

AGENDA

Meeting: Western Area Planning Committee
Place: Council Chamber - County Hall, Trowbridge BA14 8JN
Date: Wednesday 18 October 2017
Time: 3.00 pm

Please direct any enquiries on this Agenda to Jessica Croman, of Democratic Services, County Hall, Bythesea Road, Trowbridge, direct line 01225 718262 or email jessica.croman@wiltshire.gov.uk

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

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Membership:

Cllr Christopher Newbury (Chairman)	Cllr Peter Fuller
Cllr Jonathon Seed (Vice Chairman)	Cllr Sarah Gibson
Cllr Phil Alford	Cllr Edward Kirk
Cllr Trevor Carbin	Cllr Stewart Palmen
Cllr Ernie Clark	Cllr Pip Ridout
Cllr Andrew Davis	

Substitutes:

Cllr David Halik	Cllr Jim Lynch
Cllr Deborah Halik	Cllr Steve Oldrieve
Cllr Russell Hawker	Cllr Roy While
Cllr George Jeans	Cllr Jerry Wickham
Cllr David Jenkins	Cllr Graham Wright
Cllr Gordon King	

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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 - 14*)

To approve and sign as a correct record the minutes of the meeting held on 20 September 2017.

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 2.50pm 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 Wednesday 11 October 2017 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 Friday 13 October 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 **Planning Appeals and Updates** (*Pages 15 - 16*)

To receive details of completed and pending appeals and other updates as appropriate.

7 **Codford Path No. 15 Right of Way Modification Order 2016** (*Pages 17 - 34*)

8 **Planning Applications**

To consider and determine the following planning applications.

8a **17/03839/FUL and 17/04445/LBC - 3 High Street, Warminster BA12 9AG** (*Pages 35 - 70*)

8b **17/06331/FUL - Rothermere, Bythesea Road, Trowbridge BA14 8JQ** (*Pages 71 - 78*)

8c **17/06492/FUL - 19/19A The Old Bakehouse, Stallard Street Trowbridge BA14 9AJ** (*Pages 79 - 88*)

9 **Urgent Items**

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

Part II

Item during whose consideration it is recommended that the public should be excluded because of the likelihood that exempt information would be disclosed

WESTERN AREA PLANNING COMMITTEE

MINUTES OF THE WESTERN AREA PLANNING COMMITTEE MEETING HELD ON 20 SEPTEMBER 2017 AT COUNCIL CHAMBER - COUNTY HALL, TROWBRIDGE BA14 8JN.

Present:

Cllr Christopher Newbury (Chairman), Cllr Jonathon Seed (Vice Chairman), Cllr Phil Alford, Cllr Trevor Carbin, Cllr Ernie Clark, Cllr Peter Fuller, Cllr Sarah Gibson, Cllr Edward Kirk, Cllr Stewart Palmen, Cllr Pip Ridout and Cllr Roy While (Substitute)

67 Apologies

Apologies for absence were received from Councillors Andrew Davis (substituted by Councillor Roy While).

68 Minutes of the Previous Meeting

The minutes of the meeting held on 23 August 2017 were presented.

Resolved:

To approve as a correct record and sign the minutes of the meeting held on 23 August 2017.

69 Declarations of Interest

Cllr Ernie Clark referred to his register of interest for item 8a.

Cllr Andrew Davis (attending as the local member – not part of the committee) declared that he was part of the Feoffees (Trustees) of St Lawrence Chapel relating to items 8b and 8c.

70 Chairman's Announcements

There were no Chairman's Announcements.

The Chairman gave details of the exits to be used in the event of an emergency.

71 **Public Participation**

No questions had been received from councillors or members of the public.

The Chairman welcomed all present. He then explained the rules of public participation and the procedure to be followed at the meeting.

72 **Planning Appeals and Updates**

Public participation

Mr Francis Morland spoke on the appeals report.

The Planning Appeals Update Report for the period between the 11/08/2017 and 08/09/2017 was received.

Resolved:

To note the Planning Appeals Update Report for 11/08/2017 and 08/09/2017.

73 **Appeals Report**

74 **Planning Applications**

The Committee considered the following applications:

75 **17/01250/REM - Land South Of Devizes Road, Hilperton, Wiltshire**

Public Participation

Mr Trowler, agent, spoke in support of the application

Eileen Medlin, as Senior Planning Officer, outlined the report for a reserved matters application for the scale, layout & external appearance of the development and It was recommended that the application be approved subject to conditions.

The key planning issues identified in the officer's presentation were outlined to Include; scale, layout, external appearance of the development, landscaping of the site, density, spread of the affordable housing and footpath access..

Members of the Committee then had the opportunity to ask technical questions of the officer which there were none.

Members of the public and the parish councils had the opportunity to present their views to the Committee, as detailed above.

Cllr Ernie Clark, as the local member, explained that he accepted the spread of the affordable housing and that it would not stand out as much. There were still

concerns over density and that there had been no change to the applications number of dwellings despite the application being deferred at a previous meeting for those negotiations to take place.

Cllr Ernie Clark moved a motion to refuse planning permission which was seconded by Cllr Trevor Carbin.

A debate followed and the main points raised included; the inspectors report on density and allocated parking for 4 bedroom houses.

Following the debate the motion was lost.

Cllr Jonathon Seed moved a motion to approve the officers recommendation which was seconded by Cllr Roy While.

A debate followed and the main points raised included; a condition to remove permitted development rights specific to the garages of the dwellings.

Following the debate it was;

Resolved

To Approve planning permission subject to the following conditions:

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

**Dwg SLP – Site Location Plan Revision P1, Received 09 February 2017
Dwg 1 – Proposed Residential Development, Revision P4, Received 27 June 2017**

Dwg 2 - Landscape Strategy Plan - Revision P2, Received 27 June 2017

Dwg 3 – Street Scene and Site Sections – Revision P2, Received 13 July 2017

Dwg 5 - Single Garage Detail, Received 27 June 2017

Dwg 10 – Avebury House Types Floor Plans (Plots 1 and 2) Revision P3, Received 27 June 2017

Dwg 11 – Avebury House Types Elevations (plots 1 and 2) Revision P4, Received 27 June 2017

Dwg 20 - Cherhill House Type Floor Plans (Plot 3) Revision P1, Received 27 June 2017

Dwg 21 – Cherhill House Type Elevations (Plot 3) Revision P2, Received 27 June 2017

Dwg 30 – Durrington House Types Floor Plans (Plot 5) Revision P2, Received June 2017

Dwg 31 – Durrington House Types Elevations (Plots 5) Revision P2, Received 27 June 2017

Dwg 40 – Edington House Type Plans (Plots 4, 10, 12 and 13) Revision P2, Received 27 June 2017

Dwg 41 – Edington House Type Elevations (Plots 4, 10 and 13) Revision P2, Received 27 June 2017
Dwg 42 - Edington House Type Floor Plans (Plot 12), Rev P2, Received 27 June 2017
Dwg 60 - Ramsbury House Type Floor Plans (Plots 6 and 11) Revision P2, Received 27 June 2017
Dwg 61 - Ramsbury House Type Elevations Revision P2 (Plot 6), Received 27 June 2017
Dwg 62 - Ramsbury House Type Elevations Revision P2 (Plot 11) Received 27 June 2017
Dwg AF01 - Block 1 Affordable House Type Plans (plots 14 and 15) Rev P2, Received 27 June 2017
Dwg AF02 – Block 1 Affordable House Type Elevations (Plots 14 and 15) Revision P2, Received 27 June 2017
Dwg AF03 - Block 2 Affordable House Types Plans (Plots 7 and 9) Revision P2, Received 27 June 2017
Dwg AF04 – Block 2 Affordable House Types Elevations (Plots 7 and 9) Revision P2, Received 27 June 2017
Dwg 5278-100 Revision B – Vehicle Swept Path Analysis, Received 18 July 2017
Dwg 5278-101 Revision A – Drainage Strategy and Finished Levels, Received 18 July 2017

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

2. 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);**
- * proposed and existing functional services above and below ground (e.g. drainage, power, communications, cables, pipelines indicating lines, manholes, supports);**

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.

3. 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.

4. No dwelling hereby permitted shall be occupied until the access, turning area and parking spaces thereto 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.

5. The approved brick panel which has been constructed on site and is illustrated and annotated on the sample photograph received on 14 July 2017 shall then be left in a position on site for comparison purposes whilst the development is carried out. The development shall be carried out in accordance with the approved brick sample.

REASON: in the interests of visual amenity and the character and appearance of the area

6. No development shall commence on site until details of the roof tiles/slate and render type to be used on the development have been submitted to and approved in writing by the Local Planning Authority. Development shall be carried out in accordance with the approved details.

REASON: The matter is required to be agreed with the Local Planning Authority before development commences in order that the development is undertaken in an acceptable manner, in the interests of visual amenity and the character and appearance of the area

7. No development shall commence on site until a lighting design strategy for biodiversity for buildings, features or areas to be lit shall be submitted and approved in writing by the local planning authority. The strategy shall:

- a) Identify those areas/features on site that are particularly sensitive for foraging and commuting bats and that are likely to cause disturbance in or around their breeding sites and resting places or along important routes used to access key areas of their territory, for example, foraging;
- b) Show how and where external lighting will be installed (through the provision of appropriate lighting contour plans and technical specifications, including a Lux plot) so that it can be clearly demonstrated that areas to be lit will not disturb or prevent the above species using their territory or having access to their breeding sites and resting places; and
- c) Specify luminaires, heights and positions of fittings, direction and other features, e.g. cowls, louvres or baffles

All external lighting shall be installed in accordance with the specifications and locations set out in the strategy, and these shall be maintained thereafter in accordance with the strategy. Under no circumstances should any other external lighting be installed without prior consent from the local planning authority.

REASON: To minimise light spillage into hedgerows and trees and to maintain dark foraging and commuting corridors for bats.

8. 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.

9. 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 garages hereby permitted shall not be converted to habitable accommodation.

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

Planning Informative:

1. Your attention is drawn to the fact that, whilst the details have been approved in relation to this reserved matters application, the conditions attached to the outline planning permission under reference 13/06879/OUT will need to be discharged prior to the commencement of works and adhered to as well as compliance with the associated S106 agreement.

76 17/03839/FUL - 3 High Street, Warminster BA12 9AG

Public Participation

Mr Andrew Pollard, spoke in objection to the application

Mr Duncan Lawrence, Agent, spoke in support of the application

Mr Huy Nguyen, spoke in support of the application

Mathew Perks, as senior planning officer, outlined the report for a proposed refurbishment of existing frontage building to provide 2 shops with 4 flats above plus new residential development of 5 dwellings and landscaping to the rear. It was recommended that planning permission should be granted, subject to conditions and a S106 legal agreement.

The key planning issues identified in the officer's presentation were outlined to include: principle of the development, the impacts on heritage asset(s), the access and parking impacts and neighbouring amenity impacts.

Members of the Committee then had the opportunity to ask technical questions of the officer. The questions focused on: access and parking.

Members of the public and the parish council had the opportunity to present their views to the Committee, as detailed above.

Cllr Andrew Davis, as the local member, informed the committee that he was a member of the Feoffees (Trustees) of St Lawrence Chapel, although he was speaking as the local member. Concerns raised included; the scale of the development, design, appearance, out of keeping with the area, bin storage and collection, noise impacts from Morrison's and the church bells on those who reside in the new developments, the developments plans not being to scale and conservation issues. It was recommended that conditions be put in place in respect of archaeology and that the building work is finished before occupation and an informative about the bell ringing.

Jocelyn Sage, Conservation Officer, informed the committee that conservation were keen to retain the building but due to the buildings deteriorating condition that would be difficult. The development would enhance the conservation of the area and fit with the clustered characteristic of the town.

Cllr Pip Ridout moved a motion to conduct a site visit which was seconded by the Chairman.

During the debate issues raised included: the need for the site to be marked out.

Following the debate it was;

Resolved

To defer the application for a site visit which would be held at 12noon on the 18 October 2017.

77 **17/04445/LBC - 3 High Street, WARMINSTER BA12 9AG**

Mathew Perks, as senior planning officer, outlined the report for listed building consent to refurbish the existing frontage to provide 2 shops with 4 flats above. It was recommended that planning permission should be granted, subject to conditions.

The key planning issues identified in the officer's presentation were outlined to include: impact on the Grade ii Listed Building.

Due to this application relating to item 8b, it was moved by Cllr Pip Ridout and seconded by the Chairman that the application be deferred until after the site visit.

Following this it was;

Resolved

To defer the application for a site visit which would be held at 12noon on the 18 October 2017.

78 **Urgent Items**

The committee discussed the need to review the procedures on site visits. It was noted that a overview and scrutiny focus group had been formed to look at planning issues and procedures which included site visit procedures.

(Duration of meeting: 3.00 - 4.40 pm)

The Officer who has produced these minutes is Jessica Croman of Democratic Services, direct line 01225 718262, e-mail jessica.croman@wiltshire.gov.uk

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

Wiltshire Council
Western Area Planning Committee
18th October 2017

Planning Appeals Received between 08/09/2017 and 06/10/2017

Application No	Site Location	Parish	Proposal	DEL or COMM	Appeal Type	Officer Recommend	Appeal Start Date	Overturn at Cttee
17/00160/OUT	86 St Thomas Road Trowbridge, Wiltshire BA14 7LT	TROWBRIDGE	Outline application for erection of dwelling	DEL	Written Representations	Refuse	02/10/2017	No

Planning Appeals Decided between 08/09/2017 and 06/10/2017

Application No	Site Location	Parish	Proposal	DEL or COMM	Appeal Type	Officer Recommend	Appeal Decision	Decision Date	Costs Awarded?
17/00437/FUL	89 The Street Holt, Trowbridge Wiltshire, BA14 6RS	HOLT	Remove conifer hedge and replace with timber feather edge fence	DEL	House Holder Appeal	Refuse	Dismissed	11/09/2017	None
17/02578/FUL	Oakley Farm Lower Woodrow Forest, Wiltshire SN12 7RB	MELKSHAM WITHOUT	Erection of tourist accommodation	DEL	Written Reps	Refuse	Dismissed	06/10/2017	Appellant Application for Costs - REFUSED

CORRECTION ON APPEAL COSTS DECISION REPORTED AT WAPC – 18/09/2017

Application No	Site Location	Parish	Proposal	DEL or COMM	Appeal Type	Officer Recommend	Appeal Decision	Decision Date	Costs Awarded?
17/00644/FUL	Land at The Ham (opposite Glenmore Farm) Westbury BA13 4HQ	WESTBURY	Erection of detached house and double garage with new vehicular access	DEL	Written Reps	Refuse	Dismissed	01/09/2017	Wilts Council Application for Costs - REFUSED

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WILTSHIRE COUNCIL

AGENDA ITEM NO.

WESTERN AREA PLANNING COMMITTEE

18 OCTOBER 2017

WILDLIFE AND COUNTRYSIDE ACT 1981
THE WILTSHIRE COUNCIL

THE WILTSHIRE COUNCIL CODFORD PATH No. 15 RIGHTS OF WAY
MODIFICATION ORDER 2016

Purpose of Report

1. To:
 - (i) Set out evidence relating to a material change in the evidence relating to determination of The Wiltshire Council Codford Path No. 15 Rights of Way Modification Order 2016.
 - (ii) Recommend that the Order be forwarded to the Secretary of State for Environment, Food and Rural Affairs 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 January 2016 Wiltshire Council received an application from the Codford Residents Group for a definitive map modification order to add a byway open to all traffic at Codford St Mary to the definitive map and statement.
4. Members of the Western Area Planning Committee considered the Order at its meeting on 2 November 2016. The recommendation was made that the Order should be forwarded to the Secretary of State for Environment, Food and Rural Affairs for determination with the Council taking a neutral stance. The agenda reports pack can be found here:
<http://cms.wiltshire.gov.uk/ieListDocuments.aspx?CId=149&MId=10241&Ver=4>
5. The Committee resolved:

That "The Wiltshire Council Codford Path No. 15 Rights of Way Modification Order 2016" is forwarded to the Secretary of State for the Environment, Food and Rural Affairs and that Wiltshire Council takes a neutral stance in the matter.

6. After this meeting officers became aware that the advice they had previously acted upon in relation to parts of the evidence (relating to Section 31(6) of the Highways Act 1980) may be incorrect and accordingly a legal opinion was sought. A copy of counsel's opinion confirming the advice as given in conference is attached to this report as **Appendix 3**.
7. Having now received counsel's opinion in the matter officers are aware that the Committee was incorrectly briefed on 2 November 2016 and that this may have affected its decision. Accordingly, the matter is being brought forward once again for consideration.

Main Considerations for the Council

8. The Committee is asked to reconsider the evidence relating to deposits made under Section 31(6) of the Highways Act 1980 and to reconsider their effect on the evidence relating to this Order.
9. Two deposits affecting the land over which the Order route leads have been deposited with Wiltshire Council for the purposes of Section 31(6).
 - (i) Statement and plan at the scale of 1:10000 submitted by Mr J Stratton in April 2003.
 - (ii) Statement and plan at the scale of 1:25000 submitted on behalf of Mr Stratton in February 2011.
10. The legal opinion given to officers in conference (and attached in writing at **Appendix 3**) identifies a number of legal issues concerning s31(6) deposits, including in this case a failing on the part of the landowner to follow due process and potential errors in the plans deposited. The opinion also questions the entitlement of tenants and those other than legal owners to make a deposit. The issues concerning the errors with the plan deposited and whether or not Mr J Stratton was entitled to make a deposit may be considered by the Inspector at the public inquiry. As the legal opinion given to officers identifies a failing on the part of the landowner in following due process, this issue is set out in more detail in the following paragraphs.
11. Section 31(6) details a two stage process whereby a statement and plan are deposited, followed by, sometime later, but within ten years (changed in 2013 to twenty years), a statutory declaration relating to the dedication of, or the lack of intention to dedicate, any additional ways since the original deposit was made.
12. The Planning Inspectorate issues Consistency Guidelines for Inspectors. The following is an extract from Section 5.27.

“Under s31(6), an owner of land may deposit a map and statement of admitted rights with “the appropriate council”. Provided the necessary declaration is made at twenty year intervals (changed in 2013 from ten) thereafter, the documents are (in the absence of evidence to the contrary) “sufficient evidence to negative the intention of the owner or his successors in title to dedicate any additional ways as highways”. This is for the period between declarations, or between first deposit of the map and first declaration.”

13. This makes it clear that the declaration must be made for the deposit to take effect. It is a two stage process.
14. In Highway Law Fifth Edition 2 – 97 Steven Sauvain QC agrees and states the following.

“The landowner may deposit with the council a map of his land, together with a statement indicating what ways have been dedicated over that land as highways.....Any lodged statement must be augmented by declarations in a valid form (prescribed form from 2013 onwards) that no additional rights of way have been dedicated or, if there have been such, identifying any new rights of way. This action will be sufficient evidence to negative the presumption of dedication of any ways not included within the statement and map – in the absence of other evidence of a contrary intention.”
15. Further, in Rights of Way, A Guide to Law and Practice (Fourth edition) at page 56 the following is stated.

“A further provision in s.31(6) enables a landowner to deposit with the highway authority a map and statement showing the ways (if any) that he admits are dedicated as highways. If he then, within ten years, deposits a statutory declaration that no additional ways have been dedicated since the deposit of the map, this is sufficient, in the absence of proof to the contrary, to establish no additional ways have in fact been dedicated.”
16. It is clear that Section 31(6) cannot have a statutory effect unless the declaration is made after the deposit. Mr Josh Stratton never made a declaration to accompany either of his deposits.
17. The opinion of officers had previously been that the deposit made in Section 31(6) had the effect of calling the right of way into question but this is now known to be incorrect. It did not form an incontrovertible act and owing to the failure to complete the statutory s31(6) process so far as the deposit and declaration are concerned it is difficult to attach weight to the deposit as an indication of a lack of intention to dedicate.
18. **User Evidence 1992 – 2012 and 1995 - 2015 Appendix 2**

It is now appropriate to consider the evidence of use for two later 20 year (or ‘relevant’) periods than were previously considered. The calling into question may be viewed as the date at which the public use was effectively challenged, or, where it is considered that no effective challenge has occurred, the date of the application.
19. In 2012 Wiltshire Council received an email from Rosemary Wyeth of Codford asking about the owners’ right to close the route that is now the subject of the Order. Clearly, Ms Wyeth was aware of a challenge at this date.
20. Wiltshire Council supplied application forms for a Definitive Map Modification Order (DMMO) to Codford Parish Council at some date between 2012 and 2015. A record has not been kept of the date though matters relating to public access

at East Farm were obviously an issue in the few years before the application was made.

21. **Appendix 2** shows the effect of both relevant periods on the evidence. It is clear that there is considerably more evidence of use of the claimed route for either period than for the earlier period considered when the Order was made. Notwithstanding potential weaknesses in some of the evidence (for example that of those attending church or military parades for which permission may have been sought and granted) it is considered that there is a sufficiency of evidence for either period of use to support the confirmation of the Order as made.

Safeguarding Considerations

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

Public Health Implications

23. There are no identified public health implications which arise from this Order.

Corporate Procurement Implications

24. 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 28 to 31 of this report.

Environmental and Climate Change Considerations

25. There are no environmental or climate change considerations associated with this Order.

Equalities Impact of the Proposal

26. Matters relating to the equalities impact of the proposal are not issues for consideration under Section 53 of the Wildlife and Countryside Act 1981.

Risk Assessment

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

Financial Implications

28. 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.
29. 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 outcome of the Order will then be determined by written representations, local hearing or local public inquiry, all of which have

a financial implication for the Council. If the case is determined by written representations the cost to the Council is £200 to £300; however, where a local hearing is held the costs to the Council are estimated at £300 to £500 and £1,000 to £3,000 where the case is determined by local public inquiry with legal representation (£300 to £500 without).

30. 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 29 above.
31. In the event that the Council takes a neutral stance in the matter the Order must still be forwarded to the Secretary of State for determination but the case in support of the Order will be made out by the applicant and not the Council. The Council would also be required to give reasons to the Planning Inspectorate for taking a neutral stance. The Council would be expected to attend the Inquiry and to meet all costs relating to room hire (in the region of £300).

Legal Implications

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

Options Considered

33. Members may resolve that the Order should be forwarded to the Secretary of State for determination as follows:
 - (i) The Committee withdraw their resolution of 2 November 2016 and the Order be confirmed without modification.
 - (ii) The Committee withdraw their resolution of 2 November 2016 and the Order be confirmed with modification.
 - (iii) The Committee withdraw their resolution of 2 November 2016 and the Order should not be confirmed.
 - (iv) The Committee confirm their resolution of 2 November 2016 and Council takes a neutral stance with regard to the confirmation of the Order.

Reason for Proposal

34. When the Council made the Order it was considered that the application formed a reasonable allegation that public rights subsisted. This is the first stage of the legal test that can be applied in accordance with Section 53(3)(c)(i) of the Wildlife and Countryside Act 1981. However, a higher standard of proof is required to confirm the Order; this is that it must be considered on the balance of probabilities that public rights subsist.
35. Since making and advertising the Order the Council has been made aware of significant amounts of additional evidence from both supporters of the Order and from the objector.

36. In *R v Secretary of State for the Environment ex p Bagshaw and Norton* [1994] 68 P&CR Owen J held that “*In a case where the evidence from witnesses as to user is conflicting if the right would be shown to exist by reasonably accepting one side and reasonably rejecting the other on paper, it would be reasonable to allege that such a right subsisted. The reasonableness of that rejection may be confirmed or destroyed by seeing the witnesses at the inquiry.*”
37. Unless the objection is withdrawn the Council must send this Order to the Secretary of State for the Environment, Food and Rural Affairs for determination. This is done through the offices of the Planning Inspectorate and it is their usual practice to determine Orders where there is a conflict in evidence of use by holding a public inquiry where the evidence may be tested under cross examination.
38. It is clear that this is a case where the conflict of evidence may only be resolved under cross-examination.
39. The effect of the deficient Section 31(6) deposits has had the effect of applying a different date for the calling into question of the public use of the way. Had the deposits been effective, the relevant period of 1983 to 2003 would apply. However, legal opinion is that they were sufficiently defective not to represent a calling into question at the time they were made. Accordingly, relevant periods of 1992 – 2012 or 1995 to 2015 are considered to apply.
40. There is considerably more evidence of use for these periods, the evidence is considered to be cogent and consistent and officers consider that there is now a greater weight of evidence supporting this Order than there was originally thought to be.
41. Notwithstanding the need to test this evidence under cross-examination at a public inquiry it is considered that evidence in support of the Order outweighs that against it and that it is appropriate that Wiltshire Council now supports the Order when it is submitted to the Secretary of State.

Proposal

42. That “The Wiltshire Council Codford Path No. 15 Rights of Way Modification Order 2016” is forwarded to the Secretary of State for the Environment, Food and Rural Affairs and that Wiltshire Council supports the confirmation of the Order as made.

Tracy Carter

Associate Director – Waste and Environment

Report Author:

Sally Madgwick

Rights of Way Officer – Definitive Map

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

Western Area Planning Committee records 2 November 2016

<http://cms.wiltshire.gov.uk/ieListDocuments.aspx?CId=149&MId=10241&Ver=4>

Appendices:

- Appendix 1 Order and Plan
- Appendix 2 Summary of User evidence
- Appendix 3 Counsel's Opinion Trevor Ward

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WILDLIFE AND COUNTRYSIDE ACT 1981

**THE DEFINITIVE MAP AND STATEMENT FOR THE WARMINSTER AND WESTBURY
RURAL DISTRICT COUNCIL AREA DATED 1953 AS MODIFIED UNDER THE
PROVISIONS OF THE WILDLIFE AND COUNTRYSIDE ACT 1981**

**THE WILTSHIRE COUNCIL CODFORD PATH No. 15 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 Warminster and Westbury Rural District Council area dated 1953 as modified under the provisions of the Wildlife and Countryside Act 1981 require modification in consequence of the occurrence of an event specified in section 53(3)(c)(i) 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;

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 3rd May 2016
- 2. The Definitive Map and Statement for the Warminster and Westbury 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 map attached to the Order.
- 3. This Order shall take effect on the date it is confirmed and may be cited as the Wiltshire Council Codford Path no. 15 Rights of Way Modification Order 2016

THE COMMON SEAL of }
WILTSHIRE COUNCIL was }
hereunto affixed this 17th day }
of May 2016 }



83339

in the presence of:

eray
Team Leader (Legal)

SCHEDULE

PART I

MODIFICATION OF DEFINITIVE MAP

Parish	Path No	Description of footpath to be added	Modified under Section 53(3) as specified
Codford	15	That length of path leading from point A to point C via point B as shown on the map attached hereto by a broken line. Width 4.7 metres Approximate length 260 metres	53(3)(c)(i)

SCHEDULE

PART II

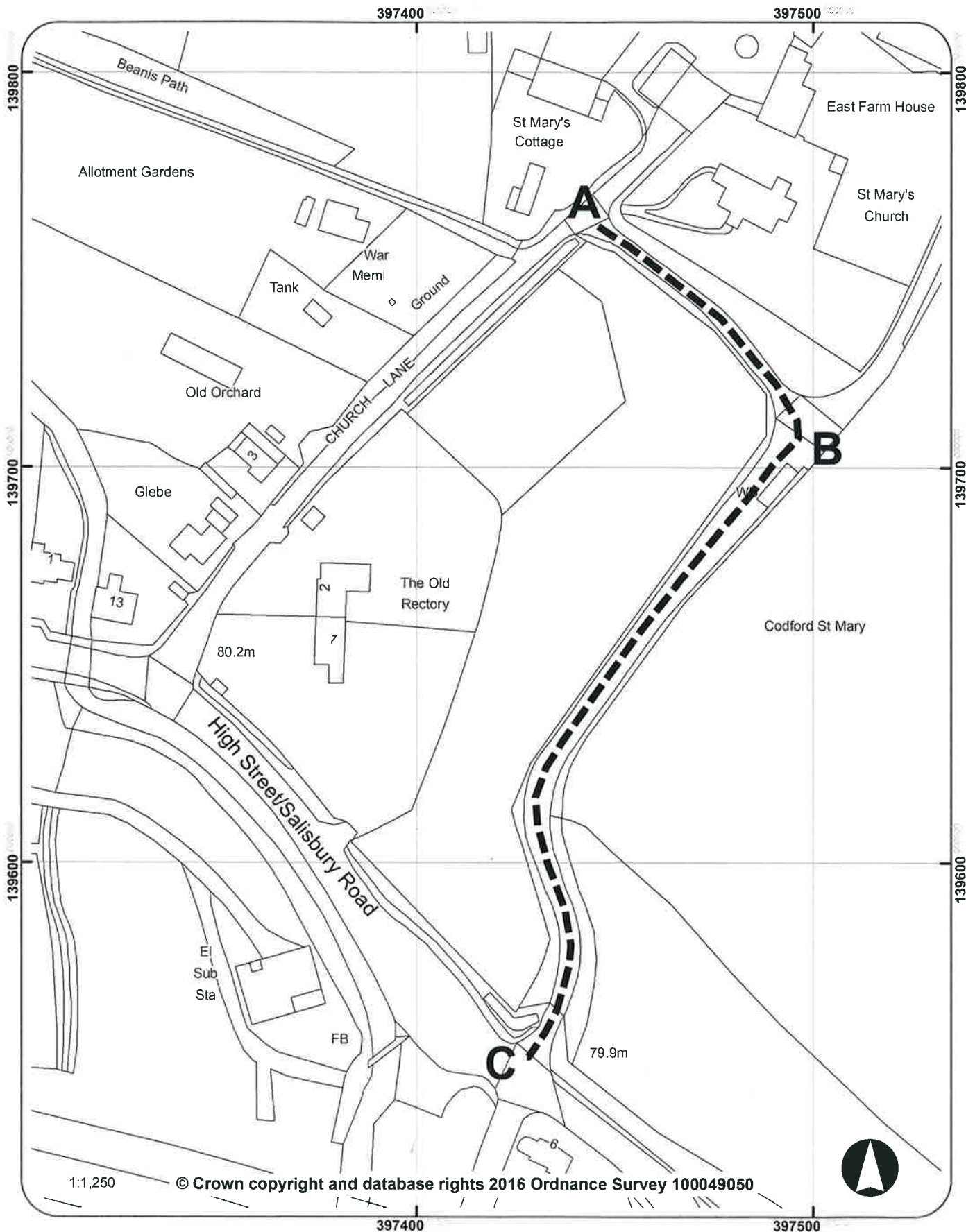
MODIFICATION OF DEFINITIVE STATEMENT

Parish	Path No	Description of path	Modified under Section 53(3) as specified
Codford	15	<u>FOOTPATH</u> Military Road. Leading from Church Lane in a south easterly direction south of St Mary's Church to OS Grid ref ST 9750 3971 where south west and broadly south to its junction with High Street/Salisbury Road at OS Grid ref ST 9743 3955 Width 4.7 metres Approximate length 260 metres	53(3)(c)(i)

Order Plan Codford St Mary



Footpath to be added A - - - - B - - - - C



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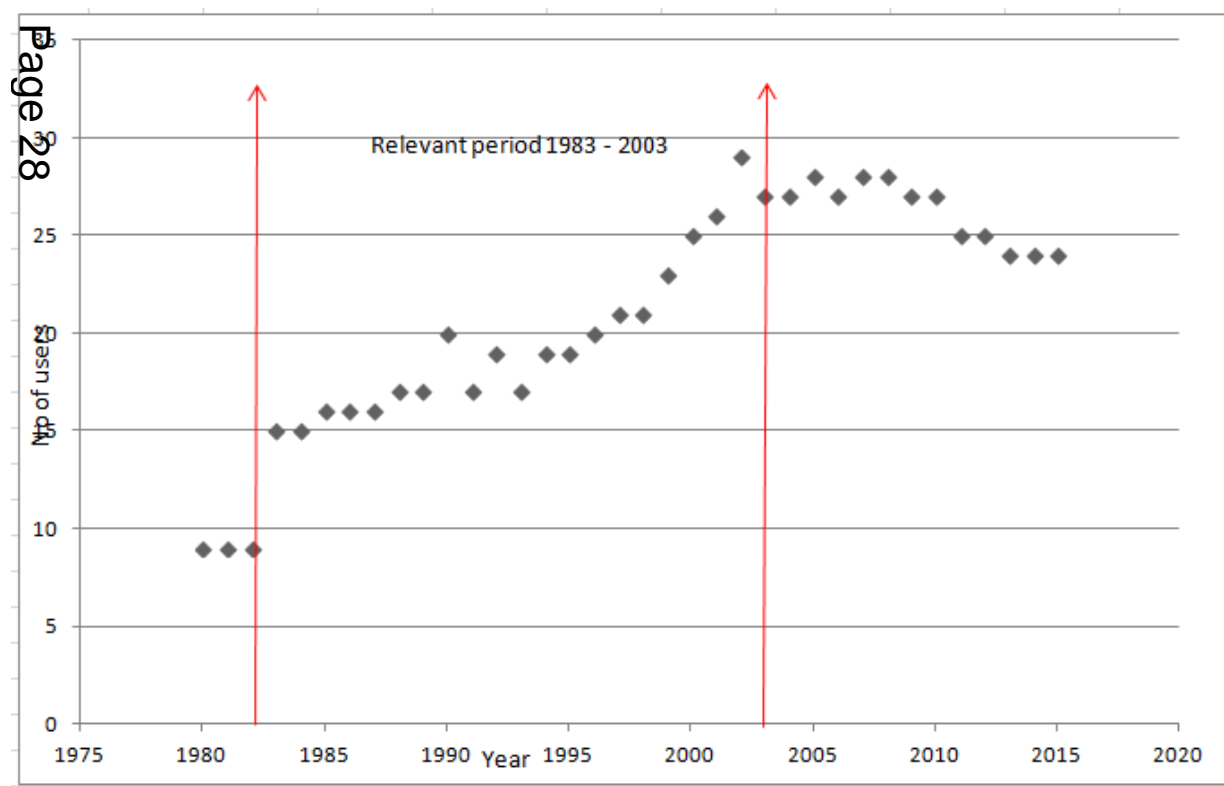
Codford User Evidence Summary

APPENDIX 2

No.	Name	Years of use	Years in relevant period 1983 - 2003	Years in relevant period 1992 - 2012	Years in relevant period 1995 - 2015	Nature of use
1	Lionel G French	1995 – 2015	8	17	20	Walking and driving
2	James Abel	2013 – 2015	0	0	2	Walking
3	David J Delius	1988 – 2015	15	20	20	Walking
4	Col (Retd) N G Quarrelle	1946 – 2015	20	20	20	Walking
5	Emma Abel	2013 – 2015	0	0	2	Walking
6	David Chetwode Belchamber	2005 – 2015	0	7	10	Walking
7	Diana Shaw	1998 – 2015	5	12	18	Walking, cycling and driving
8	Bernard Nicholls	2000 – 2012	3	12	12	Walking and cycling
9	David Hastings	1988 – 2015	15	20	20	Walking
10	Elizabeth Richardson – Aitken	1986 – 2015	17	20	20	Walking, cycling and driving
11	David Cautley Shaw	1998 – 2016	5	14	18	Walking, cycling and driving
12	Helen Belchamber	2005 – 2015	0	7	10	Walking
13	Sir William Mahon Bt	1999 – 2015	4	13	16	Walking
14	Robert Richardson – Aitken	1985 – 2015	18	20	20	Walking cycling and driving
15	Tabitha Butcher	1994 – 2015	9	18	20	Walking, riding and driving
16	David Richardson – Aitken	1986 – 2008	17	16	13	Cycling
17	Romy Wyeth	1973 – 2016	20	20	20	Walking
18	Maurice Cole	Born 1927 but excluding some years to 2015	20	20	20	Driving
19	Rosie Thomas	'many years'	?		-	Walking and cycling
20	Karen Edwards	2002 – 2016	1	10	13	Walking
21	Amelia Butcher	c.2000	c.3	c.12	1	Walking, cycling and riding
22	Victoria Restorick	1994 – 2016	9	18	20	Walking
23	Lt Col P Andrews	1980s onwards	20	20	20	Memorial parades and access to Farm Shop
24	Richard Abbott	1988 – 1997	9	5	2	Walking, cycling and driving
25	Rosemary Carley	2002 – 2012	1	10	10	Walking
26	Chris Litherland	1983 – 1993	10	1	0	Driving
27	Sally Delius	2002 – 2016	1	10	13	Walking
28	Bernice Neville	2001 – 2012	2	11	11	Walking
29	Mark Alder	1995 – 2016	12	17	20	Walking maybe other use
30	Michael Elcomb	1971 – 2002	19	10	7	Walking sometimes car
31	David M Falcke	1997 – 2002	5	5	5	Walking and car to shop
32	Kenneth Holbrook	1988 – mid 2000s	15	13	10	Walked and cycled
33	Karen Johnstone	1979 – 2016	20	20	20	Walked and drove

No.	Name	Years of use	Years in relevant period 1983 - 2003	Years in relevant period 1992 - 2012	Years in relevant period 1995 - 2015	Nature of use
34	R Jordan	1983 – 2014	20	20	19	Walked maybe other use
35	Sean Lawson	1973 – 2016	20	20	20	Walked maybe other use
36	Louise McDonald	1983 – 2014	20	20	19	Walked maybe other use
37	Matthew Maynard	1983 – 1990	7	0	0	Walked
38	Becky Maynard	1983 – 1992	9	0	0	Walked, cycled and drove
39	Mary Stilwell	1983 – 1990	7	0	0	Walked
40	Dr and Mrs Stilwell	1983 - ?	?	?	?	Walked and saw bicycles
41	Marguerite Wilcox	1980 – 1992	9	0	0	Walked maybe other use
42	Charles Woollard	1965 – 1985 & 1992 – 2010	13	18	15	Walked and drove
43	Rita Woolard	1963 – 1985 & 1992 – 2010	13	18	15	Walked and drove

SUMMARY OF ALL USER 1980 onwards – WALKING



OPINION

SECTION 31 (6) HIGHWAYS ACT 1980

I am instructed by Wiltshire Council, [“the Council”], and asked to advise on a number of matters and issues concerning the interpretation and application of section 31(6) of the Highways Act 1980. That subsection concerns the deposits and declarations made by landowners in respect of rights of way over their land which will, if the correct statutory procedure is followed, and subject to evidence to the contrary, be sufficient evidence to negative the intention of the owner to dedicate any additional way as a highway over the land.

The matters which I am asked to consider concern various specific issues as regards the correct procedure. I have previously given oral advice in conference at the Council offices on the 4th May 2017 and the following is a summary overview of my opinion on the issues which were considered. I should add at the outset that I have been unable to find any direct binding authority dealing with the various questions arising and therefore I have given my opinion based on an application of the provisions within the subsection combined with persuasive authority I have considered in support of that interpretation but in the absence of direct authority on the points then some of the matters would not be free from doubt.

In my opinion, the wording of section 31(6) provides for a two stage approach to the provision by the landowner of the relevant information. Stage 1 is the deposit with the Council of a map and a statement indicating the ways which the owner admits are highways. Stage 2 is the lodging of statutory declarations which confirm that there are no additional highways have been dedicated over the land than as shown on the map and deposit or an earlier section 31(6) declaration. There are strict time limits within which the declaration or further declarations must be made but once the stage 1 deposit has been made there would seem nothing in my view to prevent stage 2 occurring immediately thereafter. In my view, it is clear that in order to take advantage of the statutory protection afforded by section 31(6) both the stage 1

deposit and the stage 2 lodging of statutory declarations must have occurred¹. It is only the subsequent statutory declarations, when combined with the stage 1 deposit which will satisfy the provisions of section 31(6) and it is in fact the declarations which amounts to the sufficient evidence. The procedural requirements for a valid deposit and declarations are detailed and prescriptive but in my view there is no obligation or duty on the Council to check that any of the details are compliant and/or to advise the landowner as to any deficiencies, procedural irregularities, or time limits for the filing of statutory declarations. The Council, in my view, is merely acting as a recipient and public depository for such information as is supplied together with promulgating that information to the public via its register of deposits. In addition, in my view there would be no power for the Council to refuse to accept the deposit and filing of the declaration which a landowner wished to make even where it was invalid.²

If the deposit is not followed by a valid declaration and the specific statutory protection afforded by section 31(6) does not apply, it may in my view, be possible to consider the act of the stage 1 deposit as being sufficient evidence to negate the presumption arising under section 31(1) of the Highways Act 1980, that is deemed statutory dedication on the basis of 20 year user. However, it would depend on all the evidence and circumstances of any given case which would need to be carefully considered including any reasons as to why the process under section 31(6) was commenced but not completed. In my view it could not automatically be taken to apply in every case that the incomplete process could be taken as a landowner's intention not to dedicate even when the deposit had been put on the public register by the Council. Moreover, it would in my view remain open to consider the impact of any user evidence for the purposes of common law inferred dedication which could be established on a length of use for considerably less than 20 years.

As regards the stage 1 deposit, the subsection is specific as to the scale of the map which must be not less than 1:10560 (six inches to the mile). In my view, although I

¹ See Angela Sydenham *Public Rights of Way and Access to Land* p43, and Sauvain *Highway Law 5th Ed para 2-97 page 78.*

² The position is to be contrasted with, for example, a planning authority which is given specific power to refuse to validate a planning application where there are deficiencies in that application which rendered it invalid. By contrast, the effect of the deficiencies in the case of section 31(6) will be to negate the protection otherwise afforded by the provisions if the landowner had correctly complied with them.

have not been able to find a direct authority on the point, if the map supplied is not within these minimum specifications then the deposit will not be valid³. However, it would be open to the Council to consider whether the non-compliance was de minimis and possible to consider whether the incorrect scale had caused any prejudice and to waive any irregularity.

In addition to the requirement as to scale, the map deposited at stage 1 must correctly identify the land which is actually owned by the person making the deposit and affected by the rights of way identified in the statement. If the plan identifies other land outside of the ownership or fails to show land which is covered by the statement, then on a strict application of section 31(6) the deposit will be invalid. However, depending on the nature, extent and effect of the failure to strictly adhere to the requirements, it may be open to the Council to consider any irregularity and non compliance as de minimis and/or to waive any such irregularity. However, in my view if such power is available it should be exercised with caution and only where there was no possibility of any prejudice to the public.

In order to be valid, the deposit must be made by the owner of the land in question, that is the person in law entitled to dispose of the land in fee simple⁴. However, the act of deposit could be made on behalf of the owner by a properly authorised agent and with knowledge of the owner. There is no right of a leaseholder or beneficial owner, rather than legal owner, to act as if the landowner for these purposes unless they are a properly authorised agent. Whether the person was acting as an agent would depend on the evidence available to verify and establish this. For example subject to proper evidence, a beneficial owner may be considered as acting as an agent for trustees (the legal owners) at the time of the making of declarations or deposits but the ability to do so may be limited by the terms of any trust. If the deposit is made as an agent then it should in my view be signed as such, for example as a solicitor or land agent, and the person signing must be sure that they

³ The position could be considered similar to that in the case of *R. (Warden and fellows of Winchester College v Hampshire CC [2009] 1 WLR 138* where the Court held that the requirements of schedule 14 of the Wildlife and Countryside Act 1981 had to be strictly adhered to for an application for a modification order to be valid. However, in the case of *R (on the application of the Trail Riders' Fellowship) v Dorset CC [2015] UKSC 18*, some doubt was expressed as to whether the interpretation applied in the Winchester case was too strict and narrow but the judgment is not definitive on the point and is a split decision.

⁴ Section 31(7) of the Act defines owner for the purposes of the section and restricts it in these terms and see also Sauvain on Highways 5th Ed at page 79.

have the owner's authority to act and if necessary of the relevant evidence of such capacity.

Trevor Ward

Pallant Chambers

3 October 2017

Note: Please read this report in conjunction with the supplement published on 16 October 2017; the supplementary paper amends some of the information in this report.

REPORT FOR WESTERN AREA PLANNING COMMITTEE

Date of Meeting	18 October 2017
Application Number	17/03839/FUL and 17/04445/LBC
Site Address	3 High Street, Warminster BA12 9AG
Proposal	Refurbishment of existing frontage building to provide 2 shops with 4 flats above plus new residential development of 5 dwellings and landscaping to the rear. (17/03839/FUL); and Refurbishment of existing frontage building to provide 2 shops with 4 flats above. (17/04445/LBC)
Applicant	Mr Huy Nguyen
Town/Parish Council	WARMINSTER
Electoral Division	WARMINSTER EAST – Cllr Andrew Davis
Grid Ref	387369 145088
Type of application	Full Planning
Case Officer	Matthew Perks

Reason for the applications being considered by Committee

These applications are brought to Committee following the resolution of members at the meeting of 20th September to defer both for a site visit “...to be held at 12noon on the 18 October 2017”. Members will recall also the request from Cllr Ridout that both applications be considered and contained within one report. This report covers both applications.

Both reports which were placed before Members at the meeting of 20th September are appended to this report.

1. Purpose of Report

The purpose of the report is to bring the deferred applications back to Committee following the arranged members site visit and to recommend that both applications be approved, subject to a S106 agreement relating to 17/03839/FUL, as previously recommended.

At the 20 September meeting, members requested amendments to conditions and these have been appraised and are included as part of the recommended list of conditions to include the following:

2. Consideration of Additional Conditions

2.1 Archaeology Watching Brief

The question of the possible presence of archaeological remains in the cellar areas below the building at No.3 and the access path was raised in a late representation received from the Feoffees. As far as the application proposals are concerned, no works to the path are proposed. However, the Council’s archaeologist has been consulted and advises that the a

Note: Please read this report in conjunction with the supplement published on 16 October 2017; the supplementary paper amends some of the information in this report.

planning condition could be used to define the terms of the planning permission and to safeguard any archaeology found during on site works.

“No works shall commence on site until a watching brief has been agreed to be maintained during the course of the works which comprise or affect below ground works. The watching brief shall be carried out in accordance with a written specification which shall have been first agreed in writing by the Local Planning Authority, by a professional archaeologist, which is acceptable to the Local Planning Authority.

REASON: The matter is required to be agreed with the Local Planning Authority before development commences in order that the development is undertaken in an acceptable manner, to safeguard the identification and recording of features of archaeological interest associated with the site”.

2.2 Construction Management Plan

At the 20 September meeting, Members also debated the potential for disturbance during the construction phase to neighbouring and nearby occupants, including the relationships and impacts with the neighbouring Chapel services. Councillors considered the possibility that section (e) of the recommended Construction Management Plan (CMP) condition [“e) No construction or demolition work [should 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”] could be amended to take account of all service times at the Chapel.

It is understood that the Chapel holds communion services on Wednesday mornings; and is also available for baptisms, weddings and funerals on other days. It is not possible to anticipate the days and times of services at the Chapel and nor is it reasonable to restrict the construction times to avoid chapel services. It is important to be fully mindful of the 6 legal tests which all planning conditions must satisfy which for the avoidance of any doubt require the following:

They must be necessary; relevant to planning and to the development to be permitted; they must also be enforceable; precise and reasonable in all other respects.

The construction work would be a temporary process and the proposed development works in close proximity to the Chapel would largely relate to the refurbishment of the building. Any condition imposed restricting development so as not to run concurrent with chapel services cannot be precisely or reasonably controlled; and would thus fail the legal tests.

At the September meeting, Members also discussed the potential harm to the fabric of the Chapel and the pathway. This would essentially be a matter of private treaty, where the developer would be ultimately responsible for any consequential effects/damage to any neighbouring property including the Chapel. The CMP planning condition as previously recommended has been expanded to include a clause which would require the developer to confirm the safeguarding measures prior to commencement of works, which would require the written agreement of the Council and its implementation.

In view of the above, it is recommended that the CMP condition should be revised as follows:

No development shall commence on site (including any works of demolition), until a Construction Management Plan (CMP) has been submitted to, and approved in writing by the Local Planning Authority, which shall include the following:

- a) the access and parking of vehicles of site operatives and visitors;*
- b) the loading and unloading of plant and materials;*

Note: Please read this report in conjunction with the supplement published on 16 October 2017; the supplementary paper amends some of the information in this report.

- c) the storage of plant and materials used in constructing the development;
- d) the measures to control the emission of noise, dust and dirt during construction; the hours of construction, including deliveries;
- e) No construction or demolition work taking 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.
- f) the measures to be put in place to protect adjoining properties against damage / disturbance.

The approved CMP shall be complied with in full throughout the construction period.

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

2.3 Informative on Bells

Members also discussed the potential impact of the Chapel bells ringing and affecting the amenities of future occupants. The Council's public protection officer raises no concerns and it should be noted that there are other residential properties in close proximity to the chapel (including flats and Curfew Cottage) and officers are not aware of any noise complaints arising from the bells chimes. Chapel Bell ringing/chiming would not be reasonable grounds for refusal, but an informative attached to any planning permission could recommend that as part of any sales package, the applicant/developer duly alerts any future purchaser/occupant to the presence of the chapel and the frequency of the bell ringing/chiming, with transferring attorneys being aware of the content. An informative along the following lines is therefore recommended:

INFORMATIVE: The applicant should advise all prospective purchasers and occupiers of the dwellings hereby approved that the neighbouring Chapel has bells which chime 24/7.

3. Assessment

The planning and heritage issues were considered under the previous reports and the recommendations are set out below, which reflect the amendments outlined above. The proposed development accords with relevant National and WCS Policies in relation to new development within development limits in this town centre location, as well as regarding the preservation and enhancement of Listed Buildings.

4. RECOMMENDATION:

4.1 In respect of Planning Application reference 17/03839/FUL it is recommended that authority be delegated to the Head of Development Management to GRANT planning permission, subject to conditions listed below and following the completion of a S106 legal agreement which would bind the developer and this permission to firstly secure and complete all the necessary repair works to bring the Grade II Listed building at No. 3 High Street back into a functional use prior to the first occupation of any of the approved dwellings.

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.

Note: Please read this report in conjunction with the supplement published on 16 October 2017; the supplementary paper amends some of the information in this report.

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

1364/P/LOC received on 25 July 2017; 1364/P/01 P3 received on 25 July 2017; 1364/P/02 P2 received on 18 April 2017; 1364/P/03 P2 received on 18 April 2017; 1364/P/04 P2 received on 18 April 2017; 1364/P/05 P2 received on 18 April 2017; 1364/P/06 P3 received on 25 July 2017; 1364/P/07 P2 received on 18 April 2017; 1364/P/08 P2 received on 18 April 2017; 1364/P/09 P3 received on 25 July 2017

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

3. No development shall commence on site until the following details have been submitted to and agreed in writing by the Local Planning Authority:

In respect of the 3 residential units located to the rear of the site and behind the Chapel:-

Eaves and chimney details to include a section at a scale of 1:10, full detail of doors, lintels, cills and windows and brochure details for rainwater goods and roof lights (conservation style): A sample panel of the proposed brickwork and mortar colour (brickwork should be Flemish bond) and the proposed specification for the repair of the wall; and,

In respect of alterations and conversion of 3 High Street:-

Detailed drawings of the ground floor shop front at a scale of no less than 1:50;
A repair schedule for all the existing windows with sash windows to be repaired or be replaced on a like-for-like basis;
Details of conservation style roof lights, timber French doors and other new external doors and any canopies, natural slate roofing materials and new stone copings;
Details of the design of the new stairs at ground to the first floor level; and
A room by room survey of all surviving historic features (i.e. doors, skirtings, cornices etc.) and that such features identified are suitably reinstated; and,

In respect of the 2 residential units to be provided by the extension to the rear of No 3 High Street:-

A sample panel of the proposed Flemish bond brickwork and mortar colour;
New window details at a scale of 1:5 including horizontal and vertical sections, and detailing windows with rubbed brick arches and Bath stone cills.

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

4. 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:

- all hard and soft surfacing materials including proposed planting;
- wildlife friendly proposals for the planting scheme
- finished levels
- the type and form of any protective fencing to safeguard boundary walls and retained trees
- any means of site/plot enclosure.

REASON: The matter is required to be agreed with the Local Planning Authority before development commences in order that the development is undertaken in an acceptable manner, to ensure a satisfactory landscaped setting for the development and the protection of existing important landscape features.

Note: Please read this report in conjunction with the supplement published on 16 October 2017; the supplementary paper amends some of the information in this report.

5. All soft landscaping comprised in the approved details of landscaping shall be carried out in the first planting and seeding season following the first occupation of the building or the completion of the development whichever is the sooner. All 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.

6. No development shall commence on site (including any works of demolition), until a Construction Management Plan (CMP) has been submitted to, and approved in writing by the Local Planning Authority, which shall include the following:

- a) The access and parking of vehicles of site operatives and visitors;
- b) The loading and unloading of plant and materials;
- c) The storage of plant and materials used in constructing the development;
- d) The measures to control the emission of noise, dust and dirt during construction; the hours of construction, including deliveries;
- e) No construction or demolition work taking 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.
- f) The measures proposed to be put in place to protect adjoining properties against damage / disturbance.

The approved CMP shall be complied with in full throughout the construction period.

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

7. No development shall commence on site until a scheme for the discharge of foul water from the site has been submitted to and approved in writing by the Local Planning Authority. The development hereby approved shall not be first occupied unless and until the foul water drainage scheme has been implemented in accordance with the approved details.

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

8. 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 hereby approved shall not be first occupied unless and until the surface water drainage scheme has been implemented in accordance with the approved details.

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

9. No development shall commence on site until a scheme for protecting the future residents against noise from road traffic and noise from other sources such as plant for air conditioning units etc. has been submitted to and approved by the Local Planning Authority. The approved scheme shall be implemented in full before the use commences and shall be maintained at all times thereafter.

Note: In discharging this condition the applicant should engage an Acoustic Consultant. The consultant should carry out a background noise survey and noise assessment according to

Note: Please read this report in conjunction with the supplement published on 16 October 2017; the supplementary paper amends some of the information in this report.

BS8233: 2014 (or subsequent version) and demonstrate that internal and external noise levels will not exceed the guideline noise levels contained in Section 7.7 of BS8233:2014. The report should also demonstrate that internal maximum noise levels in bedrooms will not normally exceed 45dB L_{Amax} between the hours of 23:00 and 07:00.

REASON: In the interests of the amenity of future occupants.

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

REASON: In the interests of neighbour amenity.

11. The A1 use hereby permitted shall only take place between the hours of 08:00 and 1800 Mondays to Saturdays and between 10:00 and 16:00 on Sundays and Bank or Public Holidays.

REASON: In the interests of the amenity of future occupants and of neighbouring properties.

12. No deliveries shall be made to or collections made from the retail development hereby approved except between the hours of 08:00 and 18:00 Monday to Saturday, with no deliveries or collections on Sundays or Public and Bank Holidays.

REASON: In the interests of the amenity of future occupants and of neighbouring properties.

13. No loud speakers or amplification equipment shall be attached to ceilings or external walls in the A1 use premises.

REASON: In the interests of the amenity of future occupants and of neighbouring properties.

14. The dwellings hereby approved shall achieve a level of energy performance at or equivalent to Level 4 of the Code for Sustainable Homes. The dwellings shall not 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.

15. Prior to the first occupation of the dwellings hereby approved wildlife friendly measures in the form of house sparrow nest box under the eaves/soffits of new buildings on site and bat enhancements with crevice spaces to new buildings shall have been installed in accordance with details to be submitted to and approved in writing by the Local Planning Authority.

REASON: In the interests of enhanced biodiversity.

16. 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.

17. No works shall commence on site until a watching brief has been agreed to be maintained during the course of the works which comprise or affect below ground works. The watching

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brief shall be carried out in accordance with a written specification which shall have been first agreed in writing by the Local Planning Authority, by a professional archaeologist, which is acceptable to the Local Planning Authority.

REASON: The matter is required to be agreed with the Local Planning Authority before development commences in order that the development is undertaken in an acceptable manner, to safeguard the identification and recording of features of archaeological interest associated with the site.

INFORMATIVES TO APPLICANT:

1. 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.

2. The applicant is advised that it is an offence to disturb nesting birds. Site clearance of vegetation should be undertaken outside the bird nesting season (March to the end of August) or immediately after an ecologist has confirmed the absence of active nests.

3. This decision should be read in conjunction with the listed building consent decision issued for application 17/04445/LBC and the conditions attached thereto.

4. The applicant is advised to contact Wessex Water with regard to new connections and in respect of any agreement that may be required with regard to the protection of existing infrastructure.

5. The applicant should advise all prospective purchasers and occupiers of the dwellings hereby approved that the neighbouring Chapel has bells which chime 24/7.

4.2 In respect of Application Reference 17/04445/LBC it is recommended that Listed Building Consent is granted, subject to the following conditions.

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.

Note: Please read this report in conjunction with the supplement published on 16 October 2017; the supplementary paper amends some of the information in this report.

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

1364/P/LOC received on 25 July 2017; 1364/P/01 P3 received on 25 July 2017; 1364/P/02 P2 received on 18 April 2017; 1364/P/03 P2 received on 18 April 2017; 1364/P/04 P2 received on 18 April 2017; 1364/P/05 P2 received on 18 April 2017; 1364/P/06 P3 received on 25 July 2017; 1364/P/07 P2 received on 18 April 2017; 1364/P/08 P2 received on 18 April 2017; 1364/P/09 P3 received on 25 July 2017

[insofar as they relate to the Listed Building No.3 High Street Warminster].

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

3. No development shall commence on site until the following details have been submitted to and agreed in writing by the Local Planning Authority:

In respect of alterations and conversion of 3 High Street:-

Detailed drawings of the ground floor shop front at a scale of no less than 1:50;
A repair schedule for all the existing windows with sash windows to be repaired or be replaced on a like-for-like basis;
Details of conservation style roof lights, timber French doors and other new external doors and any canopies, natural slate roofing materials and new stone copings;
Details of the design of the new stairs at ground to the first floor level; and
A room by room survey of all surviving historic features (i.e. doors, skirtings, cornices etc.) and that such features identified are suitably reinstated; and,

In respect of the 2 residential units to be provided by the extension to the rear of No 3 High Street:-

A sample panel of the proposed Flemish bond brickwork and mortar colour;
New window details at a scale of 1:5 including horizontal and vertical sections, and detailing windows with rubbed brick arches and Bath stone cills.

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

Informative to Applicant:

1. This decision should be read in conjunction with the planning application decision issued for application 17/03839/FUL and the conditions attached thereto.

Note: Please read this report in conjunction with the supplement published on 16 October 2017; the supplementary paper amends some of the information in this report.

Reports placed before the WAPC meeting 20.09.2017:

REPORT FOR WESTERN AREA PLANNING COMMITTEE

Date of Meeting	20 September 2017
Application Number	17/03839/FUL
Site Address	3 High Street, Warminster BA12 9AG
Proposal	Refurbishment of existing frontage building to provide 2 shops with 4 flats above plus new residential development of 5 dwellings and landscaping to the rear.
Applicant	Mr Huy Nguyen
Town/Parish Council	WARMINSTER
Electoral Division	WARMINSTER EAST – Cllr Andrew Davis
Grid Ref	387369 145088
Type of application	Full Planning
Case Officer	Matthew Perks

Reason for the application being considered by Committee

This application is brought to Committee at the request of Councillor Andrew Davis for the consideration of the scale of development, the visual impact upon the surrounding area, relationships with adjoining properties, as well as design and environmental/highway parking impacts. Furthermore, the Warminster Town Council PAC requested that Cllr Davis call in the application.

5. 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 recommend that the application be approved, subject to a Section 106 agreement relating to repairs to the existing listed building. This report appraises the proposed extension, refurbishment and re-use of the listed building which is presently derelict as well as assessing the proposed five house development to the rear of the site and behind St Lawrence Chapel and Curfew Cottage (which are outside the application site).

A separate report pursuant to a Listed Building consent application (ref: 17/04445/LBC) duly appraises the proposed works to the Listed Building at No.3 High Street and is the next planning item on this committee agenda.

6. Report Summary

This report assesses the proposal in the light of the principle of the development, the impacts on heritage asset(s), the access and parking impacts and neighbouring amenity impacts, and

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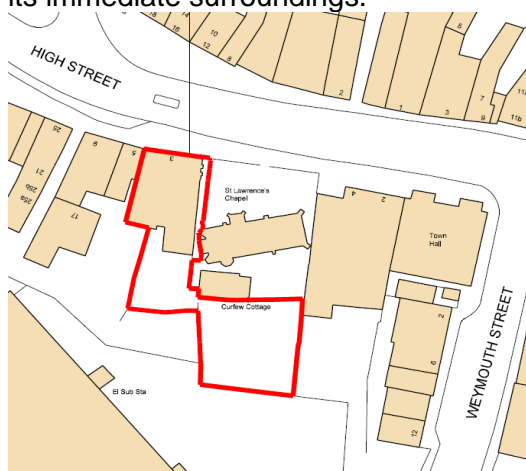
recommends that planning permission should be granted, subject to conditions and a S106 legal agreement.

Neighbourhood Responses: Representations were received from the Feoffees (Trustees) of St Lawrence Chapel as well as one letter of support from a third party.

Warminster Town Council: Objects to the application for reasons summarised in section 8.

7. Site Description

The subject property at No. 3 High Street is a grade II listed building which is in a very poor perilous state of repair and is described as 'derelict' by the applicant and is currently scaffolded without which the building would be at risk of collapse. The site photo below illustrates the extent of scaffolding and the boarded pedestrian gangway. The site also comprises land to the rear, located between the High Street frontage and the Morrisons supermarket. It is an irregular shaped site is located within Warminster's Conservation Area and adjacent to St Lawrence Chapel. The insert plan below illustrates the application site and its immediate surroundings.



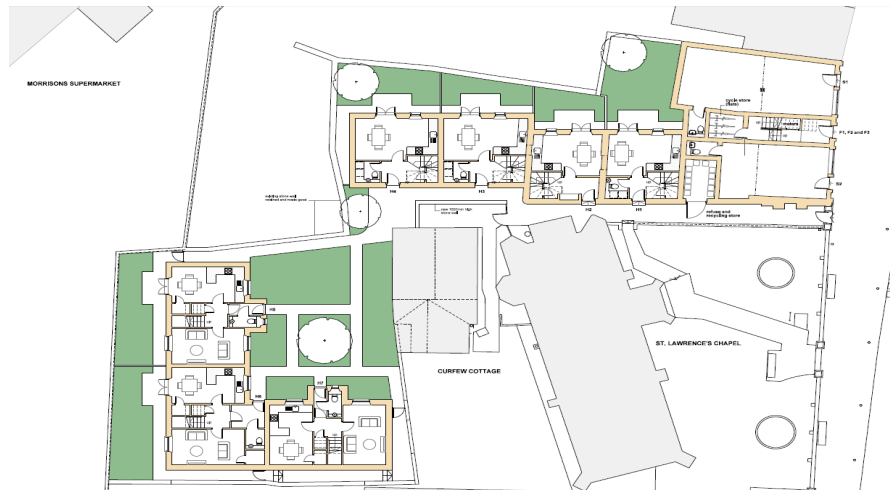
8. Planning History

There have been a number of applications in the last decade relating to attempts to refurbish the building at No. 3 High Street. However, no refurbishment works have been implemented. The most recent relevant planning applications relating to the site are:- W/12/02179/FUL and W/12/01745/LBC: which comprised the refurbishment of existing building to provide 2 shops at ground floor level and 5 flats to the upper (first and second) floors - which was approved with conditions.

9. The Proposal

Under this application, the applicant proposes to restore and convert No.3 High Street to form 2 ground floor shops and 4 flats on the upper floor and in so doing, preserve its visual role in the High Street and Chapel setting within the Conservation Area.

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The ground floor of No. 3 would be re-developed to provide two retail units with a new central access directly off the High Street for the upper levels of new residential accommodation (4 flats) in refurbished and converted spaces. The layout has been designed to make use of the original walls and floors where this is possible.

The application proposal also comprises erecting a 2 storey extension to the rear of No.3 to accommodate 2 houses which would be designed to follow the pattern of the existing rear wing and replace earlier works, now demolished, in the same location.

In addition, 3 houses are proposed to be sited to the rear of Curfew Cottage. The scheme is proposed to be car-free, with pedestrian access available only to serve the rear properties via an existing pathway located to the west side of St Lawrence Chapel. A landscaped courtyard is proposed between the 3 dwellings at the rear of the site and "Curfew Cottage" on the St Lawrence Chapel land.

The following insert elevation plan illustrates the proposed development.

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The application is supported by the following documents:

- A Design and Access Statement
- A Heritage Statement and Assessment of Significance
- A Structural Inspection Report
- An Arboricultural Impact Assessment Report
- An Ecology Phase 1 Habitat Survey
- An Ecology Phase 1 Layout
- A Financial Statement

10. Planning Policy

Wiltshire Core Strategy (WCS) Core Policy 1: Settlement Strategy; Core Policy 2: Delivery Strategy; Core Policy 31: Spatial Strategy for the Warminster Community Area; Core Policy 41: Sustainable Construction and Low Carbon Energy; 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.

In addition to the above Core Policies, the following West Wiltshire District Plan – 1st Alteration (2004) saved policies remain relevant: SP1 - Town Centre Shopping & SP4-Primary Retail Frontage.

The 2016 'made' Warminster Neighbourhood Plan is also a material consideration and forms part of the development plan and must be appraised as part of determining planning applications.

Wiltshire Council's Car Parking Strategy is also of material relevance to this application.

The National Planning Policy Framework (NPPF) and National Planning Practice Guidance (NPPG) are also material considerations.

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11. Summary of Consultation Responses

Warminster Town Council - The Town Council objects to this application on the grounds the need for development to be done sensitively, taking in all the surrounding area, including access and traffic issues. The proposed development constitutes gross overdevelopment, and would lead to loss of amenity to neighbouring properties and impact on the conservation area.

Conservation Officer – No objection. The building is in a very poor condition and clearly earns the ‘building at risk’ label. The retention and conversion of the existing building, albeit with considerable rebuilding, would be costly and deliver little in the way of profit to act as an incentive. The previous owner did not implement the 2012 consented scheme which is summarised within section 4 of this report and financial viability has been mooted as being part of the reason, which is not disputed. Whilst the proposed new building to the rear is not “enabling development” as envisaged by the development policies in the WCS, the proposed new building element of the project would nevertheless enable the restoration of the Grade II listed building as part of a viable scheme.

The proposal represents a reasonable and proportionate amount of new development in order to secure a viable future for this long-neglected building. The proposals, if consented, would deliver considerable enhancements to the street scene and improve the setting of the neighbouring chapel and the jeweller’s shop. The proposed 3 additional residential units to the rear of Curfew Cottage and the Chapel would not harm the setting of the chapel when viewed from the rear (behind Morrison’s or from the carpark to the rear of number 4 The High Street). Additional conservation based commentary is provided within section 9 of this report.

Drainage Officer – Following the submission of revised plans and additional detail, the officer supports the proposal, subject to conditions in relation to foul and surface water disposal.

Ecologist – No comments received.

Environmental Health – No objection subject to conditions to cover noise and nuisance control during construction and upon commencement of the ground floor commercial uses.

Highway Officer – No objections are raised in relation to the proposed redevelopment of the existing building at No. 3 High Street to create a mix of retail and flats without any dedicated car parking provision, and it is duly acknowledged that there is no dedicated parking provision at present. Concerns are raised about the proposed housing development to the rear of the existing building being car free. Whilst the site is located within the town centre with close proximity to amenities and local public transport, the development is likely to appeal to families, who would be more likely to require the use of personal transport compared to 1 bedroom units that would be marketed for single occupancy or couples that are starting out on the property ladder. There are also concerns raised regarding construction traffic accessing the site during the construction period; although it is acknowledged that construction traffic is noted within the supplementary information.

Tree Officer – No objections. The officer notes that the Arboricultural Impact Assessment clearly states the trees within the curtilage are low value individually and in this instance, the site could benefit from their removal to facilitate redevelopment of the immediate area. A soft landscape plan indicating the mitigation tree planting, species and sizes that are suitable for the site should be conditioned.

12. Publicity

Following the display of a site notice and individual neighbour notifications, two parties responded to the public consultation exercise.

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The Feoffees (Trustees) of St Lawrence Chapel submitted several responses, raising the following objections/queries:

- The applicant's reference made to discussions held between the applicant and Feoffees are not accurate. Permission would be required to use the access.
- No easement rights exist along the path and access for bins and to 3 new dwellings to rear would be via the path.
- The door leading from No. 3 onto the path was infrequently used. Access was mainly via the main shop entrance.
- The applicant provides no indication as to how heavy materials would reach the rear of the site;
- Feoffees have indicated that permission will not be granted for works to be carried out from the Chapel land.
- The path provides the only entrance to Curfew Cottage which requires unrestricted access 24 hours a day, 7 days a week.
- The application should state that this would be a "car free" development.
- The indicated dimensions of the proposed buildings to the rear are queried.
- Concerns raised about the impact the development would have on the Chapel structure, loss of light to the west facing stained glass window, general overpowering of the Chapel and Curfew Cottage and the loss of privacy to both buildings.
- The loss of all the trees to the rear is a concern.
- The path is consecrated land and it is likely that human remains could be present under the path as this was originally a grave yard.
- Development would need to be undertaken in a sympathetic way to preserve local tranquillity and amenity (both during the construction process and after completion).
- Impact of Chapel bells chiming on residential amenity of future occupants.

The 2nd third party response supports the proposal with a view to the restoration of the street frontage, stating that No. 3 has been an "eyesore on the High street of Warminster" for too long. If it takes development at the rear in the vicinity of the back wall of Morrisons to enable the restoration, that would be acceptable.

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.

9.1 The Principle of the Development - The site is located within the established limits of development of Warminster where the principle of new dwellings and sustainable forms of development are supported. The proposal is considered to comply with CP1, CP2 & CP31. The site is within the Primary Retail Frontage area of the Warminster Town Centre (to which saved Policy SP4, of the West Wiltshire District Plan refers) and the ground floor shop units accord wholly with policy. However, the details of the proposal must be appraised against all the relevant development plan policies as set out within section 6 of this report.

9.2 The Setting of St Lawrence Chapel and the Conservation Area – The existing building sits between St Lawrence Chapel and the Grade II Listed buildings at No. 5-17 High Street, which are all within the Warminster Town Centre Conservation Area. The proposed development would structurally correct and repair the front elevation which without the significant amount of scaffolding would be at serious risk of collapse. As illustrated below, the proposal seeks to restore and preserve the essential character of the building and in turn,

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would enhance the character and appearance of the Conservation Area and neighbouring settings of listed buildings. The insert plan below illustrates the proposed High Street frontage.

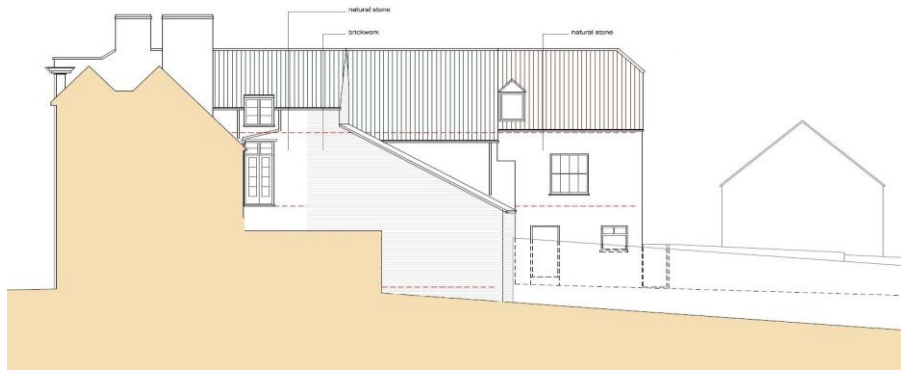


Section 72 of the Planning (Listed building and Conservation area) Act 1990 states that the LPA has a general duty, in the exercise of planning decisions in respect to any buildings or other land in a conservation area, to give special attention to the desirability of preserving or enhancing the character or appearance of that area. Furthermore, Core Policy 58 of the Wiltshire Core Strategy 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.

With regard to the heritage considerations, a Design and Access Statement, a Heritage Statement and an Assessment of Significance on the existing building and proposed development to the rear, as well as a Structural Inspection Report on the building were all submitted in support of the application and these have been carefully appraised.

The following extracts illustrate the existing and proposed elevations:

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Existing West Elevation and Section



Proposed West Elevation and Section

The building would be extended with the addition of the double storey element extending off the existing southern rear elevation. Historic maps show a previous range of buildings attached to the rear of the original building as illustrated in the reproduced historic mapping inserts below. The range of buildings at the rear of No. 3 were demolished at some point after 1952 as they don't appear on the 1952-1992 epoch mapping database available to officers. The parcel of land to the immediate rear of No. 3 High Street is now used as a parking area to the rear of no 5 High Street. Along the eastern and southern part to the rear of No. 3, another range of buildings have since been demolished. An existing lean-to extension would be demolished and replaced by the proposed double storey rear extension.

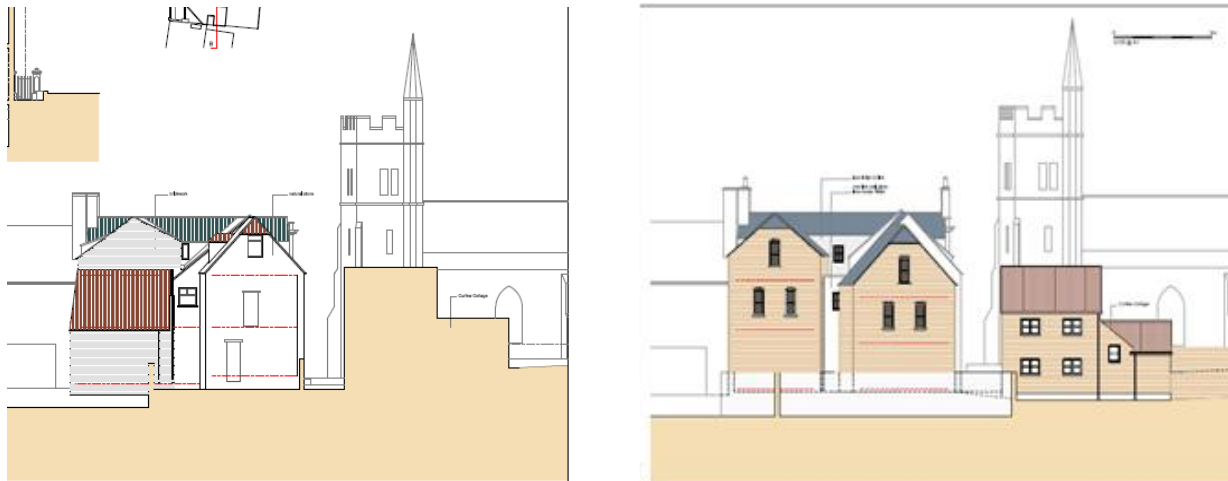


1868-1899 historic map of No. 3 High Street



1924-1952 historic map

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Existing (above left) and Proposed (above right) plans of South elevation and sections (Main Building)



Proposed new building to the rear of the Chapel and Curfew Cottage illustrating the proposed south elevation (i.e. as viewed from the Morrisons supermarket)



Proposed Western elevation of 3-house development to rear of the Chapel and Curfew Cottage

The Conservation officer has carefully appraised this planning proposal in terms of considering the effects it would have on the listed building and conservation area heritage assets and advises that: The application is supported by An Assessment of Significance which

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draws on the previous historical report by Compass Archaeology (submitted in respect of the previous application)...which identifies that the significance of the [host] building is:

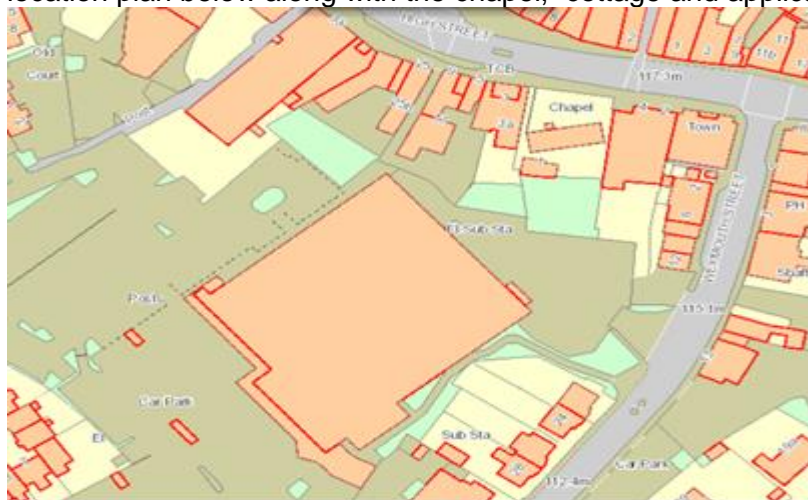
- Its historic value as a timber framed house for a prominent local;
- The variety of traditional materials and detailing;
- The rear wings reflecting the historic burgage pattern of development;
- Its relationship with the Chapel of St Lawrence.

As noted in the report, the work of the mid-19th Century (converting a house into shop) and again in the mid-20th century, has compromised the interest of the interior such that the interior is now of 'low interest' – a statement, officers fully concur with.

The application for the conversion of the existing building comprises:

- retaining and repairing the frontage (but reconfiguring the ground floor shop front elevation)
- converting the ground floor into two separate shops;
- installing a staircase at ground floor in the centre of the building to create a separate hallway and means of entrance to access the 3 residential units on the first and second floor;
- converting the first floor to two flats and the second to one flat – all accessed via the central staircase;
- converting the existing rear element into two x 2 bed units over 3 floors (ground to second floor level); and,
- extending the rear extension to the west to create two further houses (each 1 bedroom over two floors).

In terms of the proposed works on the character and interest of the building, the works to the frontage would repair the main elevation (upper levels) and reinstate a traditional shop frontage with a central doorway, which would be much more in keeping with the historic character of the building than the recent past configuration. The installation of a staircase would reinstate the arrangement that formerly existed. The application also proposes three new units (located to the rear of St Lawrence's Chapel and Curfew Cottage) – arranged in an 'L' shape. It is appreciated that this part of the site is lower than that of the church and the cottage and is currently neglected and overgrown. To the south of the site is a stone wall which has collapsed in the southern corner beyond which is a car park area the Morrisons supermarket, which is a large monolithic building which is clearly identifiable on the insert location plan below along with the chapel, cottage and application site at No. 3 High Street.



The proposed 'L' shaped building would be two storeys and designed in a traditional unassuming style using traditional materials (clay tiles and bricks) with a pitched roof and chimneys. The conservation officer questions the style choice of sash windows, rather than

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flush-framed casement windows, which would be more typical of a modest development to the rear of the High Street.

The view of the chapel from the car park is not a prominent view given the fact that the car park is to the rear of the Morrisons supermarket and staff carpark and that the current site is overgrown. The general impression generated is that of a run-down neglected area – which is partially illustrated by the site photograph reproduced below. In view of the topography of the site whereby the land slopes away from Curfew Cottage towards the carpark, the proposed development would not likely impede views of the chapel tower, which is an important and much valued landmark feature. In any case, the view from the car park is not a significant one. Moreover, the proposed scale, massing and siting of the development is considered appropriate in terms of the character of the area. Furthermore, it is submitted that the modest development would enhance views towards the site and beyond to the chapel and that the development would facilitate further enhancement through improved management of the site and repairs to the historic walls.



Officers conclude that the proposal represents a reasonable and proportionate amount of new development in order to secure a viable future for the long-neglected building at No. 3 High Street. The proposals, if consented, would deliver considerable enhancements to the street scene and improve the setting of the neighbouring chapel and the jewellers shop. The 3 residential units to the rear of Curfew Cottage and the chapel would not harm the setting of the chapel when viewed from the rear behind Morrisons or from the carpark to the rear of number 4 The High Street. As such, the proposals are considered to be in accordance with the WCS core policies, the Warminster Neighbourhood Plan and paragraph 137 of the NPPF.

It must be recognised that No.3 High Street is in very poor condition and has scaffolding in place to prevent the collapse of the building (as certified by Building Control). The submitted proposals would see the building retained, repaired and reinstated (in terms of the ground floor). The rear extension is considered an appropriate and sympathetic addition which would reflect the historic character and previous 19th Century development of the building and the site and would be in keeping with the character of the listed building. The proposals would enhance the significance of the listed building and accord with paragraph 131 of the NPPF and Section 66 of the Planning (Listed Building and Conservation Area) Act 1990. The proposals, by virtue of the repair and reinstatement of the principal elevation would enhance the setting of the adjacent Chapel of St Lawrence and would consequently be in accordance with paragraph 137 of the NPPF and the relevant development plan policies.

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Should members be minded to support this application, the Council's conservation officer recommends planning conditions in relation to detailing on the refurbished frontage, an internal survey of retrievable fabric and additional details for the new buildings to the rear.

After a detailed heritage appraisal, officers support this application. It is however necessary to note that the 3 house development located to the rear of the site is partially justified as a means of contributing to the funding of the repair and reinstatement of the host Grade II listed building, and it is considered necessary to secure the refurbishment of the building at No. 3 High Street prior to the occupation of any new units by way of a S106 Legal Agreement.

Members are furthermore advised that a separate listed Building consent application has been submitted which also requires committee consideration (application 17/04445/LBC refers) and is listed next on the committee agenda.

9.3 Highways and Parking - A new entrance off the High Street is proposed giving access to the ground floor residential lobby of the frontage building. Shop access would be via new entrance doors off the High Street. Only pedestrian access is provided to the units to the rear of the site, and the scheme is being proposed as a car-free development. The highway officer is satisfied that the refurbishment is acceptable due to the building being existing with no parking provision but raises concerns in respect of possible parking demand arising from the two bedroom units – which the Council's published car parking strategy guidance indicates a requirement for 6 spaces. It should be stressed however that this is guidance.

Whilst the Council's Car Parking Strategy sets out the standards, it also states that reduced residential parking requirements can be considered to include circumstances where there are significant urban design or heritage issues, or where parking demand is likely to be low and where any parking overspill can be controlled. Furthermore, decision makers must also be mindful of NPPF paragraph 32 which states that "*development should only be prevented or refused on transport grounds where the residual cumulative impacts of development are severe*".

In this instance, the proposed development is in the heart of the town centre of the market town of Warminster which benefits from being within short walking distance access to public transport and the full range of the town's facilities, amenities and services. There is in addition, extensive public car parking available for any visitors, again within close proximity. Whilst each application must be considered on its own merits, it is worthwhile acknowledging that in terms of principle, there have been some recent examples of two bedroom residential units being approved as car-free schemes elsewhere within Warminster town centre near to this site. For example, application 13/00921/FUL approved 2 x 2-bed flats at No. 10 Market Place with no dedicated car parking; and application 14/09710/FUL approved a 2 bed unit at No. 20 Market Place with no car parking also. Trowbridge town centre has also had car free developments approved in recent years.

Under this application, nine residential units and two retail units would be provided in a highly sustainable location. If approved and implemented, the development would deliver significant heritage benefits which would secure the refurbishment of the Grade II listed building and enhancements to the appearance of the Conservation Area street scene. It is considered that these benefits would significantly outweigh the lack of any dedicated car parking provision.

Officers fully appreciate that the development if it is to be approved would require a robust construction management plan in recognition of there being only a pedestrian access available to service the rear of the site. The applicant's agent has been approached on this matter and advised that construction traffic could possibly be negotiated on a short term basis via private land to the west and/or the south-east of the site. If this cannot be agreed, it is

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understood that the applicant would use the existing shopfront as an access and 'build out' the site from the rear. Such an approach would require careful site management and a robust planning condition would be necessary to secure a comprehensive site management plan which would need to be agreed prior to the commencement of any works on site.

9.3 Neighbouring Amenity – It is acknowledged that The Chapel Feoffees have raised concerns regarding privacy and overshadowing harm, especially in relation to Curfew Cottage but also in respect of loss of light to the Chapel itself. In response to the privacy concerns arising from direct visibility between the 3 new dwellings at the rear of the property and the cottage, the design has been revised to replace the one directly facing window with a fixed closed window with obscure glass, with gable windows to provide light in its place. Whilst it is accepted that there would be a limited separation distance between the development and the neighbouring properties, there is a significant difference in levels which would result in any views being obscured. These levels and the separation distance also mean that overshadowing of the cottage from the south would not arise to any unacceptable degree. Officers are also fully mindful of the present site circumstances with established trees reducing outlook and light to some degree. Officers are also appreciative of the town centre context whereby a denser development and reduced separation distances between buildings combine to form the existing character of the town centre. It should be stressed that there would be no directly intervisible windows from the proposed new build extending to the rear of No. 3.

It is also noted that the Feoffees also raise potential amenity impacts on future occupiers arising from the Chapel bell ringing at regular intervals. Officers would respond to this matter by stating that the bell ringing takes place in the context of existing residential uses at upper floor levels already in the vicinity of the Chapel and officers are not aware of any complaints being lodged in this regard and future potential buyers would be fully aware of the presence of the Chapel and bell ringing before going through with any property purchase. It is also noteworthy to mention that the Council's public protection officer has not raised any objections in this regard.

9.4 Other Matters - The Chapel Feoffees also raised further questions about additional surveys to ensure the protection of the Chapel and the pathway during construction. The Chapel itself lies outside of the red line area and arrangements in respect of protection during building works would be a matter of private treaty which would fall outside of the planning remit open to the local planning authority. If the pathway is to be utilised, it would an agreement to be reached between the relevant parties. Any consequential works to or impacts on the path would also require private agreement.

In respect to ecology matters the submitted documentation confirms discussions with the Council's ecologist, and it has been confirmed that no further surveys for bats are required. The ecology report recommendations are supported by the Council's ecologist comprising site clearance of vegetation to be undertaken outside the bird nesting season (March to the end of August) or immediately after an ecologist has confirmed the absence of any active nests; that a nesting bird check is undertaken by a suitably qualified ecologist prior to any building works commencing; provision of replacement bird nesting features through the installation of bird boxes and that any trees scheduled for retention proposals should be protected during construction. Planning conditions and an informative can satisfactorily secure all of the above ecology safeguarding and enhancement requirements.

The Warminster Neighbourhood Plan and WCS Core Policy 41: Sustainable construction and low carbon energy requires that new dwellings achieve a level of energy performance at or equivalent to Level 4 of the Code for Sustainable Homes. Members are advised that any grant of planning permission should include a condition to that effect.

Note: Please read this report in conjunction with the supplement published on 16 October 2017; the supplementary paper amends some of the information in this report.

The Council has an adopted CIL regime, and it is material to note that this application proposal would generate CIL receipts that would contribute towards infrastructure improvements. In addition, given that Warminster has a made Neighbourhood Plan, Warminster Town Council would directly secure 25% of CIL receipts.

Conclusion (The Planning Balance) – Officers report that this development proposal accords with the relevant WCS Policies and the design is considered acceptable in terms of the Conservation Area, design, access, and the surrounding context. The proposed development would provide an additional 9 residential units and 2 shops in a wholly sustainable location that would not result in unacceptable harm to local amenity, and would deliver significant benefits by bringing a longstanding semi-derelict and dangerous listed building back into a functional and viable use. Planning permission is therefore recommended, subject to planning conditions.

10. RECOMMENDATION: It is recommended that authority be delegated to the Head of Development Management to GRANT planning permission, subject to conditions listed below and following the completion of a S106 legal agreement which would bind the developer and this permission to firstly secure and complete all the necessary repair works to bring the Grade II Listed building at No. 3 High Street back into a functional use prior to the first occupation of any of the approved dwellings.

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:

1364/P/LOC received on 25 July 2017; 1364/P/01 P3 received on 25 July 2017; 1364/P/02 P2 received on 18 April 2017; 1364/P/03 P2 received on 18 April 2017; 1364/P/04 P2 received on 18 April 2017; 1364/P/05 P2 received on 18 April 2017; 1364/P/06 P3 received on 25 July 2017; 1364/P/07 P2 received on 18 April 2017; 1364/P/08 P2 received on 18 April 2017; 1364/P/09 P3 received on 25 July 2017

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

3. No development shall commence on site until the following details have been submitted to and agreed in writing by the Local Planning Authority:

In respect of the 3 residential units located to the rear of the site and behind the Chapel:-

Eaves and chimney details to include a section at a scale of 1:10, full detail of doors, lintels, cills and windows and brochure details for rainwater goods and roof lights (conservation style): A sample panel of the proposed brickwork and mortar colour (brickwork should be Flemish bond) and the proposed specification for the repair of the wall; and,

In respect of alterations and conversion of 3 High Street:-

Detailed drawings of the ground floor shop front at a scale of no less than 1:50;
A repair schedule for all the existing windows with sash windows to be repaired or be replaced on a like-for-like basis;

Note: Please read this report in conjunction with the supplement published on 16 October 2017; the supplementary paper amends some of the information in this report.

Details of conservation style roof lights, timber French doors and other new external doors and any canopies, natural slate roofing materials and new stone copings;
Details of the design of the new stairs at ground to the first floor level; and
A room by room survey of all surviving historic features (i.e. doors, skirtings, cornices etc.) and that such features identified are suitably reinstated; and,

In respect of the 2 residential units to be provided by the extension to the rear of No 3 High Street:-

A sample panel of the proposed Flemish bond brickwork and mortar colour;
New window details at a scale of 1:5 including horizontal and vertical sections, and detailing windows with rubbed brick arches and Bath stone cills.

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

4. 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:

- all hard and soft surfacing materials including proposed planting;
- wildlife friendly proposals for the planting scheme
- finished levels
- the type and form of any protective fencing to safeguard boundary walls and retained trees
- any means of site/plot enclosure.

REASON: The matter is required to be agreed with the Local Planning Authority before development commences in order that the development is undertaken in an acceptable manner, to ensure a satisfactory landscaped setting for the development and the protection of existing important landscape features.

5. All soft landscaping comprised in the approved details of landscaping shall be carried out in the first planting and seeding season following the first occupation of the building or the completion of the development whichever is the sooner. All 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.

6. No development shall commence on site (including any works of demolition), until a Construction Management Plan (CMP) has been submitted to, and approved in writing by the Local Planning Authority, which shall include the following:

- a) the access and parking of vehicles of site operatives and visitors;
- b) the loading and unloading of plant and materials;
- c) the storage of plant and materials used in constructing the development;
- d) the measures to control the emission of noise, dust and dirt during construction; the hours of construction, including deliveries;
- e) No construction or demolition work taking 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.

The approved CMP shall be complied with in full throughout the construction period.

Note: Please read this report in conjunction with the supplement published on 16 October 2017; the supplementary paper amends some of the information in this report.

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

7. No development shall commence on site until a scheme for the discharge of foul water from the site has been submitted to and approved in writing by the Local Planning Authority. The development hereby approved shall not be first occupied unless and until the foul water drainage scheme has been implemented in accordance with the approved details.

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

8. 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 hereby approved shall not be first occupied unless and until the surface water drainage scheme has been implemented in accordance with the approved details.

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

9. No development shall commence on site until a scheme for protecting the future residents against noise from road traffic and noise from other sources such as plant for air conditioning units etc. has been submitted to and approved by the Local Planning Authority. The approved scheme shall be implemented in full before the use commences and shall be maintained at all times thereafter.

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

REASON: In the interests of the amenity of future occupants.

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

REASON: In the interests of neighbour amenity.

11. The A1 use hereby permitted shall only take place between the hours of 08:00 and 1800 Mondays to Saturdays and between 10:00 and 16:00 on Sundays and Bank or Public Holidays.

REASON: In the interests of the amenity of future occupants and of neighbouring properties.

12. No deliveries shall be made to or collections made from the retail development hereby approved except between the hours of 08:00 and 18:00 Monday to Saturday, with no deliveries or collections on Sundays or Public and Bank Holidays.

REASON: In the interests of the amenity of future occupants and of neighbouring properties.

13. No loud speakers or amplification equipment shall be attached to ceilings or external walls in the A1 use premises.

Note: Please read this report in conjunction with the supplement published on 16 October 2017; the supplementary paper amends some of the information in this report.

REASON: In the interests of the amenity of future occupants and of neighbouring properties.

14. The dwellings hereby approved shall achieve a level of energy performance at or equivalent to Level 4 of the Code for Sustainable Homes. The dwellings shall not 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.

15. Prior to the first occupation of the dwellings hereby approved wildlife friendly measures in the form of house sparrow nest box under the eaves/soffits of new buildings on site and bat enhancements with crevice spaces to new buildings shall have been installed in accordance with details to be submitted to and approved in writing by the Local Planning Authority.

REASON: In the interests of enhanced biodiversity.

16. 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.

INFORMATIVES TO APPLICANT:

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

The applicant is advised that it is an offence to disturb nesting birds. Site clearance of vegetation should be undertaken outside the bird nesting season (March to the end of August) or immediately after an ecologist has confirmed the absence of active nests.

This decision should be read in conjunction with the listed building consent decision issued for application 17/04445/LBC and the conditions attached thereto.

The applicant is advised to contact Wessex Water with regard to new connections and in respect of any agreement that may be required with regard to the protection of existing infrastructure.

Note: Please read this report in conjunction with the supplement published on 16 October 2017; the supplementary paper amends some of the information in this report.

REPORT FOR WESTERN AREA PLANNING COMMITTEE

Date of Meeting	20 September 2017
Application Number	17/04445/LBC
Site Address	3 High Street, WARMINSTER BA12 9AG
Proposal	Refurbishment of existing frontage building to provide 2 shops with 4 flats above.
Applicant	Mr Huy Nguyen
Town/Parish Council	WARMINSTER
Electoral Division	WARMINSTER EAST - Councillor Andrew Davis
Grid Ref	387369 145088
Type of application	Full Planning
Case Officer	Matthew Perks

Reason for the application being considered by Committee

This application is brought to Committee at the request of Councillor Andrew Davis for the consideration of the scale of development, the impact upon the surrounding area and the relationships with adjoining properties, as well as design impacts. Furthermore, the Warminster Town Council PAC requested that Cllr Davis call in the application.

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 recommend that the application be approved subject to conditions. Following on from committee agenda item 7b, this report concentrated exclusively on the proposed works to the listed building at No.3 High Street to which listed building consent is required. Matters relating the ecology, highway safety and car parking, land drainage, impacts on neighbours amenity and trees are not relevant to this application. These details are fully appraised within the committee report item 7b.

2. Report Summary

This report assesses the proposal in terms of the impact on the Grade II Listed Building at No. 3 High Street Warminster.

Neighbourhood Responses: Several items of correspondence were received from the Feoffees (Trustees) of St Lawrence Chapel.

Warminster Town Council: The Town Council did not comment on this listed building consent application but did object to the associated planning application (reference 17/03839/FUL) for reasons summarised in section 5.

3. Site Description

The subject property at No. 3 High Street is a grade II listed building which is in a very poor state of repair and is described as 'derelict' by the applicant and is currently scaffolded without

Note: Please read this report in conjunction with the supplement published on 16 October 2017; the supplementary paper amends some of the information in this report.

which the building would be at risk of collapse. On the following page, several site photos illustrate the perilous state of this protected building.



4. Planning History

There have been a number of applications in the last decade relating to attempts to refurbish the building at No. 3 High Street. However, no refurbishment works have been implemented. The most recent relevant planning applications relating to the site are:- W/12/02179/FUL and W/12/01745/LBC: which comprised the refurbishment of existing building to provide 2 shops at ground floor level and 5 flats to the upper (first and second) floors - which was approved with conditions

5. The Proposal

The proposal is for the restoration of the listed building at No.3 High Street frontage listed internally and externally to preserve its visual role in the High Street and Chapel setting within the Conservation Area and bring it back into a viable and secure future use. Within the existing building, the ground floor would be re-developed to provide two retail units with a new central access directly off the High Street for the upper levels of new residential accommodation (4 flats) in refurbished and converted spaces. The layout has been designed to make use of the original walls and floors where this is possible. The application proposal also comprises erecting a 2 storey extension to the rear of No.3 to accommodate 2 houses

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which would be designed to follow the pattern of the existing rear wing and replace earlier works, now demolished, in the same location.



The application is supported by the following documents:

- A Design and Access Statement
- A Heritage Statement and an Assessment of Significance
- Structural Inspection Report

Note: Please read this report in conjunction with the supplement published on 16 October 2017; the supplementary paper amends some of the information in this report.

- A Financial Statement

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6. Planning Policy

Wiltshire Core Strategy Core Policy 58: Ensuring the Conservation of the Historic Environment.

The 2016 'made' Warminster Neighbourhood Plan is also a material consideration and forms part of the development plan and must be appraised as part of determining planning applications, especially Policy E5 – 'Surrounding Environment' – which requires that new developments should respect local character.

The National Planning Policy Framework (NPPF) and National Planning Practice Guidance (NPPG) are also material considerations.

7. Summary of Consultation Responses

Warminster Town Council – No comments were provided with regard to this LBC application, however, the Town Council object to the associated planning application (ref: 17/03839/FUL) citing concerns about the need for development to be done sensitively, taking in all the surrounding area. Refusal of planning permission is recommended by the Town Council on the grounds of gross overdevelopment and the setting of the site in a conservation area.

Conservation Officer – No objection. The building is in a very poor condition and clearly earns the 'building at risk' label. The retention and conversion of the existing building, albeit with considerable rebuilding, would be costly and deliver little in the way of profit to act as an incentive. The previous owner did not implement the 2012 consented scheme which is summarised within section 4 of this report and financial viability has been mooted as being part of the reason, which is not disputed. Whilst the proposed new building to the rear is not "enabling development" as envisaged by development policies in the WCS, the proposed new building element of the project would nevertheless 'enable' the restoration of the Grade II listed building as part of a viable scheme.

The proposal represents a reasonable and proportionate amount of new development in order to secure a viable future for this long-neglected building. The proposals, if consented, would deliver considerable enhancements to the street scene and improve the setting of the neighbouring chapel and the jeweller's shop. Additional conservation based commentary is provided within section 9 of this report.

8. Publicity

Following the display of a site notice and individual neighbour notifications, the Feoffees (Trustees) of St Lawrence Chapel were the sole respondents and raised the following objections/queries which relate to LBC considerations.

- The applicant's reference to discussions held between the applicant and Feoffees are not accurate. Permission would be required to use the access.
- The indicated dimensions of the proposed buildings to the rear are queried.

9. Planning Considerations

Section 70(2) of the Town and Country Planning Act 1990 and section 38(6) of the Planning and Compulsory Purchase Act 2004 require that the determination of planning applications must be made in accordance with the Development Plan, unless material considerations indicate otherwise. The Council has a statutory duty to protect the historic environment. This is the primary consideration when determining this application. Section 16(2) of the Planning (Listed building and Conservation area) Act 1990 states that the Local Planning Authority has a duty to pay special attention to the desirability of preserving the building or its setting or any

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features of special architectural or historic interest which it possesses when determining an application for listed building consent.

Furthermore, Core Policy 58 of the Wiltshire Core Strategy 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. Whilst noting the call-in reason and the representation received from the Feoffees, the relevant determining issue for this report to consider is the impact the development proposal would have on the fabric, character and appearance of the listed building. The other issues raised are addressed separately by the corresponding committee report item 7b which relates to the accompanying planning application.

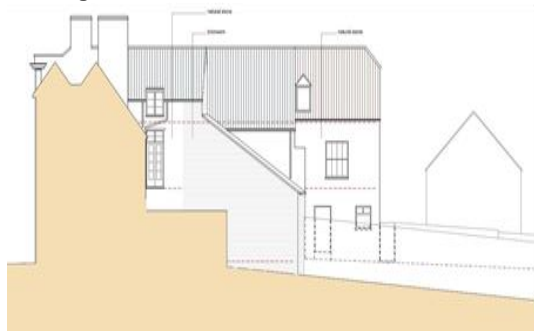
9.1 The Impact on the fabric, character and appearance of Listed Building – The existing building sits between St Lawrence Chapel and the Grade II Listed buildings at No. 5-17 High Street, which are all within the Warminster Town Centre Conservation Area. The proposed development would structurally correct and repair the front elevation which without the significant amount of scaffolding would be at serious risk of collapse. As illustrated below, the proposal seeks to restore and preserve the essential character of the building and in turn, would enhance the character and appearance of the Conservation Area and neighbouring settings of listed buildings. The insert plan below illustrates the existing scaffolded and proposed High Street frontage.



With regard to the heritage considerations, a Design and Access Statement, a Heritage Statement and an Assessment of Significance on the existing building and proposed development to the rear, as well as a Structural Inspection Report on the building were all submitted in support of the application and these have been carefully appraised. The following extracts of the submitted plans show the existing and proposed elevations to the refurbished and extended Listed Building element:

The following extracts illustrate the existing and proposed elevations:

Existing West Elevation and Section



Proposed West Elevation Plan



Note: Please read this report in conjunction with the supplement published on 16 October 2017; the supplementary paper amends some of the information in this report.

The building would be extended with the addition of the double storey element extending off the existing southern rear elevation. Historic maps show a previous range of buildings attached to the rear of the original building as illustrated in the reproduced historic mapping inserts below. The range of buildings at the rear of No. 3 were demolished at some point after 1952 as they don't appear on the 1952-1992 epoch mapping database available to officers. The parcel of land to the immediate rear of No. 3 High Street is now used as a parking area to the rear of no 5 High Street. Along the eastern and southern part to the rear of No. 3, another range of buildings have since been demolished. An existing lean-to extension would be demolished and replaced by the proposed double storey rear extension.



1868-1899 historic map of No. 3 High Street



1924-1952 historic map



Existing (above left) and Proposed (above right) plans of South elevation and sections (Main Building)

The Conservation officer has carefully appraised this application in terms of considering the effects it would have on the listed building and conservation area heritage assets and advises that: The application is supported by An Assessment of Significance which draws on the previous historical report by Compass Archaeology (submitted in respect of the previous application)...which identifies that the significance of the [host] building is:

- Its historic value as a timber framed house for a prominent local;
- The variety of traditional materials and detailing;
- The rear wings reflecting the historic burgage pattern of development;
- Its relationship with the Chapel of St Lawrence.

Note: Please read this report in conjunction with the supplement published on 16 October 2017; the supplementary paper amends some of the information in this report.

As noted in the report, the work of the mid-19th Century (converting a house into shop) and again in the mid-20th century, has compromised the interest of the interior such that the interior is now of 'low interest' – a statement, officers fully concur with.

The application for the conversion of the existing building comprises:

- retaining and repairing the frontage (but reconfiguring the ground floor shop front elevation);
- converting the ground floor into two separate shops;
- installing a staircase at ground floor in the centre of the building to create a separate hallway and means of entrance to access the 3 residential units on the first and second floor;
- converting the first floor to two flats and the second to one flat – all accessed via the central staircase;
- converting the existing rear element into two x 2 bed units over 3 floors (ground to second floor level); and,
- extending the rear extension to the west to create two further houses (each 1 bedroom over two floors).

In terms of the proposed works on the character and interest of the building, the works to the frontage would repair the main elevation (upper levels) and reinstate a traditional shop frontage with a central doorway, which would be much more in keeping with the historic character of the building than the recent past configuration. The installation of a staircase would reinstate the arrangement that formerly existed.

Officers conclude that the proposal represents a reasonable and proportionate amount of new development in order to secure a viable future for the long-neglected building at No. 3 High Street. The proposals, if consented, would deliver considerable enhancements to the street scene and improve the setting of the neighbouring chapel and the jewellers shop.



It must be recognised that No.3 High Street is in very poor condition and has scaffolding in place to prevent the collapse of the building (as certified by Building Control). The submitted proposals would see the building retained, repaired and reinstated (in terms of the ground floor). The rear extension is considered an appropriate and sympathetic addition which would reflect the historic character and previous 19th Century development of the building and the site and would be in keeping with the character of the listed building. The proposals would enhance the significance of the listed building and accord with paragraph 131 of the NPPF and Section 66 of the Planning (Listed Building and Conservation Area) Act 1990. The proposals, by virtue of the repair and reinstatement of the principal elevation would enhance the setting of the adjacent Chapel of St Lawrence and would consequently be in accordance with paragraph 137 of the NPPF and the relevant development plan policies.

Note: Please read this report in conjunction with the supplement published on 16 October 2017; the supplementary paper amends some of the information in this report.

Should members be minded to support this application, the Councils conservation officer recommends planning conditions in relation to detailing on the refurbished frontage, an internal survey of retrievable fabric and additional details.

In view of the officer considerations above it is considered that the application can be supported on heritage grounds.

11. Conclusion (The Planning Balance) - The proposal accords with relevant National and WCS Policies in relation to the preservation and enhancement of Listed Buildings.

12. RECOMMENDATION:

It is recommended that listed building consent is granted, subject to the following conditions.

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 carried out in accordance with the following approved plans:

1364/P/LOC received on 25 July 2017; 1364/P/01 P3 received on 25 July 2017; 1364/P/02 P2 received on 18 April 2017; 1364/P/03 P2 received on 18 April 2017; 1364/P/04 P2 received on 18 April 2017; 1364/P/05 P2 received on 18 April 2017; 1364/P/06 P3 received on 25 July 2017; 1364/P/07 P2 received on 18 April 2017; 1364/P/08 P2 received on 18 April 2017; 1364/P/09 P3 received on 25 July 2017

[insofar as they relate to the Listed Building No.3 High Street Warminster].

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

3. No development shall commence on site until the following details have been submitted to and agreed in writing by the Local Planning Authority:

In respect of alterations and conversion of 3 High Street:-

Detailed drawings of the ground floor shop front at a scale of no less than 1:50;

A repair schedule for all the existing windows with sash windows to be repaired or be replaced on a like-for-like basis;

Details of conservation style roof lights, timber French doors and other new external doors and any canopies, natural slate roofing materials and new stone copings;

Details of the design of the new stairs at ground to the first floor level; and

A room by room survey of all surviving historic features (i.e. doors, skirtings, cornices etc.) and that such features identified are suitably reinstated; and,

In respect of the 2 residential units to be provided by the extension to the rear of No 3 High Street:-

A sample panel of the proposed Flemish bond brickwork and mortar colour;

Note: Please read this report in conjunction with the supplement published on 16 October 2017; the supplementary paper amends some of the information in this report.

New window details at a scale of 1:5 including horizontal and vertical sections, and detailing windows with rubbed brick arches and Bath stone cills.

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

Planning informative:

1. This decision should be read in conjunction with the planning application decision issued for application 17/03839/FUL and the conditions attached thereto.

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REPORT FOR WESTERN AREA PLANNING COMMITTEE

Report No. 2

Date of Meeting	18 October 2017
Application Number	17/06331/FUL
Site Address	Rothermere, Bythesea Road, Trowbridge BA14 8JQ
Proposal	Change of use from office (B1) to Drug and Alcohol Misuse Advice and Treatment Centre (D1), and conversion of first floor to cluster housing unit of 5 bedrooms and communal facilities
Applicant	Wiltshire Council, Health Promotion & Prevention
Town/Parish Council	TROWBRIDGE
Electoral Division	TROWBRIDGE CENTRAL - Cllr Stewart Palmen
Grid Ref	385432 157686
Type of application	Full Planning
Case Officer	Matthew Perks

Reason for the application being considered by Committee

This report is brought to Committee since it is an application made by Wiltshire Council and there have been objections. This is in accordance with the scheme of delegation states that: *“Applications submitted by Wiltshire Council will not be dealt with under delegated powers where an objection has been received raising material planning considerations”*. The decision making authority must therefore rest with the elected members of the area planning committee.

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.

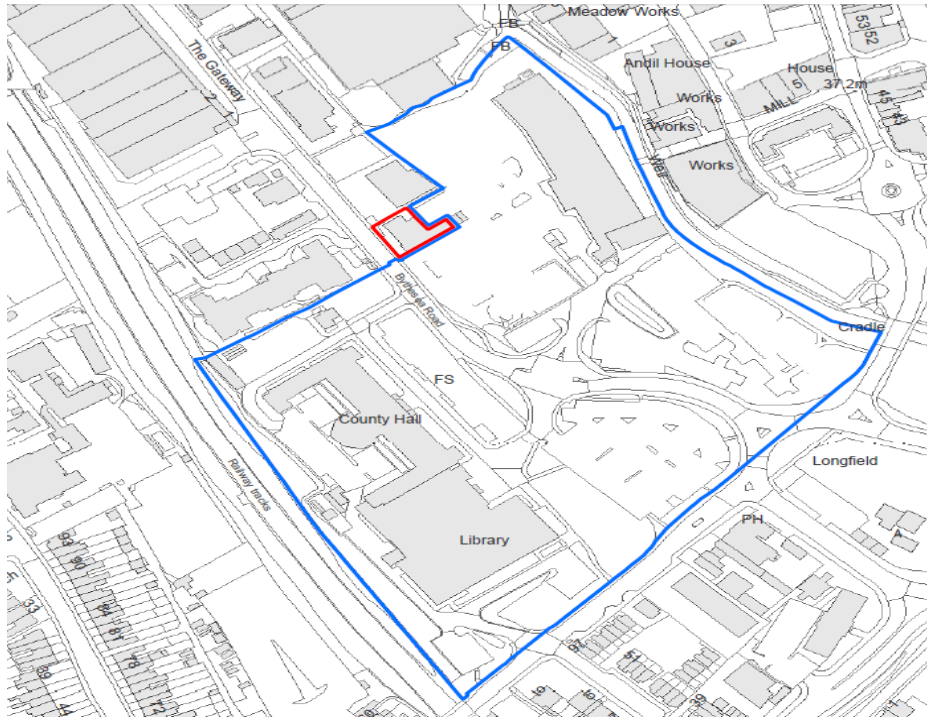
2. Report Summary

The report assesses the proposal in the light of the principle of the development in this location and potential neighbouring amenity impacts, and recommends that planning permission should be granted. Trowbridge Town Council raised no objections and the Council’s Highway and Environmental Health officers also raised no concerns.

38 neighbour objections were however received.

3. Site Description

The subject property known as ‘Rothermere’ is located to the north of and diagonally opposite County Hall located off County Way within central Trowbridge. The property building is not listed and is not within the town’s conservation area. The subject building is a double storey building which was formerly used by the National Probation Service as offices under planning Use Class B1. The Probation Service is now housed across the road at County Hall and the premises are presently vacant. The insert on the following page illustrates the location of the property and land owned by the Council, which includes the site.



4. Planning History

93/00198/FUL - Construction of an extension and alterations – Approved 27.03.1993

W/99/00389/FUL – 1.2m satellite dish – Approved 19.04.1999

W/05/02884/OUT - Redevelopment to provide multiplex cinema, ten pin bowling and associated commercial leisure and hotel facilities together with the construction of a public library, offices and residential development – Application withdrawn 02.10.2009

In addition the above planning history, the following (undetermined) application is also worth recording since it adjoins and site/subject building as illustrated on the accompanying site plan.

17/07693/OUT - Outline application for a mixed use redevelopment of the site comprising the demolition of all existing buildings on site and redevelopment to include the provision of up to 690m² of retail floor space (Classes A1, A2 and A3); up to 1,100m² of restaurant/public house floor space (Classes A4 and AA); up to 54 residential apartments (Class C3); new health facility (Class D1) of up to 4,000m² floor space; a new leisure centre (Class D2) with up to 1,800m² floor space with provision of an energy centre within the proposed leisure facility. The provision of associated vehicular access, car parking and service vehicles access and creation of new footpaths/cycleways across the site, new riverside walkway, public amenity space, new landscaping, removal of existing trees and replacement tree planting; and, provision of a new pedestrian footbridge across the River Biss, along with steps on the eastern side of River Biss to connect into the existing riverside footpath.

17/07693/OUT Location Plan



The proposed redevelopment proposals submitted under application 17/06331/FUL for the Rothermere property should be assessed on their own merits and as things stand at present. The Council cannot prejudge the outcome of application 17/07693/OUT. However, it is worthwhile noting that should application 17/07693/OUT be granted, the redeveloped Rothermere building would form part of a wider site redevelopment with additional civic and health facilities.

5. The Proposal

This application seeks planning permission to change the use of the building from the existing B1 Use Class (Offices) to a Class D1 (Treatment Centre) on the ground floor and Class C4 (Residential use for unrelated individuals, with shared facilities) on the first floor.

The supporting document which accompanies the application states that the aim is to provide *“...a much needed facility to aid people in the local community who are recovering from Drug and Alcohol misuse. Many of whom are also homeless or rough sleepers. The intention is to separate the building into two parts; the ground floor will become a treatment centre and the first floor will be converted into residential accommodation offering ... private rooms, a communal bathroom and communal kitchen.”*

The D1 Treatment Centre use at ground floor level would be used by medical professionals, who would be able to administer prescriptions to those in recovery. The five first floor rooms would be offered as affordable accommodation for vulnerable persons who are recovering from substance misuse.

6. Local Planning Policy

Core Policy 1: Settlement Strategy; Core Policy 2: Delivery Strategy; Core Policy 29: Spatial Strategy for the Trowbridge Community Area; Core Policy 46 (Meeting the needs of Wiltshire’s vulnerable and older people); Policy 57: Ensuring High Quality Design and Place Shaping; Core Policy 60: Sustainable Transport

The following are also material to the assessment of this application:

National Planning Policy Framework, National Planning Practice Guidance and the Wiltshire Car Parking Strategy

7. Summary of consultation responses

Trowbridge Town Council - No objection

Wiltshire Council Highway Officer - The highway officer notes that the proposed change of use of the former office building (B1) to a substance misuse advice and treatment centre and provision of a five bed residential accommodation unit on the first floor does not include any dedicated car parking provision. The highway officer is of the view that the previous office use would have attracted a significant amount more vehicle movements than the proposed use. Additionally, as the staff associated to this facility would be employed by/ associated with Wiltshire Council, parking would be available in the adjacent staff car park. As a result, the officer does not foresee this proposal having a detrimental impact upon highway safety and no highway objection is raised.

Environmental Health Officer – No objection. Detailed comments are provided within para 9.2.

8. Publicity

Following the public notification and advertisement of this application, 38 third party public representations were received, all from dwelling units within the “Regal Court” complex on the opposite side of Bythesea Road. All contained the same wording, as reads as follows:

"I wish to object to this application - the proposed treatment centre is directly opposite Regal Court, a block of 59 retirement flats with elderly and vulnerable residents of .up to 99 years of age. This is simply not the location for such a centre, especially in view of Application No. 17/07693/OUT which proposes further residential and retirement housing on adjoining land.

If the proposal is forced through despite this objection, I would point out that there is no indication of the level of supervision or security at the centre - as it includes cluster housing, I feel that on-site '24h' supervision and security is essential. (Anything less would pose a significant risk to residents in nearby properties.)"

9. Planning Considerations

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

9.1 The Principle of the Development

The proposed ground floor level use must be considered as the provision of a health centre/clinic, which falls under planning use class D1 of the Use Classes Order. This Use Class covers uses including clinics, health centres, crèches and consulting rooms as well as public halls and non-residential education and training centres.

In terms of the Wiltshire Core Strategy, strategic objective 6 sets out to *"...ensure that infrastructure is in place to support communities"*, which includes healthcare facilities; and that *"adequate services and infrastructure provision, to meet the needs of Wiltshire's growing population and economy, are brought forward in a timely and responsive manner alongside new development proposals"*. One of the key outcome associated to the Council's strategic objective enshrined within the WCS in terms of delivering new infrastructure, services and facilities will require *"effective partnership working between the Council, other infrastructure providers and developers to facilitate infrastructure delivery; opportunities for the co-location and multi-functional use of existing and new infrastructure services and facilities will have been realised"*.

Moreover, WCS CP46 is a policy which seeks to meet 'the needs of Wiltshire's vulnerable and older people'. This policy states that the provision *"...of homes and accommodation for vulnerable people will be supported, including but not limited to:*

- iv. people with learning disabilities*
- v. people with mental health issues*
- vi. homeless people and rough sleepers*
- vii. young at risk and care leavers.*

Such accommodation should be provided in sustainable locations, where there is an identified need, within settlements identified in Core Policy 1 (normally in the Principal Settlements and Market Towns) where there is good access to services and facilities."

In terms of policy considerations, the proposed new health care and treatment facilities are considered wholly acceptable in principle. The site is a highly sustainable location with very good access to services and facilities. In addition, there would be a close proximity to the Council's social services and the probation services located across the road at County Hall. The Job Centre is located along the same road and there are good links to public transport, supermarkets and leisure facilities within a short walking distance. If approved and implemented, it would make use of a vacant building and provide an essential rehabilitation facility.

9.2 Neighbouring Amenity

The proposed change of use would regenerate an existing vacant building in the town-centre. The concerns expressed by third parties from 'Regal court' have been carefully considered and the Council's public protection anti-social behaviour support officer advises as follows:

"The ... application requests a change of use from a Probation Office to a Substance Misuse treatment centre. The office will be staffed throughout the opening hours and when closed, there will be an Out of Hours number for members of the public to call if they have any concerns – there is also the option to call 101 or 999 at any time throughout the day or night.

The clients attending the building will have appointments with the staff and drop-ins will be facilitated during normal office hours when the building is open. When the site is closed at the end of the working day, there will be no reason for clients to access the treatment centre, therefore we see no reason why there would be increased anti-social behaviour in the locality, given that this wasn't the case when the building was utilised by Probation Officers. On this point, we would argue that clients recovering from substance misuse are no higher risk to the residents of Regal Court, than the offenders previously being managed at Rothermere. It is also worth mentioning there have been no reports of anti-social behaviour linked to the 3 operational treatment hubs, therefore no evidence to suggest such a building will attract increased anti-social behaviour as a rule.

The 5 cluster bedrooms will be for service users who have been detoxed and in recovery, restarting their journey into living independently. The tenants will be supported in the property and anti-social behaviour will not be tolerated. There will be an on call facility for the supported housing component too; if someone is in crisis the supported housing management provider can be contacted. We would further argue that the Amber Foundation, next door to Regal Court, is a similar facility housing homeless, unemployed members of the public and supporting them to become independent. As the residents of Amber Foundation have not been an issue to Regal Court, we would like the same tolerance to be granted to those housed at Rothermere who will be getting the required amount of support to continue their recovery journey as a member of the community."

It is acknowledged that perceived fears can be a material planning consideration but there should be some form of justification or substantiation. The implied risks to nearby residents and the potential for anti-social behaviour associated with the treatment centre and on site accommodation have been carefully appraised; and as reported above, the Council's anti-social behaviour support officer maintains that the proposed facility should be able to operate in such proximity to other housing. There have been no reports of anti-social behaviour at the 3 existing treatment hubs, which indicates that the facilities are well managed with monitored behaviour. There is no reason to suggest that the Rothermere facility would be run differently. The ground floor treatment centre would only be operational during working hours and would be managed by way of appointments with full-time staff. The use replaces the previous probation office facility which has moved over the road to County Hall which would create some synergies and close relations between the facility and the nearby health care and well-being / social support services available at County Hall.

There is no evidence that the proposed use would have a detrimental impact on adjacent residents. The out-of-hours number would provide an additional contact point in the event of any issue arising when the facility is closed. The occupants in recovery in the living accommodation would have on call access to managers in the event of crisis. The "Amber Lodge" facility, which provides accommodation and assistance for young people in difficulty, including recovery from addiction, lies immediately north of Regal Court and as reported by the public protection team there have not been any anti-social behaviour examples or reported complaints made by the public. Although the fears raised by local residents are fully appreciated, the concerns raised are considered not sufficient to justify a refusal

recommendation. It is however considered appropriate to impose a condition requiring a Facility Management Plan which would enable the Council, inter alia, to consider and define the opening times and details of contact numbers should any issues arise.

9.3 Other Matters

As noted above, highway officers raise no objections and environmental health officers do not identify any issues in relation to nuisance.

10. Conclusion (The Planning Balance) – Officers report that this planning proposal accords with the development plan in respect of the provision of support to vulnerable people within the community and with the Rothermere property being located in a town centre context in a highly sustainable location with numerous facilities all within easy reach of people visiting and residing in the facility. Permission is therefore recommended.

RECOMMENDATION - Permission, subject to the following conditions:

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

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

2. The development hereby permitted shall be carried out in accordance with the following approved plans: Site Plan registered on 04 August 2017; Floor Plan as Existing registered on 04 August 2017; and Floor Plan as Proposed registered on 04 August 2017

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

3. The development hereby approved shall not be brought into use until a Facility Management Plan (FMP) has been submitted to and approved in writing by the local planning authority. The FMP shall include, but not necessarily be limited to, the following:

- a) The hours of operation for the D1 use;
- b) The staffing levels;
- c) The responsible persons and lines of communication; and
- d) Further details in respect of the out of hours contact details and procedures.

The approved FMP shall be adhered to and implemented in accordance with the approved details.

REASON: In the interests of neighbouring amenity.



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REPORT FOR WESTERN AREA PLANNING COMMITTEE

Report No. 3

Date of Meeting	18 October 2017
Application Number	17/06492/FUL
Site Address	19/19A The Old Bakehouse, Stallard Street Trowbridge BA14 9AJ
Proposal	Existing shop & residential accommodation to be converted to 7 self-contained flats
Applicant	Mr & Mrs John Knight
Town/Parish Council	TROWBRIDGE
Electoral Division	TROWBRIDGE CENTRAL – Cllr Stewart Palmen.
Grid Ref	385132 157694
Type of application	Full Planning
Case Officer	Matthew Perks

Reason for the application being considered by Committee

This application is brought to Committee at the request of Councillor Stewart Palmen for the consideration of the scale of development, car parking impacts and whether the proposal comprises “too many flats in a very small area with poor amenities/parking and overlooking neighbours properties”.

1. Purpose of Report

The purpose of the report is to assess the application merits against the policies of the development plan and other material considerations and to recommend that the application be approved.

2. Report Summary

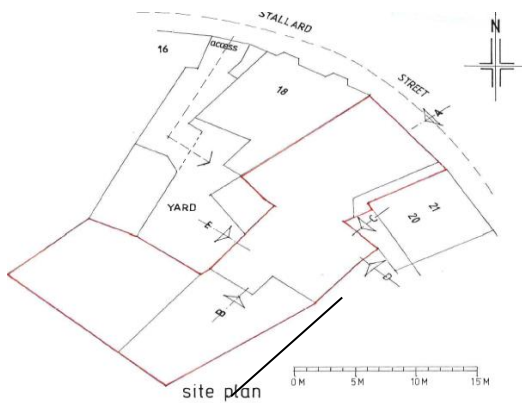
This report assesses the principle of the proposed conversion to flats, the parking issues and potential impacts on the surrounding area and neighbouring amenities, and to recommend that permission should be granted.

Neighbourhood Responses: Representations were received from four neighbours.

Trowbridge Town Council: Objects to the application for reasons summarised in section 8.

3. Site Description

This application relates to Nos. 19 and 19a Stallard Street and the outbuilding to the rear of the property. The irregular shaped site is located within the Conservation Area but outside of the Trowbridge Town Centre Commercial Area. Excluding the vehicular access and yard area, the site extends to some 400m². The subject building is not listed, but is sited within 50m of a couple of listed buildings namely, the grade II listed Stallards PH at No's 15 & 16 Stallard Street, the Vicarage at No. 27 Stallard Street and the grade II* Holy Trinity Church and grade II listed war memorial and wall enclosure within the aforementioned church grounds. A red lined site location plan and site photographs of the property frontage and rear façade as well as the means of accessing the rear of the property are included on the following page.



4. Planning History

W/77/00604/HIS: Change of use to retail furniture shop, furniture workshop and dental surgery. Approved

W/78/00872/HIS: Change of Use to place of religious worship. Approved

W/81/00521/HIS: Extension to shop and provision of living accommodation. Approved

W/87/01753/FUL: Change of use of ground floor from shop to insurance office. Approved.

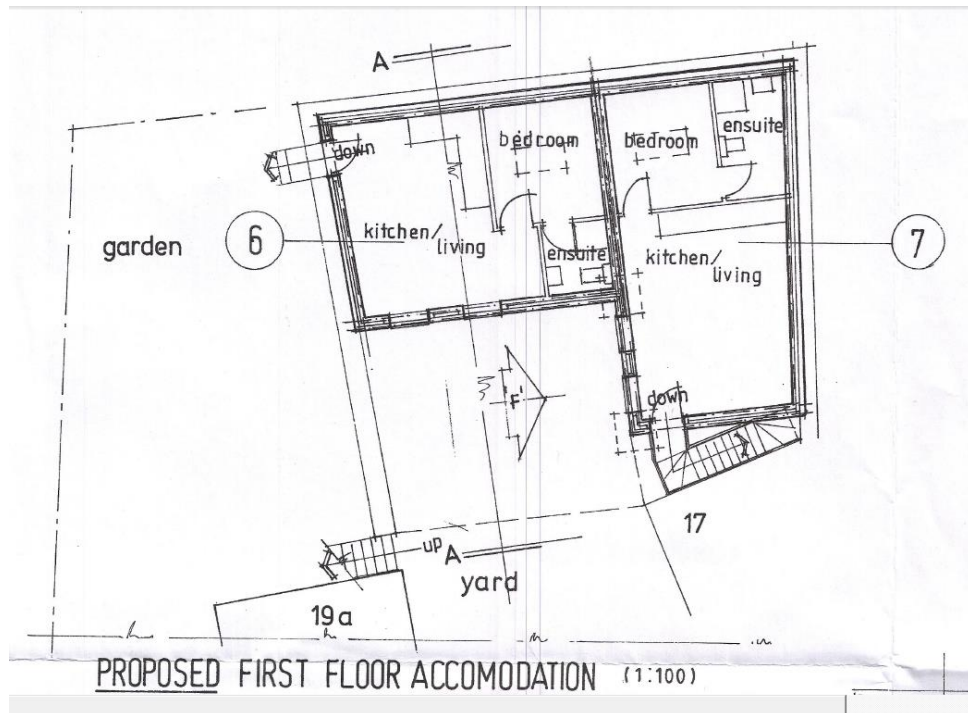
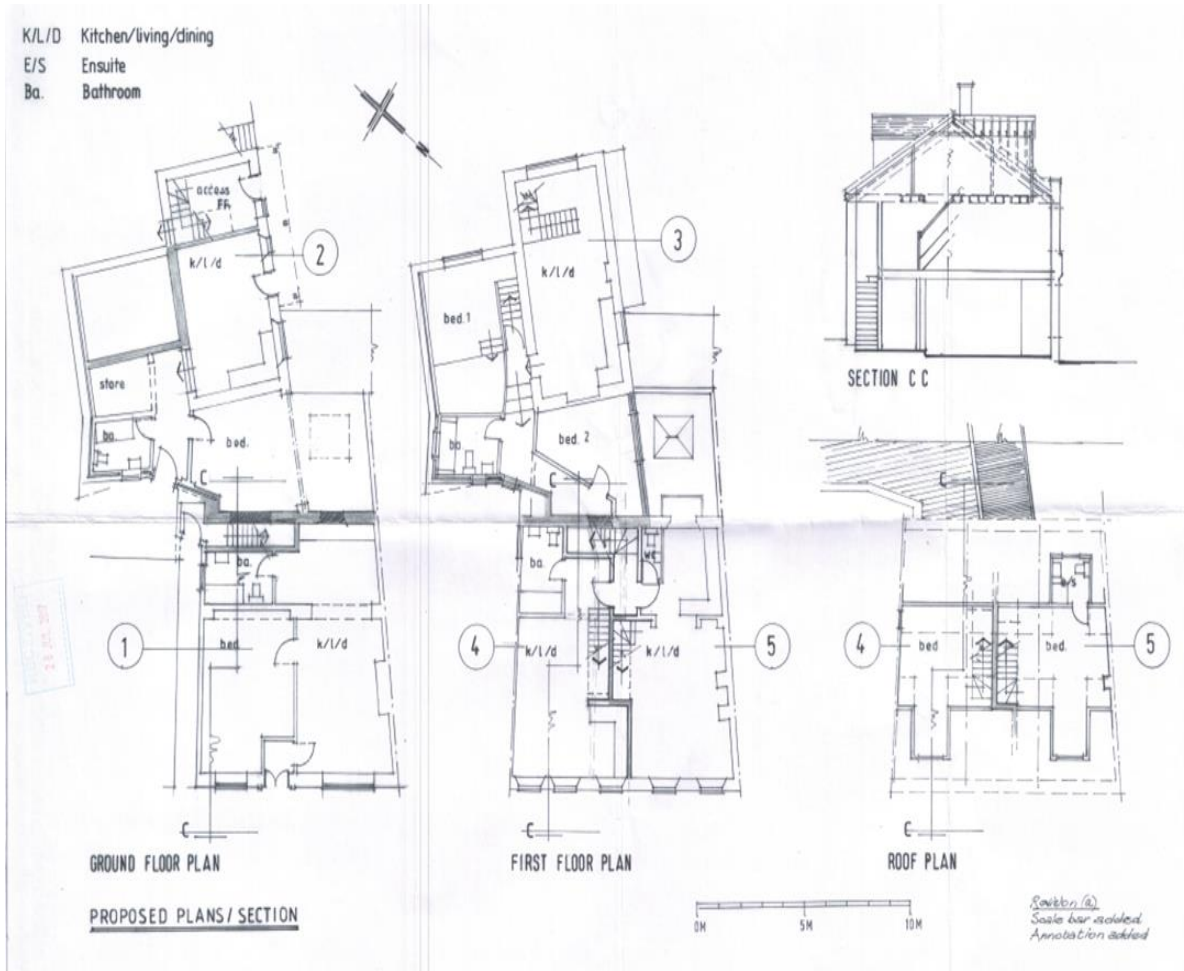
W/05/00476/FUL: Replacement of existing shop windows with hardwood Georgian style, Approved 03 June 2005

14/04660/FUL: Change of use from Retail A1 to A3 restaurants/cafes and A5 hot food takeaway. Approved 25 July 2014

5. The Proposal

The proposal seeks permission to convert the existing dwelling and shop, and a large existing outbuilding to provide for seven flats. The main building would house 4 x 1-bed flats and 1 x 2-bed flat. 2 x 1-bed flats are also proposed to be accommodated in a re-modelled existing first floor level above the outbuilding. The proposal furthermore provides for 3 parking spaces within the existing covered yard area. External alterations to the street frontage elevation would include two dormers to provide windows to the rooms to the roof space. New dormers are proposed to the rear and side facing elevations, as reflected on the plans below:

K/L/D Kitchen/living/dining
 E/S Ensuite
 Ba. Bathroom



Existing Elevations

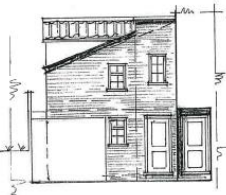


PROPOSED ELEVATIONS

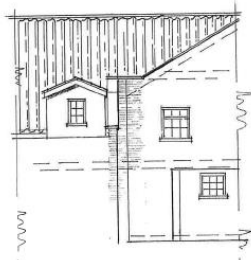
VIEW 'A'



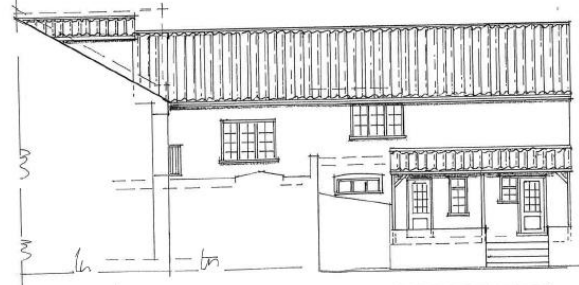
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VIEW 'C'



VIEW 'D'



VIEW 'E'

6. Planning Policy

Wiltshire Core Strategy (WCS) Core Policy 1: Settlement Strategy; Core Policy 2: Delivery Strategy; Core Policy 29: Spatial Strategy for the Trowbridge Community Area; Core Policy 36: Economic Regeneration and Core Policy 41: Sustainable Construction and Low Carbon Energy; 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.

Wiltshire Council's Car Parking Strategy; The National Planning Policy Framework (NPPF) and National Planning Practice Guidance (NPPG) are also material considerations.

7. Summary of Consultation Responses

Trowbridge Town Council - The Town Council objects to this application and is of the view that the proposal is over-development of the site which would result in dwellings which are insufficient to meet the needs of the future residents and is concerned about the reduction in parking compared to existing facilities in conjunction with increased intensification of activity on the site.

Wiltshire Council Highway Officer - The officer notes that the proposed development seeks to extend and convert the dwelling and ground floor retail unit, into 7 flats. Only three car parking spaces are proposed for the development, meaning that four of the proposed flats would be without any parking provision whatsoever, which is contrary to Wiltshire's car parking standards. Despite this, the officer notes that the existing retail use would have generated more vehicular activity than four flats would and that the retail use is presently without any dedicated parking and on this basis, no highway based objection is raised. The officer notes that 4 bicycle parking spaces are proposed which the highway considers to be insufficient. Furthermore, the details and location of these spaces have not been shown as part of the application. Planning conditions can be imposed (and are recommended) to secure sufficient bicycle parking storage space as well as the provision of 3 car parking spaces.

8. Publicity

Following the public notification and advertisement of this application, four third party representations were received. The summarised representations/objections were made on the following grounds:

- Overdevelopment of the site - Too many flats are being squeezed into the site;
- Bin storage is not shown on the plans;
- Noise insulation would be difficult to retro-fit;
- There would be inadequate parking;
- There has been inadequate neighbour consultation;
- Increased traffic;
- No communal outdoor space;
- The development would harm the character of the area;
- Loss of commercial premises which are needed;
- Emergency vehicle access concern;
- Overlooking by dormer windows to rear;
- Noise pollution

9. Planning Considerations

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

9.1 The Principle of the Development

The site is located within the established limits of development of Trowbridge where the principle of new dwellings and sustainable forms of development are supported. The proposal is considered to comply with CP1, CP2 & CP29 and the locality is clearly sustainable, with very good access to local facilities, services, shops, public transport and sporting and recreation attractions. The site lies outside of the Trowbridge Town Centre Commercial Area (as defined in policy) and therefore the saved policies SP1 and SP5 do not apply in this instance, and issues of the loss of business space in terms of impact on town centre vitality are therefore not policy considerations. Wiltshire's Core Strategy employment policy (CP35) relates specifically to B1, B2 and B8 uses and Principal Employment Areas. The loss of employment floorspace is identified as a consideration in established employment areas, which is not relevant to this site. The last use of the ground floor was as a restaurant and it is noted that under CP36, the WCS supports the principal of regenerating brownfield sites in Principal Settlements, Market Towns and Local Service Centres where the proposed uses help to deliver the overall strategy for the settlement, and the provision of additional housing in the town and near to the town centre is considered in accordance with the guiding strategy for the Town as set out within paragraph 5.149, which inter alia, seeks to encourage delivering additional housing in the central area of the town. The principle of converting the building to flats is therefore policy compliant. However, the details of the proposal must be appraised against all the relevant development plan policies as set out within section 6 of this report.

9.2 Parking Considerations

Three parking spaces within an existing large undercover courtyard area are proposed. The highway officer is satisfied that, given the previous use and sustainable town centre location, additional parking is not required. The officer does however recommend that additional bicycle parking provision is secured. The applicant has submitted revised plans to meet the officer comments to address this aspect. Neighbours have raised concerns with regard to parking but it is the case that in highly sustainable locations near town centres such as this site, the local planning authority has frequently supported car-free schemes; and in this particular case, officers are comfortable with the level of on-site car parking provision. The proposed three car parking spaces would be secured for retention by way of a planning condition. Furthermore, decision makers must also be mindful of NPPF paragraph 32 which states that "*development should only be prevented or refused on transport grounds where the residual cumulative impacts of development are severe*". In this particular case, the development proposals would not conflict with NPPF para 32 and officers respectfully submit that this would not be substantive grounds to refuse planning permission.

9.3 Impact on Surrounding Area and Amenity.

The Town Council and neighbours have raised concerns about overdevelopment of the site. The proposal is for seven flats close to the town centre where higher residential density can be acceptable. Under this application, modest flats varying between approximately 34m² (i.e. the two units above the garage space, excluding outdoor access steps) and 86m² are proposed. By comparison, and within relative close proximity to the site, under application reference W/08/1514/FUL, 7 bed-sit style flats units at 1 Bradford Road, some as small as 25m², were granted permission on appeal. Whilst accepting that the two units in the conversion at No. 19/19a would be very modest, the NPPF does require that the housing needs of all different groups in the community should be met and smaller units within close proximity to the town centre would add to the range of options in Trowbridge.

The officer site visit confirmed that the interior of the dwelling/shop building is deceptively large compared to what might be perceived from the street frontage, and this is confirmed by the layout of the flats as proposed. The plans would provide for communal outdoor space, and the building itself is within close proximity to public spaces / recreation areas around the town centre.

Section 72 of the Planning (Listed Buildings and Conservation Areas) Act 1990 72 requires that special attention should be paid to the desirability of preserving or enhancing the character or appearance of Conservation Areas in decision making. The two dormers are the only proposed external alterations to the front elevation and with the appropriate use materials and with matching fenestration, this would preserve the appearance of the conservation area and would not appear as inappropriate or harmful development. The proposed change of use provides the opportunity to deliver significant elevation improvements which, if implemented, would curtail the return of street elevation clutter as illustrated in the photograph below right.



The third party representations also raise concern about potential overlooking, particularly towards the south-west (West Street). As part of this application, no new windows would be created that would have a direct view over those properties. The one south-facing dormer would be well within the site, and would be obscured from any views by the outbuilding in the intervening space. The nearest dwelling to the south is some 70m distant from any facing window at the application site. The new north-west facing windows within the site, to the converted outbuilding, would be a minimum of 21m from any other directly facing windows.

On the basis of the above, officer's report no objection in terms of the development impacts on neighbouring amenity and surrounding area.

9.4 Other Matters

The Council has an adopted CIL regime, and it is material to note that this application proposal would generate CIL receipts that would contribute towards infrastructure improvements. WCS Core Policy 41: Sustainable construction and low carbon energy requires that new dwellings achieve a level of energy performance at or equivalent to Level 4 of the Code for Sustainable Homes, but the policy excludes "extensions or conversions". A condition requiring compliance is therefore not required in this instance.

10. Conclusion (The Planning Balance)

It is considered that this development proposal accords with the relevant WCS policies and the design is considered acceptable in terms of the Conservation Area and the surrounding context. The town centre location enables consideration of a car-free scheme in respect of the majority of the units and there are no highway based objections. The proposed development would provide for additional residential units converting an existing property in a sustainable location that would not result in unacceptable harm to local amenity. Planning permission is therefore recommended, subject to planning conditions.

11. 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:

JK01a Location and Site Plan Registered on 28 July 2017; JK02a Existing Floor Plans Registered on 28 July 2017; JK03a Existing Plans/Sections Registered on 28 July 2017; JK04b Existing Elevations Received on 6 October 2017; JK05a Proposed Plans/Sections Registered on 28 July 2017; JK06a Proposed Elevations Registered on 28 July 2017; JK07 Existing Elevations Registered on 28 July 2017

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

3. No development shall commence on site until details of the proposed dormers, including materials, at a minimum scale of 1:20 have been submitted to and agreed in writing by the Local Planning Authority:

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

4. The development hereby permitted shall not be first occupied until secure covered cycle parking for at least 7 no. bicycles have been provided in accordance with the hereby approved plans and shall be retained for use 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.

5. No part of the development hereby approved shall be first brought into use until three car parking spaces have been provided within the site, with no obstruction thereto and with sufficient access thereto. These spaces shall be maintained and remain available for this use at all times thereafter.

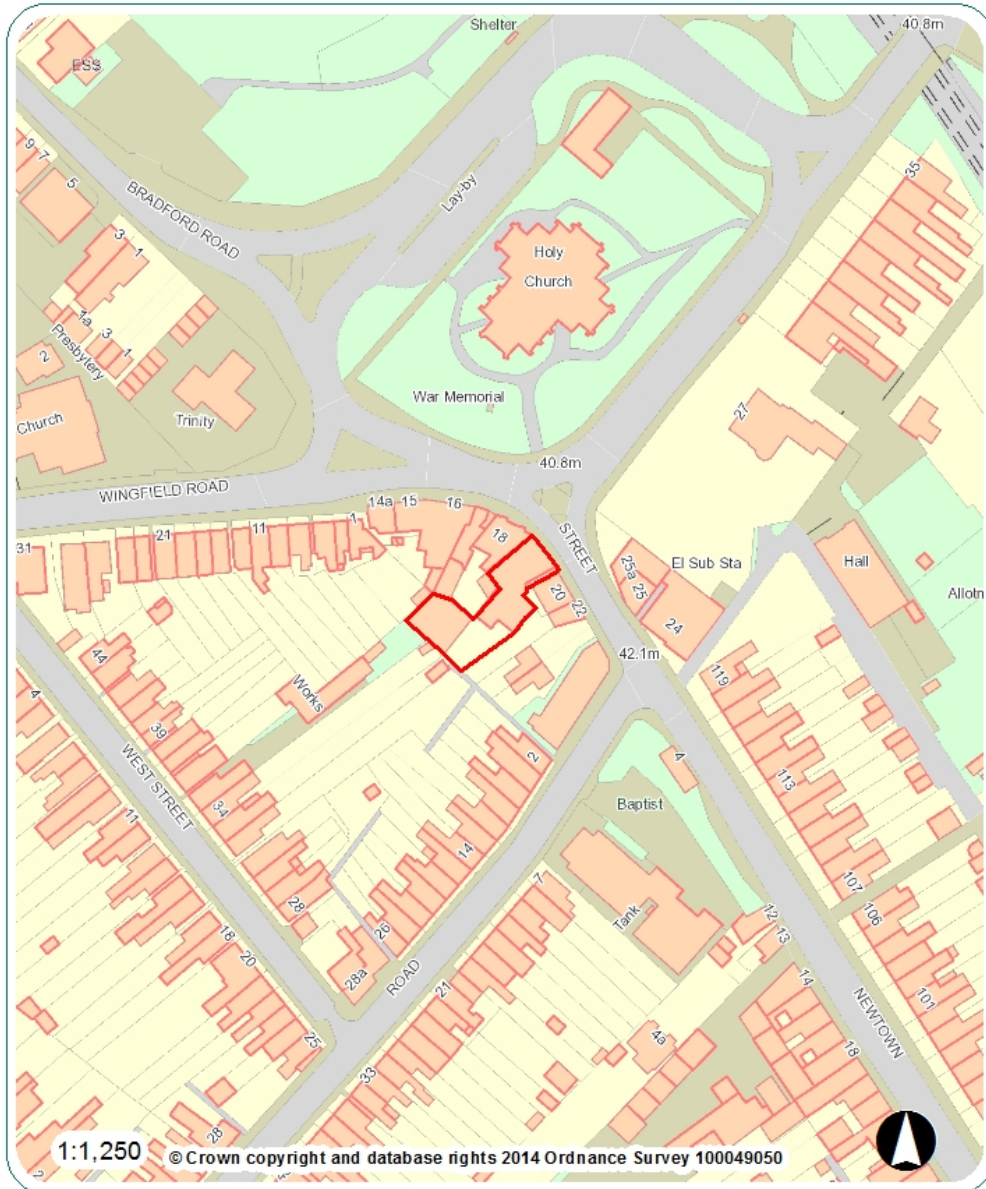
REASON: To ensure that adequate provision is made for parking within the site in the interests of highway safety.

INFORMATIVES TO APPLICANT:

1. 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

17/06492/FUL
19/19A The Old Bakehouse
Stallard Street
Trowbridge
Wilts
BA14 9AJ



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