuilding is the only viable option available. The report states throughout that the later extensions will be removed as insignificant elements of this historic asset, thereby reducing its floor space - can appropriate new additions be made to Building 4 to retain and enhance its usability whilst providing a more attractive floor space offering.

Additionally we question whether the full extent of repair and structural alterations is necessary, as well as the accuracy of the sales values. We recommend that these are verified by a quantity surveyor experienced in dealing with historic structures before the validity of the report is accepted. Only once these issues are fully examined can an accurate planning balance be considered to determine the building's retention.

#### **The Victorian Society –**

Thank you for consulting the Victorian Society on this application – I apologize for the slight delay in responding to you. Having looked through the submitted documentation, we wish to register our objection to the proposals. We fully endorse the comments made by Historic England in their submission to you of 5 September 2016 and would also be pleased to be re-consulted when new information is forthcoming.

#### **Wiltshire Council archaeology –**

It is recommended that a programme of archaeological works, in the form of an archaeological watching brief, is carried out during any demolition works.

Therefore in line with the NPPF (2012), PPS5 (2010) and the earlier Planning Policy Guidance Note 16: Archaeology and Planning (DoE 1990) the following recommendations are made:

Recommendation: Full condition

No development shall commence within the area indicated (proposed development site) until:

- A written programme of archaeological investigation, which should include on-site work and off-site work such as the analysis, publishing and archiving of the results, has been submitted to and approved by the Local Planning Authority; and
- The approved programme of archaeological work has been carried out in accordance with the approved details.

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

Further Recommendations: The work should be conducted by a professional recognised archaeological contractor in accordance with the written scheme of investigation agreed by this office and there will be a financial implication for the applicant.

## 9. Publicity

### 15 letters of objection raising the following points-

- A) Considers that there are mistakes and inaccuracies in the heritage statement in that the nearest listed building is located next to the former coachworks.
- B) Has the structural integrity of the roads been tested for construction and other traffic?
- C) Has there been any road traffic survey other than the one in 2003 as traffic has increased significantly in that period.
- D) Concerns expressed about blocking out daylight to the neighbouring window from the new commercial buildings on North street also about access to maintain the adjacent property.
- E) There would be the loss of four parking spaces on North Street, considers that the parking provision does not meet the Wiltshire Council guidance.
- F) Questions if there is really any need for more retail units on North Street as existing units are already empty on the street.
- G) Concern about the loss of building 2, considers alternative uses should be considered for building 2 as it is part of the heritage of Wilton.
- H) Consider that emergency vehicles including fire engines and ambulances could not reach the site.
- I) Consider that the proposed apartment building should be no higher than the existing building to be demolished and should only be three storeys in height. The proposed building would have the ability to affect the amenity of the adjacent Moat House.
- J) Dislike of the glass stairway on building 2 which it is considered does not fit with the character of the area. It would also cause light pollution when lit.
- K) Considers that placing a large block of flats in a flood risk area with narrow street access is a health and safety concern.
- L) Considers that the loss of building 4 would do substantial harm to the Wilton Conservation area.
- M) Pointed out that the site River and its tributaries which surround the site are designated as a SSSI.
- N) Concern is expressed by residents about flooding as they are paying a lot more money for their house insurance because their property is in a flood plain.
- O) Concern that traffic will increase as it has with the building of new houses in Wilton Avenue.
- P) Objection to buildings 2, 4, 7 and 9 as these are buildings that are inextricably linked to the industrial heritage of Wilton. Does not consider that the proposals to replace these buildings will enhance the conservation area. Notes that Wilton town council also objected to the loss of these buildings.
- Q) Surveys should be carried out of buildings in the surrounding area to ensure that building works on the site do not damage neighbouring properties.
- R) Costs in relation to the retention of building 2 should also be provided as well as building 4. Grant funding should be explored in relation to the historic buildings on the site.

- S) Considers that there is an error in the red line on land that is included in the public highway and that there is no possibility of increasing the width of the road immediately adjacent 52 and 53 North Street.

**CPRE** - The proposals include a loss of several buildings that retain Wilton's industrial heritage; this would be detrimental to the conservation area. It would be better for these to be converted sensitively. It is evident that the Heritage statement ignores several listed buildings close too or bordering the site.

Other doubts concern flooding, parking and especially ingress/egress; Crow Lane seems to be too narrow. For all these reasons, the proposal should be revisited.

### **Salisbury Civic Society –**

The Society understands the arguments presented for demolition and accepts there is justification of financial viability presented, but nonetheless regrets the loss of the more prominent historic structures on the site. It is fully recognized that there are public benefits to the site's redevelopment, but the question of ultimate viability must surely be limited only by net worth of the site following redevelopment. We would encourage the Council to consider whether factors such as Section 106 contributions could be negotiated that might allow a compromise situation in this particular instance, to help mitigate the negative impact of costs. Were a suitable proposal for development, retaining one or two of the larger character buildings on this site, be possible for less profit that would ultimately be to the cultural and environmental benefit of the Wilton's Conservation Area and the community, this opportunity should be fully explored.

### **Wilton and District business Chamber –**

Although it could be argued that removing the commercial traffic on the accesses during weekly business hours would alleviate the problem of pedestrian versus, the development of 61 houses would generate more traffic in and out of the site on a 24-hour, seven days a week basis, possibly 100 traffic movements a day, including deliveries and other service vehicles, in both directions on a single-carriageway lane.

This will cause demonstrable harm to the area and to the shoppers and schoolchildren using the lane.

For this reason we object to the development as the site is unavailable for housing development on this scale until a suitable ingress and egress can be agreed that meets modern traffic requirements. Suggests using an access through the C and O tractors site. If permission is granted, a Section 106 Agreement must show benefits to the town, its community, and the area surrounding the site, including the Town Council's interest in the pavilion and playing field, and the natural environment bordering the site, and the Castle Lane access.

## **13 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.

### **Demolition of the buildings**

The site lies within the conservation area. Its current character is industrial and this has traditionally been an industrial site. Most of the buildings on the site are unsightly and of poor quality, but there are two of aesthetic value. One is a 1920s red brick warehouse, the other in a 19th century brick former mill building with Bath Stone dressings. This latter building was listed, and then de listed in 1999. Its chimney (from when it was converted to stream) has since been removed and the rear of the building contains extensions which have had a deleterious effect on its main structure. Nevertheless this is an attractive building in the conservation area, which should ideally (in the terms of the NPPF) be converted rather than demolished. It is what is now termed a heritage asset despite it not being listed and therefore must be considered as part of this application.

In 1999 permission was given for demolition in the context of an industrial redevelopment, as the building was not economic to convert for employment purposes. It is in poor condition. The levels on the site means that the grounds floor could not be converted to residential or commercial accommodation because it would be at risk from flooding unless the floor levels were substantially raised, which would be seriously detrimental to its character. Owing to the importance of this building in the context of the CA (and because it contains a bat roost) the applicants were required to demonstrate that it would not be financially viable to convert to residential use with parking on the ground floor.

This they have done. English Heritage (and the councils conservation officer) remain concerned about the loss of this heritage asset and members will see from English Heritage's comments at the top of the report that they maintain they're objection to the proposal to demolish this building.

The applicants have submitted a viability report which officers have seen which explains why the building cannot be converted in economic terms because of the amount of work that would need to be carried out to the building in order to convert it. In addition the floor levels in the building mean that flooding would remain an issue. The applicants have also responded to English Heritages comments above and at the time of writing a further response was awaited from E H.

### **14 Conclusion**

It is therefore with some reluctance, but taking into account the factors that make this building unviable to convert, that officers recommend approval of the application subject to conditions.

### **RECOMMENDATION – Grant planning permission**

(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 development approved by this permission shall be commenced until a Construction Environmental Management Plan, incorporating pollution prevention measures, has been submitted to and approved by the Local Planning Authority. The plan shall subsequently be implemented in accordance with the approved details and agreed timetable.

REASON In the interests of preventing pollution of the river course

(3) Prior to commencement of development a scheme to provide a buffer zone / maintenance strip shall be submitted and approved in writing by the Local Planning Authority. This scheme shall incorporate a detailed site survey and there shall be no development (other than the provision of hard and soft landscaping) within 4 metres of the river channels. This strip shall be provided and maintained thereafter in accordance with the approved scheme.

Reason: In the interests of the water environment and SSSI

(4) Before any demolition is commenced, the river channels shall be protected from materials from the demolition hereby permitted falling into the river in accordance with a scheme to be submitted to and approved in writing by the Local Planning authority. The scheme shall incorporate measures for the protection of the water vole habitat and for protection of the river corridor during construction works.

Reason: To protect the river corridor in the interests of protection of the controlled waters.

(5) The demolition of existing buildings, structures and foundations, together with the removal of debris resulting therefrom, shall take place only between the following hours: - 8.00am to 6.30 pm on Mondays to Fridays; 8.00am to 1.00pm on Saturday; and not at all on Sundays and Public Holidays.

Reason: To avoid the risk of disturbance to nearby dwellings / the amenities of the locality during unsocial hours.

(6) No development shall take place within the area of the application site until the applicants, their agents or successors in title have secured the implementation of a programme of archaeological work in accordance with a written scheme of investigation which has been submitted by the applicant and approved in writing by the Local Planning Authority.

Reason: To enable the Local Planning Authority to exercise adequate control over any development which would affect the area of archaeological interest.

(7) No site works shall take place within the area of the application site until the applicants, their agents or successors in title have secured the implementation of a programme of building recording in accordance with a written brief and specification which has been submitted by the applicant and approved in writing by the Local Planning Authority

Reason: To enable the Local Planning Authority to exercise adequate control over any development which would affect the area of archaeological interest.

(8) Prior to the commencement of the demolition of the buildings hereby permitted, a scheme for the methodology of demolition shall be submitted to and approved in writing by

the Local Planning Authority and the demolition shall be carried out in accordance with the approved scheme.

Reason: In the interests of the amenity of the locality as the buildings are known to contain asbestos and to prevent pollution of the watercourse on the site.

(9) No development (including any demolition) shall take place until the strengthening works to the watercourse road bridge at the junction of North St/Castle Lane has been completed in accordance with details which shall first have been submitted to and agreed with the local planning authority.

REASON: In the interests of highway safety.

(10) Prior to the commencement of the development a Construction Traffic Management Plan shall be submitted to and approved by the local planning authority. The Plan shall include details of arrangements for dealing with the demolition and removal of waste from the site, and the delivery of goods to the site (including local temporary signage for both operations), provision of parking for site operatives, the proposals for keeping local roads free from detritus, and proposals to address matters arising through the provisions of Highways Act s59. The development shall be undertaken in complete accordance with the agreed details.

REASON: In order to ensure that demolition and construction operations do not unacceptably interfere with traffic conditions in Wilton town centre.

(11). Before any development is commenced on the site, including site works of any description, all the existing trees to be retained shall be protected by a fence, of a type and in a position to be approved by the Local Planning Authority, erected around each tree or group of trees. Within the areas so fenced, the existing ground level shall be neither raised nor lowered and no materials, temporary buildings, plant, machinery or surplus soil shall be placed or stored thereon. If any trenches for services are required within the fenced areas, they shall be excavated and backfilled by hand and any tree roots encountered with a diameter of 2 inches (50mm) or more shall be left unsevered (See British Standard BS 5837:1991, entitled 'Trees in relation to Construction').

Reason: In the interests of the amenity and the environment of the development.

(12) There shall be no obstruction to the riverside footpath which shall provide a link through the site from north west to south east.

Reason: To ensure permeability of the site.

(13) No development ( including demolition) shall take place until the siting of the site office & compound has been submitted to and agreed in writing by the LPA. The site compound shall then be sited as agreed and hours of working shall be restricted to -8.00am to 6.30 pm on Mondays to Fridays; 8.00am to 1.00pm on Saturday; and not at all on Sundays and Public Holidays.

Reason: In the interests of the amenities of nearby residential properties.

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

Site location plan dated 25/4/03

Floor area Survey report by Savilles dated Nov 2015

Heritage assessment by Elaine Milton dated June 2016  
Viability report by Savilles dated July 2016

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

## Appendix A – Applicants agents response to questions brought up by English Heritage

Dear Samuel,

I have been forwarded your response to the E V Naish Ltd applications by Adam Madge, and thought it would be helpful to reply to you directly to clarify some points within your letter; I have copied this to Adam Madge at Wiltshire Council for his information.

I met with your colleague Jacqueline at the start of October on site with my colleague Gavin Hall and we put together the Retention Versus Replacement of Building 4 document following this discussion.

Although the majority of the discussion on site related to the viability of retaining Building 4, as demonstrated in the Report, financial viability is almost a side issue, and the report and planning application itself do not rely on the viability argument as the foundation to this case. The question of planning compliance is of equal if not greater importance as set out in the document. For example, we found that, due to the location of the site outside of the defined Town Centre boundary of Wilton, it would not be policy compliant to have other uses such as a restaurant or retail floorspace within the building.

Nevertheless, following the request from Historic England at the site visit, we did assess the viability of retaining Building 4 for a variety of different uses, including residential. The report does, contrary to the assertion in your letter, set out “an assessment or confirmation that the demolition and rebuilding of this element of the wider scheme is in fact a more viable option, taking into account the Environment Agency’s flood defence requirements for the new build”.

Whilst, it was not possible to append the full site wide confidential viability appraisal due to the business sensitive information that is contained within it, a comparison was taken of the retention of Building 4 against the demolition and rebuilding option proposed.

In order to compare the Options set out within the report, the Residual Land Value (RLV) for each option was calculated. Using the proposed replacement of Building 4 as a base point, the report clearly sets out that the retention of Building 4 for retail, office or residential use would result in a significant decrease in RLV of between £204,000 to £318,000. Therefore these options are **less viable** than the proposed demolition and rebuilding/replacement. The *overall* site wide viability is superfluous to this examination of Building 4, as it has clearly been shown that the current proposal to replace the building is more viable than the options for its retention.

It should be noted that the new build option set out and included within the application and the viability assessment includes all necessary works to satisfy the Environment Agency on flood risk grounds; they have no objection to the application. Therefore, the site wide viability has taken account of any flood defence requirements for the new build.

With regard to the extensions it would not be possible, or practical to include new additions to the building to enhance its usability or generate greater value by providing further floorspace. As stated within the report, the current ground floor level of the building falls significantly below the level requested by the Environment Agency to protect the building and its occupants from being at risk of flooding. It would not be acceptable to provide newly built extensions at this ‘at risk’ level, and therefore this would result in any extensions set at a finished floor level at least 880mm above the rest of the ground floor. This would not only result in an extension which would be impractical for future occupiers due to the significant change in levels, but is also unlikely to lead to any significant enhancement in the building’s usability or provision of a more attractive floorspace offering. It would also have the potential to impact the external appearance of the building due to this unusual

arrangement, thereby counteracting the initial purpose of retention. Finally, the addition of new extensions to the building would also be constrained by the proximity of the proposed dwellings to the existing Building 4. Either a smaller extension would be required or another residential unit would need to be lost to provide a greater floorspace. The relative values of residential against any other use speak for themselves in the report, and such a loss of another residential unit would therefore further impact the RLV and viability of the scheme rather than improving it by providing greater floorspace in the retained and extended building.

Moving on to the queries that you raise regarding the necessity of the works required and accuracy of the sales values, the list of repairs provided in the schedule has been prepared by a fully qualified RICS Building Surveyor, based upon the information available to them at their Inspection as is the accepted industry practice for such a stage in the process. Equally, the costs included have been calculated using industry wide accepted standards and practice using SPONS/BCIS pricing books and pricing information gained from other projects that have been competitively tendered, including historic buildings.

Following the inspection, it is the professional view of the qualified Building Surveyor, who is experienced in dealing with historic structures, that all of these works are likely to be necessary to refurbish the building to a condition that meets statutory requirements for its intended use, taking into account their professional knowledge, the age and outward appearance of the building and similar experience elsewhere. Only through a process, as stated in the report, of structural testing and confirmation by production of a detailed specification of works and competitive tender would allow more certainty to be able to be provided. This would obviously be at further expense on an already financially challenging project, and the proposal does not warrant such additional further justification over and above what has already been provided without any evidence being provided to us to the contrary that these works and costs are not justified or supported.

We can also confirm that all of the values provided in our report on Building 4 have been informed by qualified commercial and residential agents who have a proven track record in the marketing, leasing and sale of property in the Salisbury and Wiltshire area, including historic buildings. This information is available in the viability assessment submitted to Wiltshire Council on a confidential basis due to the commercial sensitivity of the information contained therein as noted above. Specifically with regards to the residential conversion we would comment that there is little demand for this type of apartment unit in Wilton. This is evidenced by the lack of apartments sold within Wilton itself and the values achieved nearby at the Ebble Apartments on Redrow's Erskine Park scheme. Given the extent of the viability deficit which all conversion options show, there would need to be a severe increase in achievable values on those which we have reported, before any conversion of Building 4 will even return a nil land value.

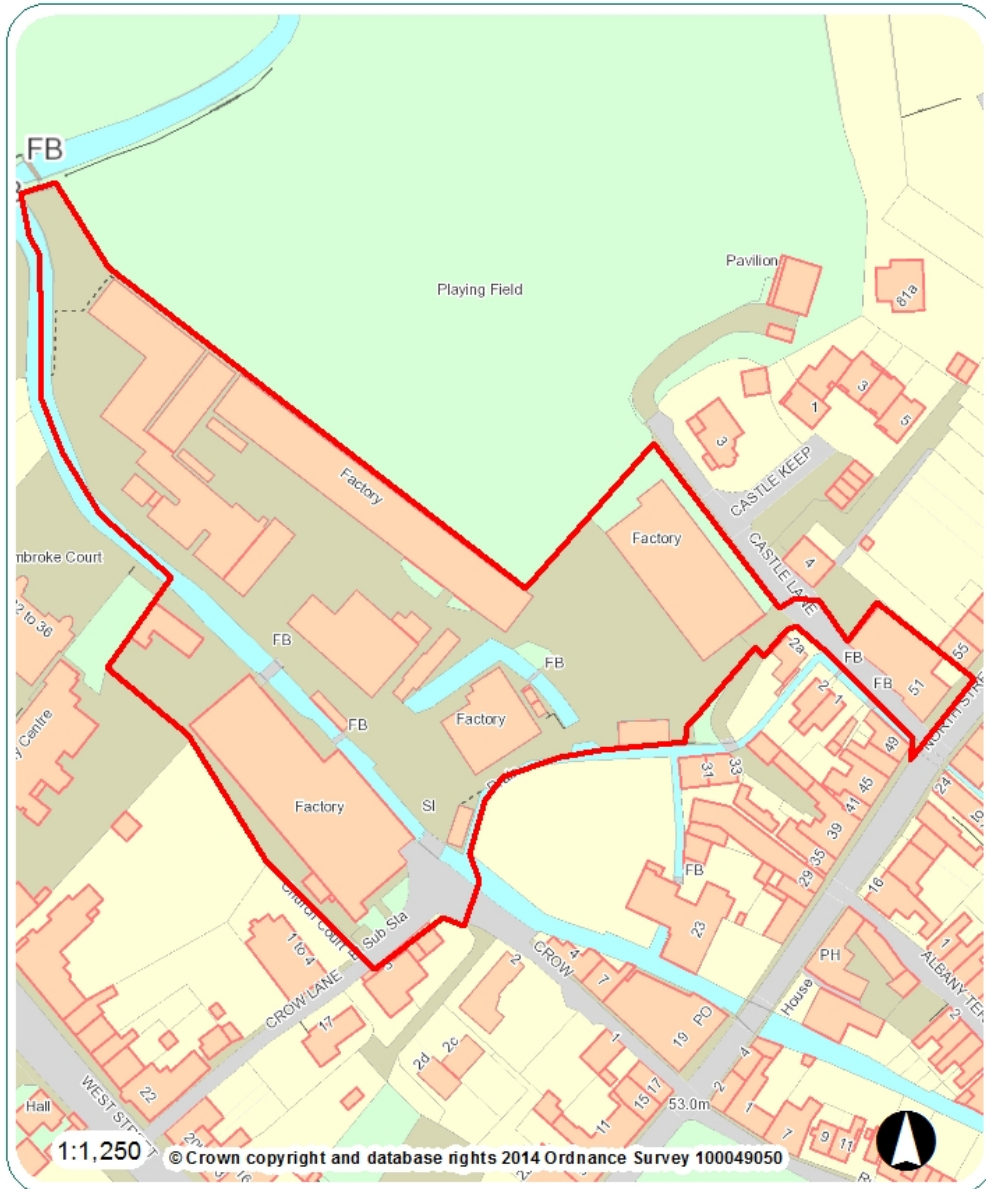
As a result the report demonstrates why the proposed option, which is the current application to be determined by the Council, is the preferred option in relation to both viability, practicality and national and local planning policy and guidance. We believe all options and alternatives have been objectively assessed in the course of preparing this application by suitably qualified professionals experienced in their field and the local area and that the necessary level of justification has been provided to the Council in this regard.

Kind regards,

**Eleanor Kirton BA (Hons) MSc MRTPI**

**Planning**

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