

AGENDA

Meeting: Southern Area Planning Committee
Place: Alamein Suite - City Hall, Malthouse Lane, Salisbury, SP2 7TU
Date: Thursday 29 June 2017
Time: 3.00 pm

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

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

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Membership:

Cllr Fred Westmoreland (Chairman)	Cllr Mike Hewitt
Cllr Richard Britton (Vice Chairman)	Cllr Sven Hocking
Cllr Brian Dalton	Cllr George Jeans
Cllr Matthew Dean	Cllr Ian McLennan
Cllr Christopher Devine	Cllr John Smale
Cllr Jose Green	

Substitutes:

Cllr Ernie Clark	Cllr Bridget Wayman
Cllr Tony Deane	Cllr Graham Wright
Cllr John Walsh	Cllr Robert Yuill

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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 - 32*)

To approve and sign as a correct record the minutes of the meeting held on Tuesday 30 May 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 **Thursday 22 June 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 **Tuesday 27 June 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 33 - 34*)

To receive details of completed and pending appeals and other updates as appropriate for the period 19/05/2017 to 16/06/2017.

7 **Commons Act 2006 Section 22, Schedule 2, Application to De-Register Land as Common Land at Herrington House, Whiteparish** (*Pages 35 - 88*)

To consider an application to de-register the land shown hatched blue on the attached plan being land forming part of a property known as Herrington House, Whiteparish, as detailed in the report.

8 **Planning Applications**

To consider and determine planning applications in the attached schedule.

8a **17/00280/VAR: Stonehenge Visitor Centre, A344 Airmans Corner, Winterbourne Stoke, Wiltshire, SP4 7DE** (*Pages 89 - 106*)

Variation of the pedestrian and cycle route scheme agreed under Condition 27 of S/2009/1527 for the proposed permissive pedestrian and cycle path on the grassed over section of the former A344 to now be open to the public by 1st October 2017 (allowing a further year from the original agreed scheme to enable the proposed permissive path to establish itself prior to it being opened to the public)

8b **17/01402/FUL: 79 Southampton Road, Clarendon, Salisbury, Wiltshire, SP5 3DG** (*Pages 107 - 114*)

Replacement of existing structures

8c **17/03126/FUL: Caddens, Lower Road, Homington, Wiltshire, SP5
4NG** *(Pages 115 - 122)*

Extensions, alterations and construction of replacement garage

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

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

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SOUTHERN AREA PLANNING COMMITTEE

MINUTES OF THE SOUTHERN AREA PLANNING COMMITTEE MEETING HELD ON 30 MAY 2017 AT ALAMEIN SUITE - CITY HALL, MALTHOUSE LANE, SALISBURY, SP2 7TU.

Present:

Cllr Fred Westmoreland (Chairman), Cllr Richard Britton (Vice Chairman), Cllr Brian Dalton, Cllr Matthew Dean, Cllr Christopher Devine, Cllr Jose Green, Cllr Mike Hewitt, Cllr Sven Hocking, Cllr George Jeans, Cllr Ian McLennan and Cllr John Smale

Also Present:

Cllr Atiqul Hoque and Cllr Darren Henry

170 **Apologies**

There were none.

171 **Minutes of the Previous Meeting**

The minutes of the meeting held on Thursday 6 April 2017, were presented.

Resolved:

To approve as a correct record and sign the minutes.

172 **Declarations of Interest**

There were no declarations from members of the Committee, however; Unitary Division Member, Cllr Atiqul Hoque declared a pecuniary interest in item 7a, that item would be addressed by Cllr Clewer in his place.

173 **Chairman's Announcements**

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

174 **Public Participation**

The committee noted the rules on public participation.

Cllr Devine wished to ask a question to the Committee, the Chairman noted the rules on submitting questions with the deadlines for doing so as detailed on the agenda. Cllr Devine would submit his question to the next meeting.

175 **Planning Appeals and Updates**

The Committee received details of the appeal decisions as detailed in the agenda for the period 24/3/17 to 19/5/17.

Clarification on the split decision was sought.

Answer: This was an application in Castle Street, which had different aspects to it, including external illuminated signs and for the painting of the exterior of the building. The Planning Officer had allowed some aspects but refused the painting of the front of the building.

Resolved:
That the report be noted.

176 **Planning Applications**

177 **16/09793/FUL - 90 Fisherton Street, Salisbury, Wiltshire, SP2 7QY (Baroushka)**

Public Participation

Major Michael Hawtrey spoke in objection to the application
Dr John Avery Jones CBE spoke in objection to the application
Geoffrey Bennetts spoke in objection to the application
Tony Allen (agent) spoke in support of the application.

The Planning Officer, Christos Chrysanthou introduced a report which recommended that the retrospective application for retention of a single storey outbuilding, extension of an existing single storey outbuilding, and a single storey rear extension to create a cold store. With upgrading of extraction equipment to roof on first floor (rear) and erection of closed boarded fence and flue enclosure, be approved.

Key details were stated to include the impact to the conservation area, and that numerous objections had been received. The previous application had been refused, due to the impact of the extraction equipment in terms of noise and odour.

This application had now submitted a noise and odour level assessment. The proposals now complied with required levels and was not considered to be of a negative impact.

The noise report indicated that the new system was ten decibels lower than the old system. The current fence was not continuous so would need to be replaced. The applicant had agreed to timber clad the outbuildings and stain the fence with a colour agreed by the Planning Authority.

Following complaints regarding noise levels, noise recording equipment had been placed in a resident's flat, where it did not record anything above the levels considered to be a nuisance.

Attention was drawn to the site visit which had been undertaken earlier that day.

Members of the Committee then had the opportunity to ask technical questions of the Officer. Details were sought whether the back yard was used by customers, it was clarified that it was only used by staff of the restaurant.

It was noted that one of the conditions in the report stated that development should have begun by expiry of 3 years of this application, it was asked whether there was a danger that the applicant could leave the site unchanged for a period of 3 years before anything was changed? It was clarified that this was a standard condition and was followed up with other planning conditions which required the work to be carried out within 3 months. The Committee asked for this to be taken out.

An Environmental Health Officer investigated the noise complaints, and installed recording equipment over a period of 4 days the equipment did not pick up any recordings of the required level to be considered a statutory nuisance.

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

The Unitary Division Member; Cllr Hoque had declared an interest. Cllr Clewer spoke on his behalf, as up until the last election he had represented the next ward to this.

He noted that there had been concern about this site. Although this had been a restaurant for many years, there had also been residents there prior to the alterations which had taken place.

The development concerned the entirety of the rear of this property, and was of a poor standard. This was a case of over development. He suggested that perhaps it would be favourable if the structures had been fitted together as part of one building at the end of the main building but not at the end of the garden.

The site was in the city centre, overlooked by a lot of other properties. Even when a building meets the requirement, it can still be intrusive, especially where you have a lot of residents in flats. He urged the Committee to refuse the application and to ask the applicant to go away and come back with another development proposal which suited the city centre.

Cllr Devine then moved the motion for approval, in line with the Officer's recommendation this was seconded by Cllr Dean.

Cllr Devine noted that people living near a restaurant, should expect that it will operate as a restaurant. The improvements to the extraction unit would be of benefit, and the fence would be improved with a coat of paint. Sympathy with residents but the applicant is working within the guidelines.

A debate the ensued where key points were raised including; that the colour of the fence had been suggested as gun metal grey, however this could be changed with a condition.

This was a retrospective application as the applicant had already erected the structures. If this was an application for proposed works, then how would the Committee vote. It was felt that this was a disregard of the planning process, which in this case had not been followed.

The fencing did not comply with the requirements and should be continuous.

The site was in a conservation area, we all want Salisbury to look better, and be improved as time goes on. It was recognised that restaurants needed to flourish also, however the prefab buildings would not get permission if they came as an application today, and the wiring had not been carried out correctly.

The application would be considered on the planning merits of what was before us today. Previous reasons for refusal have been addressed. The out buildings were not attractive. It was important that if the application was supported then the conditioning should be carefully considered to mitigate the poor quality of those buildings.

The business had been there for over 50 years. The buildings at the rear had been put up ad-hoc over the years, with no planning design, and no history of when they were built. Sec 7 NPPF & CP57, CP58 regards high quality design. This was not a properly designed feature, taking in to account its surroundings.

The Committee voted on the motion of Approval subject to conditions. This motion was not carried.

The Chairman moved the motion of refusal, this was seconded by Cllr Smale.

Resolved

That Planning Permission be refused for the following reasons:

The single storey outbuilding, extension of the existing single storey outbuilding, single storey cold store and close boarded fence and flue enclosure are considered to be poorly designed by reason of their materials, siting and layout. Part 7 of the National Planning policy framework states that it is important to plan positively for the achievement of high quality and inclusive design for all development including individual buildings, public and private spaces. It is considered that these buildings situated as they are within the Salisbury conservation area and visible in public view along the river from Fisherton Street and neighbouring residential properties at Steynings house do not meet the

high quality of design required by the NPPF for such a development. The buildings appear as a jumble of unrelated utilitarian structures and the fence at first floor level a prominent and unsightly feature out of character with the conservation area, as such the development is considered to be contrary to part 7 the NPPF, as well as core policies CP57 and CP58 of the Wiltshire Core strategy which require developments to achieve a high standard of design.

178 **16/11817/FUL - Land at Grove House, Maddington Street, Shrewton**

Public Participation

Ian Sawyer spoke in objection to the application

Phil Sheargold spoke in objection to the application

Martin Pennell spoke in objection to the application

Aaron Smith (Agent) spoke in support of the application

Cllr John Berry spoke on behalf of Shrewton Parish Council

The Planning Team Leader; Adam Madge introduced a report which recommended that the application for the erection of 3 new dwellings with parking and landscaping, be approved.

Key details were stated to include that most of the trees outlined would be retained around the site, some with TPOs. The out building on the site had some character and would be retained, whilst some other outbuildings would be demolished.

The objections received from neighbours, had asked about flooding on the site, however following consulting the Environment Agency, they had not raised any objections to this application. A flooding map was included in the report and detailed that flooding extends to the front of the site.

Attention was drawn to the site visit which had been undertaken earlier that day.

Members of the Committee then had the opportunity to ask technical questions of the Officer.

It was noted that the development was liable for CIL, this would be dealt with outside of the planning process, once works commence on site.

A study carried out had identified a potential for bats in the old building, but not in the other buildings. There were no proposals for street lighting.

A Neighbourhood Plan had not yet been adopted for Shrewton.

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

Shrewton Parish Council stated their objections to the application, which had also been detailed within the report.

The Unitary Division Member; Cllr Darren Henry then spoke and explained that it was called in by his predecessor Cllr West, so he did not wish to comment.

The Chairman, Cllr Westmoreland then moved the motion for approval, this was seconded by Cllr Hewitt.

A debate the ensued where key points were raised including, that there was a footpath on either side of the entrance, which was better than most.

There had been no objections from the consultees, and the size of the plot would take the development of this size well. None of the neighbouring properties appeared to have enormous gardens either.

It would not be possible to apply the condition for a bat survey on the barn unless the applicant was planning to do work in it.

Resolved

That Planning Permission be granted with 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:**

Application Form & Certificate

Ref: 8821/100 Rev F – Site, Block, Location Plans & Street Scenes. Received – 14.03.2017

Ref: 8821/101 Rev C – Floor Plans & Elevations Unit 1. Received – 14.03.2017

Ref: 8821/102 Rev C – Floor Plans & Elevations Units 2 & 3. Received – 14.03.2017

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

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

REASON: The application contained insufficient information to enable this matter to be considered prior to granting planning permission and the matter is required to be agreed with the Local Planning Authority

before development commences in order that the development is undertaken in an acceptable manner, in the interests of visual amenity and the character and appearance of the area.

- 4 No development shall commence on site until details of all eaves, verges, windows (including head, sill and window reveal details), doors, rainwater goods, chimneys, dormers and canopies have been submitted to and approved in writing by the Local Planning Authority. Development shall be carried out in accordance with the approved details.

REASON: The application contained insufficient information to enable this matter to be considered prior to granting planning permission and the matter is required to be agreed with the Local Planning Authority before development commences in order that the development is undertaken in an acceptable manner, in the interests of visual amenity and the character and appearance of the area.

- 6 No development shall commence on site until a scheme of hard and soft landscaping has been submitted to and approved in writing by the Local Planning Authority, the details of which shall include:-

- location and current canopy spread of all existing trees and hedgerows on the land;
- full details of any to be retained, together with measures for their protection in the course of development;
- a detailed planting specification showing all plant species, supply and planting sizes and planting densities;
- finished levels and contours;
- means of enclosure;
- car park layouts;
- other vehicle and pedestrian access and circulation areas;
- all hard and soft surfacing materials;
- minor artefacts and structures (e.g. furniture, play equipment, refuse and other storage units, signs, lighting etc);

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.

- 7 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.

- 8** No part of the development hereby permitted shall be first occupied until the access, turning area and parking spaces have been completed in accordance with the details shown on the approved plans. The areas shall be maintained for those purposes at all times thereafter.

REASON: In the interests of highway safety.

- 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 those Orders with or without modification), no development within Part 1, Classes A, B, C or E shall take place on the dwelling houses hereby permitted or within their curtilage without the prior grant of planning permission from the local planning authority.

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.

- 10** Notwithstanding the provisions of the Town and Country Planning (General Permitted Development) (England) Order 2015 (or any Order revoking or re-enacting or amending that Order with or without modification), no windows, doors or other form of openings other than those shown on the approved plans, shall be inserted in the northern or southern elevations of the new dwellings hereby permitted.

REASON: In the interests of residential amenity and privacy.

- 11** Before the development hereby permitted is first occupied all of the first floor windows annotated with OG on the approved plans, shall be glazed with obscure glass only [to an obscurity level of no less than level 5] and shall be fitted to be top hung only. The windows shall be maintained as such with obscure glazing in perpetuity.

REASON: In the interests of residential amenity and privacy.

- 12 The retained outbuilding on the northern boundary of the site (labelled barn on the approved plans) shall not be occupied at any time other than for purposes incidental to the residential use of the dwelling, known as Plot 1 and it shall remain within the same planning unit as that dwelling.**

REASON: The additional accommodation is sited in a position where the Local Planning Authority, having regard to the reasonable standards of residential amenity, access, and planning policies pertaining to the area, would not permit a wholly separate dwelling.

- 13 Notwithstanding the provisions of the Town and Country Planning (General Permitted Development) (England) Order 2015 (or any Order revoking or re-enacting or amending that Order with or without modification), no windows, doors or other form of openings, shall be inserted in the northern elevation of the retained outbuilding on the northern boundary of the site (labelled barn on the approved plans)**

REASON: In the interests of residential amenity and privacy.

- 14 No development shall commence on site (including any works of demolition), until a Construction Method Statement has been submitted to, and approved in writing by, the Local Planning Authority. The Construction Method Statement shall include details of the following:**

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

The development shall be constructed in strict accordance with the approved statement throughout the construction period.

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 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.

- 15 No development shall commence on site until a Construction Environmental Management Plan (CEMP) has been submitted to and approved in writing by the local planning authority. The CEMP shall provide details of the measures that will be implemented during the construction phase to protect the River Avon Special Area of Conservation (SAC) and protected/priority species and habitats.

REASON: To ensure adequate protection and mitigation for the River Avon SAC and protected and priority species and habitats, and to accord with wildlife legislation and policy and Policies CP50 and CP69 of the Wiltshire Core Strategy.

- 16 No development shall commence on site until a scheme for the discharge of foul water from the site, including any offsite capacity works together with all third party permissions/agreements has been submitted to and approved in writing by the Local Planning Authority. The development shall not be occupied until foul water drainage has been constructed in accordance with the approved scheme including any offsite improvement works

REASON: The application contained insufficient information to enable this matter to be considered prior to granting planning permission and the matter is required to be agreed with the Local Planning Authority before development commences in order that the development is undertaken in an acceptable manner, to ensure that the development can be adequately drained without increasing flood risk to others

- 17 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 (testing to BRE 365 and determination of ground water levels) together with all third party permissions in place, has been submitted to and approved in writing by the Local Planning Authority. The plan must demonstrate that there will be no adverse impact upon the River Avon. The development shall not be first occupied until surface water drainage has been constructed in accordance with the approved scheme

REASON: The application contained insufficient information to enable this matter to be considered prior to granting planning permission and the matter is required to be agreed with the Local Planning Authority before development commences in order that the development is undertaken in an acceptable manner, to ensure that the development

can be adequately drained without increasing flood risk to others; and to ensure adequate protection of the River Avon

- 18 No development shall commence on site until a scheme for water efficiency has been submitted to and approved in writing by the Local Planning Authority. The development shall be implemented in accordance with the agreed scheme.

REASON: The application contained insufficient information to enable this matter to be considered prior to granting planning permission and the matter is required to be agreed with the Local Planning Authority before development commences in order that the development is undertaken in an acceptable manner, in the interests of sustainable development and climate change adaptation.

- 19 No development shall take place on site, including site clearance, storage of materials or other preparatory work, until an Arboricultural Method Statement, has been submitted to the Local Planning Authority and approved in writing, Thereafter the development shall be undertaken only in accordance with the approved details.

- The Arboricultural Method Statement shall show the areas which are designated for the protection of trees, hereafter referred to as the Root Protection Area (RPA). Unless otherwise agreed, the RPA will be fenced, in accordance with the British Standard Guide for Trees in Relation to Construction (BS.5837: 2012) and no access will be permitted for any development operation.
- The Arboricultural Method Statement should specifically include details of how the driveway can be constructed within the RPA of the adjacent Yew tree without causing root damage. Furthermore, timing should be considered to ensure the roots of the Yew are not damaged by compaction (by vehicle movement) until the special surfacing is put in place.
- The Arboricultural Method Statement shall include provision for the supervision and inspection of the tree protection measures. The fencing, or other protection which is part of the approved Statement shall not be moved or removed, temporarily or otherwise, until all works, including external works have been completed and all equipment, machinery and surplus materials removed from the site, unless the prior approval of the Local Planning Authority has been given in writing.

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, and to comply with the duties indicated in Section 197 of the Town and Country Planning Act 1990, so as to ensure that the amenity value of the most important trees, shrubs and hedges growing within or adjacent to the site is adequately protected during the period of construction.

- 20 The outbuilding on the northern boundary of the site (labelled as 'barn' on the approved plans), which is a confirmed bat roost, shall be retained in accordance with the details set out within the Ecological Appraisal, (dated March 2017 and prepared by All Ecology Ltd)

REASON: To ensure adequate protection of the confirmed bat roost.

- 21 No external lighting shall be installed on site until plans showing the type of light appliance, the height and position of fitting, illumination levels and light spillage have been submitted to and approved in writing by the Local Planning Authority. The approved lighting shall be installed and shall be maintained in accordance with the approved details and no additional external lighting shall be installed.

REASON: To ensure adequate protection of and mitigation for the confirmed bat roost

INFORMATIVES

- 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 Please note that the outbuilding that is to be retained which is situated on the northern boundary of the site (and labelled barn on the approved plans), has been found to support a bat roost. Bats are protected by law and if any works are proposed to this building in the future, will need to be undertaken in full consultation with a qualified ecologist and/or Natural England.
- 3 In accordance with condition 17, the development hereby approved should include water efficient systems and fittings. These should include dual-flush toilets, water butts, water-saving taps, showers and baths, and appliances with the highest water efficiency rating (as a

minimum). Greywater recycling and rainwater harvesting should be considered.

- 4 In order to satisfy condition 17, details will need to be submitted which include a water usage calculator showing how the development will not exceed a total (internal and external) usage level of 110 litres per person per day
- 5 Please note that a separate application will need to be made to the Environment Agency under the Land Drainage Act in relation to any works within 8m of a main river
- 6 Please note that a separate application will need to be made to the Lead Local Flood Authority under the Land Drainage Act in relation to any works within 8m of an open or culverted ordinary water course
- 7 Please note that a separate application will need to be made to the Lead Local Flood Authority under the Land Drainage Act in relation to discharge location and rates to any water course
- 8 please note that in addition to any other permission(s) that you may have already obtained (e.g. planning permission), you may need an environmental permit for flood risk activities (formerly known as Flood Defence Consent prior to 6 April 2016) if you want to carry out work:
 - in, under, over or near a main river (including where the river is in a culvert)
 - on or near a flood defence on a main river
 - in the flood plain of a main river
 - on or near a sea defenceFor further information and to check whether a permit is required please visit: <https://www.gov.uk/guidance/flood-risk-activities-environmental-permits>. Or contact your local Environment Agency FRA Permitting Officer, daniel.griffin@environment-agency.gov.uk / yvonne.wiacek@environment-agency.gov.uk
- 9 The applicant's attention is drawn to the comments made in the letter dated 1st February 2017 from the Dorset & Wiltshire Fire & Rescue Service

It was noted that now the meetings were to start at 3.00pm, the Committee requested that a Highways Officer attends future meetings to answer any highways related queries.

179 **17/00829/FUL - Old Airfield Site, Bells Lane, Stourton**

Public Participation

Julia Leadbury spoke in objection to the application
Graham Loadell spoke in support of the application
Tamsin Holmes spoke in support of the application

Cllr David Marks spoke on behalf of Stourton with Gasper PC.

The Planning Team Leader Adam Madge, introduced a report which recommended that the application for a Store building for wood and woodchip for biomass with associated landscaping works (Resubmission of 16/12294/FUL) be approved.

Key details were stated to include that this would be 4 storey store, with the top half, timber and bottom half concrete with a metal roof. The existing hedgerow would be maintained with additional landscaping planned.

Currently, wood from Stourhead estate was chipped elsewhere. Under the new proposals, the wood would be chipped on site 4 times per year and stored on site.

Attention was draw to the late correspondence circulated at the meeting.

Members of the Committee then had the opportunity to ask technical questions of the Officer.

It was noted that the National Trust had agreed to reinstate the styles at the footpath. The Committee asked for reasonable sized hedges and trees to be planted.

The tree protection orders were only on the first group of trees; the Planning Officer would ask the TPO Officer to look at the other section of trees also.

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

Stourton & Gasper Parish Council noted their objections, as detailed in the report.

The Unitary Division Member; Cllr Jeans then spoke in objection to the application, noting that one of the fears of the local people was that this would, in time be expanded in to a visitor's centre. Reasons for refusal, were the impact on the AONB.

Cllr Jeans then moved the motion for refusal, this was seconded by Cllr Dalton.

A debate then ensued where it was noted that the proposal would be utilising an old concrete base. There had been a reduction from the originally proposed 20 days per year to 4 which was considered a a good compromise.

The countryside was full of noise and agricultural buildings, the National Trust had appeared to have bent over backwards to make sure this would not stand out, along with the reinstatement of the footpath.

The Committee voted on the motion of refusal, this was not carried.

The Chairman, Cllr Westmoreland moved the motion of approval, which was seconded by Cllr Devine.

Resolved

That Planning Permission be APPROVED with 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 listed in schedule

**National Trust Stourhead Visitor Access Management Plan June 2008 13579/TR01
Impact Assessment Issue 2 by Cawse Design dated 15/12/16 ref 1968-2016-GJC
Justification Statement Issue 3 by Cawse Design dated Dec 2016 ref 1969-2016-GJC
Design and Access Statement Issue 4 by Cawse Design dated 3/1/17 ref 1967-2016-GJC
Letter from T. Holmes, Senior Facilities Co-Ordinator, National Trust, dated 22 March 2017
Proposed Location Plan 1300120-P13E dated Dec 2016
Proposed Block Plan and Elevations 1300120-P10C dated March 2016
Proposed Plan 1300120-P11E dated Dec 2016
Landscape Plan 1300120-P9D dated Dec 2016**

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

3. No development shall commence on the biomass store building hereby approved above ground level until the exact details, colours and samples of the materials to be used for the external walls and roofs have been submitted to and approved in writing by the Local Planning Authority. Development shall be carried out in accordance with the approved details.

REASON: The application contained insufficient information to enable this matter to be considered prior to granting planning permission and the matter is required to be agreed with the Local Planning Authority before development commences in order that the development is undertaken in an acceptable manner, in the interests of visual amenity and the character and appearance of the area and AONB.

4. Prior to the development being first brought in to use, a traffic management plan shall be submitted to and approved in writing by the Local Planning Authority. The plan will include details with regards to the number of vehicle movements, types of vehicles, baseline traffic data for the area and a recommended schedule of vehicle movements to help avoid conflict with other road users. The site operations will thereafter be conducted in accordance with the approved plan in perpetuity.

REASON: In the interests of highway safety.

5. The wood chipping process hereby approved shall only take place between the hours of 0900hrs and 1800hrs Mondays to Fridays and between 0900hrs and 1300hrs on Saturdays and shall not take place at any time on Sundays and Bank/ Public Holidays

Reason: In the interests of neighbouring amenities

6. The wood chipping process hereby approved may occur on a maximum on a maximum of 4 days per calendar year and shall not generally take place on consecutive days in any calendar year.

Reason: In the interests of neighbouring amenities

7. No vehicular deliveries shall be made to or collections made from the development hereby approved except between the hours of: 0900hrs and 1800hrs Monday to Friday and 0900hrs and 1300hrs Saturdays

There shall be no deliveries or collections made to or from the site on Sundays and Bank/ Public Holidays.

Reason: In the interests of neighbouring amenities

8. No development shall commence on the biomass store building hereby approved above ground level until a scheme of tree and hedge planting 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 for the south boundary hedge and its future management;

- **Trees of a size and species and in a location on the west boundary to be agreed in writing with the Local Planning Authority, shall be planted in accordance with BS3936 (Parts 1 and 4), BS4043 and BS4428**

REASON: The application contained insufficient information to enable this matter to be considered prior to granting planning permission and the matter is required to be agreed with the Local Planning Authority before development commences in order that the development is undertaken in an acceptable manner, to ensure a satisfactory landscaped setting for the development and the protection of existing important landscape features.

- 9. 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 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.

Informatives

- 1. STGA 12 public footpath: please be advised that nothing in this permission shall authorise the diversion, obstruction, or stopping up of any right of way that crosses the site, during or after construction.**
- 2. The applicant is requested to allow the existing hedge running east/west between Bells Lane and the direction of the B3092 Frome Road, to gain height and thickness, for screening purposes. The hedge is interrupted by a field gate when travelling from Bells Lane to the B3092. The hedge needs to thicken and grow from the field gate to Bells Lane Stourton. (Bells Lane Stourton continues to Bells Lane Zeals). With reference to condition 8 above, the applicant may also wish to include details of this hedge in the landscape details submission.**
- 3. The local authority requests that the applicant continues to reassess alternative vehicle routes in future for the transportation of the wood chipping's based on operational experience as per the National Trust's letter to the local planning authority dated the 15th May 2017.**

4. **The local authority ask that the wood chipping activity does not exceed 68 -74 DBA when measured at a distance of 50M away from the wood chipper as specified in the details submitted to the local planning authority of the wood chipping operation.**

Members also asked officers that rights of way are notified of the blockage to the right of way.

180 **17/01780/FUL - South View, Nett Road, Shrewton, SP3 4EX**

Public Participation

Leanne Blake spoke in objection to the application

The Senior Planning Officer, Lucy Minting introduced a report which recommended that the application for the proposed detached dwelling with parking (Resubmission of 16/08365/FUL) be approved subject to conditions.

Key details were stated to include that the application followed a previously withdrawn scheme. The scheme before the Committee included lower eaves and ridge height.

Attention was draw to the site visit which had been undertaken earlier that day.

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

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

Shrewton Parish Council noted their objections, as detailed in the report.

The Unitary Division Member; Cllr Darren Henry made no comment.

Cllr Hewitt then moved the motion for approval, this was seconded by Cllr Smale.

A debate the ensued where key points were raised including that the concerns relating to the run off, of water from the development would be dealt with under condition 6, as detailed in the report.

Resolved

That Planning Permission be Approved with 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:

Plan Reference: 1:500 Scale Site Plan, received by this office 22/02/2017

Plan Reference: 16054/3 Elevations, Section, Roof Plan, dated 13/02/2017, received by this office 22/02/2017

Plan Reference: 16054/1 G F Plan, dated 26/07/16, received by this office 22/02/2017

Plan Reference: 16054/2 F F Plan, dated 26/07/16, received by this office 22/02/2017

Plan Reference: 1:200 Scale Block Plan, received by this office 28/04/2017

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

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

REASON: The application contained insufficient information to enable this matter to be considered prior to granting planning permission and the matter is required to be agreed with the Local Planning Authority before development commences in order that the development is undertaken in an acceptable manner, in the interests of visual amenity and the character and appearance of the area.

(4) No development shall commence on site until a scheme 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;**
- means of enclosure; and**
- all hard and soft surfacing materials;**

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.

(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 dwelling 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.

(6) No development shall commence on site until a scheme for the discharge of surface water from the site (including surface water from the access/parking areas), incorporating sustainable drainage details, has been submitted to and approved in writing by the local planning authority. The development shall not be first occupied until surface water drainage has been constructed in accordance with the approved scheme.

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

(7) The gradient of the new parking spaces shall not be steeper than 1 in 15 for the first 5.0m of their length, measured back from the carriageway edge.

REASON: In the interests of highway safety.

(8) The new dwelling hereby permitted shall not be first occupied until the first five metres of the access/parking areas, measured from the edge of the carriageway (for both the proposed and existing dwelling (No 1 South View), has been consolidated and surfaced (not loose stone or gravel) access and the parking spaces for both the proposed and existing dwelling (No 1 South View) have been consolidated, surfaced and laid out in accordance with the approved details (Plan Reference: 1:200 Scale Block Plan, received by this office 28/04/2017). These areas shall be maintained for those purposes at all times thereafter.

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

(9) The new dwelling hereby permitted shall not be first occupied until the area between the nearside carriageway edge and a line drawn 2.0m parallel thereto over the whole site frontage (excepting the new parking area) has been cleared of any obstruction to visibility at or above a height on 1.0m above the nearside carriageway level. The area shall be maintained free of obstruction at all times thereafter.

REASON: In the interests of highway safety.

(10) The first floor bathroom window in the front elevation shall be glazed with obscure glass only and fitted to be top hung only or fixed with a ventilation stay restricting the opening of the window prior to the first occupation of the development hereby permitted and shall be permanently maintained as such in perpetuity.

REASON: In the interests of residential amenity and privacy.

(11) The dwelling hereby approved shall achieve a level of energy performance at or equivalent to Level 4 of the Code for Sustainable Homes. The dwelling 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.

(12) Notwithstanding the provisions of the Town and Country Planning (General Permitted Development) (England) Order 2015 (or any Order revoking or re-enacting or amending that Order with or without modification), there shall be no additions to, or extensions or enlargements of any building forming part of the development hereby permitted.

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

(13) Notwithstanding the provisions of the Town and Country Planning (General Permitted Development) Order 1995, or the Town and Country Planning Act 1990 (or any Order revoking and re-enacting that Order with or without modification), there shall be no windows or other forms of openings inserted above ground floor level in the front or side elevations of the development hereby permitted.

REASON: To secure adequate standards of privacy for the occupants of neighbouring premises.

INFORMATIVE TO APPLICANT: Community Infrastructure Levy

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

INFORMATIVE TO APPLICANT: Works on the highway

The consent hereby granted shall not be construed as authority to carry out works on the highway. The applicant is advised that a licence will be required from the local highway authority before any works are carried out on any footway, footpath, carriageway, verge or other land forming part of the highway. Please contact the Council's Vehicle Crossing Team on vehicleaccess@wiltshire.gov.uk and/or 01225 713352.

INFORMATIVE TO APPLICANT: Material Samples

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

181 **17/02426/FUL & 17/03041/LBC - Poppy Cottage, Downton**

Public Participation

Adam Mussell spoke in support of the application

Jonathon Ross (architect) spoke in support of the application

The Planning Team Leader, Adam Madge introduced a report which recommended that the application for a two storey rear extension (Resubmission of 16/05522/FUL) be refused.

Key details were stated to include that the design has changed significantly with a much more traditional looking first floor design, incorporating a thatched roof.

A previous application had come before the committee in September 2016.

Members of the Committee then had the opportunity to ask technical questions of the Officer.

Details were sought on the broader issues of the application, such as how it would sit with the barn at the back. It was noted that the proposed development would leave a relatively small outdoor space at the rear with the barn already in place. The Conservation Officer had not been in attendance, however it was stated that it was the Conservation Officers concern that the scale of the proposed development including ground and first floor, would impact on this grade 2 listed building.

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

The Unitary Division Member; Cllr Clewer then spoke in support of the application. He felt that the design this time was far more in keeping with the property. The issue, he felt was whether there was a reason to overcome the substantial harm if this was to be approved.

No objections had been received from the parish council, and the Downton Society was extremely supportive of the application.

The Chairman, Cllr Westmoreland then moved the motion for approval, this was seconded by Cllr Smale.

A debate then ensued where key points were raised including that the report makes clear reference that loss of the chimney and barn at the rear of property was not suitable. The Conservation Officer and Natural England had both raised concerns.

This was a family home, not a dwelling house. The development would remove the poor modern 2004 extension and would replace it with something sensitive and in keeping in its place. The current design proposal was a vast improvement on the previous, there were also no neighbour objections.

The Chairman, Cllr Westmoreland moved for Approval, this was seconded by Cllr Smale.

Resolved

That Planning Permission be granted for application 17/02426/FUL, with the following conditions:

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.

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

DRG No. 15/1887/LOC1	10/03/2017
DRG No. 15/1887/OS1	10/03/2017
DRG No. 15/1887/101	10/03/2017
DRG No. 15/1887/102	10/03/2017
DRG No. 15/1887/103	10/03/2017

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

Notwithstanding the approved drawings, no works shall commence until details of the following have been submitted to and approved in writing by the Local Planning Authority:

- (i) Large scale details of proposed eaves and verges (1:5 section);**
- (ii) The choice of brick for the herringbone pattern work will be submitted to the local planning authority for approval. Once approved a sample panel of the herringbone brickwork, pointed with lime mortar shall be made available on site and approved in writing by the local planning authority prior to the commencement of the brickwork. The parapets will be capped in Bath stone.**
- (iii) The rainwater goods will be round or half round cast iron and painted.**
- (iv) The render shall be a lime render.**
- (v) A structural report identifying how the new roof will be constructed and what impact it will have on the existing roof at the point of intersection (i.e. how the rafters of the existing roof will be impacted upon).**

The works 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 preserving the character and appearance of the listed building and its setting.

Prior to occupation of the extension hereby approved, the new roof will be constructed in combed wheat reed with a flush wrap over ridge not a block ridge as indicated on the drawings.

REASON: In the interests of preserving the character and appearance of the listed building and its setting.

Notwithstanding the approved drawings, the new windows will be single glazed, flush-framed timber painted windows. Details at a scale of 1:5 including sections (vertical and horizontal) shall be submitted to the Local Planning Authority for approval prior to any works commencing on site.

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 preserving the character and appearance of the listed building and its setting.

Resolved

That Planning Permission be granted for application 17/03041/LBC, with the following conditions:

1. The works for which Listed Building Consent is hereby granted shall be begun before the expiration of three years from the date of this consent.

REASON: To comply with the provisions of Section 18 of the Planning (Listed Buildings and Conservation Areas) Act 1990 as amended by the Planning and Compulsory Purchase Act 2004.

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

DRG No. 15/1887/LOC1	10/03/2017
DRG No. 15/1887/OS1	10/03/2017
DRG No. 15/1887/101	10/03/2017
DRG No. 15/1887/102	10/03/2017
DRG No. 15/1887/103	10/03/2017

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

Cllr McLennan noted his dissent at the decision.

It was also noted that the Committee asked for the Conservation Officer to attend future meetings where they had registered concerns or objections.

182 **Urgent Items**

There were no urgent items.

(Duration of meeting: 3.00 - 6.15 pm)

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

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

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Wiltshire Council
Southern Area Planning Committee
29th June 2017

Planning Appeals Received between 19/05/2017 and 16/06/2017

Application No	Site Location	Parish	Proposal	DEL or COMM	Appeal Type	Officer Recommend	Appeal Start Date	Overturn at Cttee
16/04126/OUT	Land North of Hilltop Way, Salisbury Wiltshire, SP1 3QX	SALISBURY CITY	Outline application for the proposed erection of 10 semi-detached bungalows, new footpath link and creation of public open space, incorporating 20 off-street parking spaces and 5x laybys to Hilltop Way (Resubmission of application 15/11350/OUT)	SAPC	Hearing	Refuse	02/06/2017	No
16/04984/FUL	The Greyhound Market Place Wilton, SP2 0HT	WILTON	Replacement of ground floor courtyard facing windows and doors (retrospective)	SAPC	Written Representations	Refuse	05/06/2017	No
16/05011/LBC	The Greyhound Market Place Wilton, SP2 0HT	WILTON	Replacement of ground floor courtyard facing windows and doors (retrospective)	SAPC	Written Representations	Refuse	05/06/2017	No
16/09610/FUL	4A/B The Crescent Hillview Road Salisbury, Wiltshire SP1 1HY	SALISBURY CITY	Extension to enlarge existing ground floor flat and create additional flat.	DEL	Written Representations	Refuse	23/05/2017	No
16/15241/OUT	142 Netherhampton Road, Salisbury Wiltshire, SP2 8LZ	SALISBURY CITY	Demolish and erect pair of semi detached 3 bed houses and 2no. detached houses (Resubmission of 16/07471/OUT)	SAPC	Written Representations	Approve with Conditions	24/05/2017	Yes
16/11803/FUL	Forest View Clay Street, Whiteparish Wiltshire, SP5 2ST	WHITEPARISH	Demolition of existing bungalow and erection of two new chalet bungalows. Improved access for units will be created off Clay Street. Hard and soft landscaping and associated works (Resubmission of 16/07647/FUL).	SAPC	Written Representations	Approve with Conditions	22/05/2017	Yes

Planning Appeals Decided between 19/05/2017 and 16/06/2017

Application No	Site Location	Parish	Proposal	DEL or COMM	Appeal Type	Officer Recommend	Appeal Decision	Decision Date	Costs Awarded?
16/07558/FUL	Land opposite May Cottage, Homington Salisbury, SP5 4NG	COOMBE BISSETT	Erection of a Hay Barn	DEL	Written Reps	Refuse	Dismissed	09/06/2017	Not Appropriate for either party to apply for costs
16/08541/FUL	Land at 9 Salisbury Road, Bulford Wiltshire, SP4 9DF	BULFORD	Proposed new two storey dwelling with parking spaces and rear garden.	DEL	Written Reps	Refuse	Dismissed	30/05/2017	Not Appropriate for either party to apply for costs
16/10238/FUL	Land adjacent Moor Cottage, Moor Hill Fovant, SP3 5LB	FOVANT	Erection of a dwelling	DEL	Written Reps	Refuse	Allowed with Conditions	30/05/2017	Not Appropriate for either party to apply for costs

WILTSHIRE COUNCIL

AGENDA ITEM NO. 7

SOUTHERN AREA PLANNING COMMITTEE

29 June 2017

COMMONS ACT 2006 SECTION 22 SCHEDULE 2
APPLICATION TO DE-REGISTER LAND AS COMMON LAND AT
HERRINGTON HOUSE, WHITEPARISH

Purpose of Report

1. To bring before the Committee an application made by Burges Salmon LLP, solicitors of Bristol, on behalf of their client, Mr Gerard John Mytton Downes, to de-register the land shown hatched blue on the attached plan being land forming part of a property known as Herrington House, Whiteparish (“the Application Land”). The application is **Appendix A** to this report.

Relevance to the Council’s Business Plan

2. Working with the local community to maintain an accurate register of common land, making Wiltshire an even better place to live, work and visit.

Background

3. The Council, as the Commons Registration Authority (‘CRA’), is the appropriate authority to deal with applications to de-register Common Land under Section 22 and Schedule 2 to the Commons Act 2006.
4. The Council, as CRA, will not grant an application unless it considers it fair to amend the register having regard to the effect which the amendment will have on other parties with an interest in the registration.
5. Burges Salmon, on behalf of Mr Downes, has submitted an application dated 3 November, 2015 to de-register the Application Land. The Application Land is owned jointly by Mr Downes, Mrs Downes and Jasmine Trustees. Mrs Downes and Jasmine Trustees have consented to the application.
6. The Application Land forms part of Whiteparish Common and was provisionally registered as common land under the Commons Registration Act 1965 on 26 March 1968. The registration became final on 1 October 1970.

Main Considerations for the Council

7. The Committee is asked to consider whether the application satisfies the statutory requirements to de-register land as Common Land. The legal test is the balance of probability and the burden of proof rests with the applicant to discharge. Please see the case officer’s report and analysis at **Appendix B**.

8. Common Land is land that is usually privately owned but over which another person or persons has rights. The extent of the land and the details of the rights held over it are recorded in the Commons Register. A right of common is a right to take something naturally produced by the land (for example the right to graze animals; the right to fish; the right to dig turf or peat; the right to take wood; and the right to take sand, gravel or other minerals). Grazing rights were originally defined by reference to the commoner's own land; this changed in 1965, so that grazing rights in existence at that time became independent of the commoner's land (a "right in gross"). Under the Commons Act 2006 new rights in gross can no longer be created.

9. Section 22 of the Commons Act 2006 is as follows:

"22 Non-registration or mistaken registration under the 1965 Act

Schedule 2 (non-registration or mistaken registration under the

Commons Registration Act 1965 (c64)) has effect."

10. The application has been made under paragraphs 6 and 7 of Schedule 2.

11. Paragraph 6 of Schedule 2 is as follows:

"Buildings registered as common land

6. (1) *If a commons registration authority is satisfied that any land registered as common land is land to which this paragraph applies, the authority shall, subject to this paragraph, remove that land from its register of common land.*

(2) *This paragraph applies to land where-*

(a) *the land was provisionally registered as common land under section 4 of the 1965 Act;*

(b) *on the day of the provisional registration the land was covered by a building or was within the curtilage of a building;*

(c) *the provisional registration became final; and*

(d) *since the date of the provisional registration the land has at all times been, and still is, covered by a building or within the curtilage of a building.*

(3) *A commons registration authority may only remove land under sub-paragraph (1) acting on-*

(a) *the application of any person made before such date as regulations may specify; or*

(b) *a proposal made and published by the authority before such date as regulations may specify."*

12. Paragraph 7 of Schedule 2 is as follows:

“Other land wrongly registered as common land

7. (1) *If a commons registration authority is satisfied that any land registered as common land is land to which this paragraph applies, the authority shall, subject to this paragraph, remove the land from its register of common land.*
- (2) *This paragraph applies to land where-*
- (a) *the land was provisionally registered as land under Section 4 of the 1965 Act;*
 - (b) *the provisional registration of the land as common land was not referred to a Commons Commissioner under Section 5 of the 1965 Act;*
 - (c) *the provisional registration became final; and*
 - (d) *immediately before its provisional registration the land was not any of the following-*
 - (i) *land subject to rights of common;*
 - (ii) *waste land of a manor;*
 - (iii) *a town or village green within the meaning of the 1965 Act as originally enacted;*
 - (iv) *land of a description specified in Section 11 of the Inclosure Act 1845 (c118).*
- (3) *A commons registration authority may only remove land under sub-paragraph (1) acting on-*
- (a) *the application of any person made before such date as regulations may specify; or*
 - (b) *a proposal made and published by the authority before such date as regulations may specify.”*

13. Section 22 of the Act which gives effect to Schedule 2 contemplates non-registration or mistaken registration. Non-registration does not apply to the Application Land. The Committee is, therefore, asked to consider whether the Application Land was mistakenly registered in 1968 within the criteria contained in either Paragraph 6 or Paragraph 7 of Schedule 2 or both.

The application under Paragraph 6 of Schedule 2

14. In their Supporting Statement (at paragraph 2.15) Burges Salmon suggest that the question to be considered is what area of common was covered by buildings and the curtilage of buildings at the date of provisional registration and that area has remained as such or covered by alternative buildings or curtilage up to the date of this application. It is agreed on behalf of the Council that this approach

is correct. The relevant period is from 10 April 1968 (the date of provisional registration) to 3 November 2015 (the date of the application).

15. Paragraphs 6 (2) (b) and (d) of Schedule 2 treat in the same way land covered by buildings and land within the curtilage of buildings on the registered common land. Guidance issued by the Department for Environment Food and Rural Affairs in December 2014 entitled *Part 1 of the Commons Act 2006: Guidance to commons registration authorities and the Planning Inspectorate* at paragraph 7.5.1 makes it clear that this may also include land that is within the curtilage of a building that is not itself on the registered common.
16. The meaning of “curtilage” has been judicially explained by Buckley LJ in *Methuen – Campbell v Walters* [1979] 1 QB 525 as follows:

“...for one corporeal hereditament to fall within the curtilage of another, the former must be so intimately associated with the latter as to lead to the conclusion that the former in truth forms part of the latter. There can be very few houses indeed that do not have associated with them at least some few square yards of land, constituting a yard or basement area or passageway or something of the kind, owned and enjoyed with the house, which on a reasonable view could only be regarded as part of the messuage and such small pieces of land will be held to fall within the curtilage of the messuage. This may extend to ancillary buildings, structures or areas such as outhouses, a garage, a driveway, a garden and so forth. How far it is appropriate to regard this identity as parts of one messuage or parcel of land as extending must depend on the character and the circumstances of the items under consideration. To the extent that it is reasonable to regard them as constituting one messuage or parcel of land, they will be properly regarded as all falling within one curtilage; they constitute an integral whole...”

A messuage may be defined as a dwelling house with outbuildings and land assigned to its use. Accordingly, the extent of the curtilage depends “on the character and the circumstances of the items under consideration”.

17. In 1968 Herrington House was known as Herrington Cottage. The plan used by Wiltshire County Council as the registration authority to register land as the “Land Section” is an extract from the Ordnance Survey Revised Map published in 1924. However, the plan used by the Council to register the “rights of common” was the Ordnance Survey Map published in 1967. Copies of both plans are detailed in **Appendix B** to this report. Herrington House (formerly Herrington Cottage) is not itself on the registered common.
18. In his Statutory Declaration (**Appendix A** to this report) (at paragraph 4.3) Mr Downes refers to the Application Land as consisting of

“2-3 acres which comprises part of some buildings and their curtilage, an access track, a tennis court and the garden to the main house and fields which I use for grazing sheep. To the best of my knowledge, none of it has ever been cultivated”.

19. At paragraph 5.3, Mr Downes refers to the map on page 2 of Exhibit GD3 as showing “a number of outbuildings and their curtilage existed at the time of provisional registration in 1968”. Mr Downes continues:

“the map on page 6 of Exhibit GD3 dated 1969 also shows the buildings and their curtilage in situ”.

The map on page 6 shows a different delineation of Herrington Cottage, from that on the map on page 2, and on the eastern part of the land registered as common land there is shown what appears to be a structure.

20. Mr Downes in paragraph 5.4 of his Statutory Declaration states that he bought the property in 1988 and that at that time “the layout of the buildings was similar to that shown on the plan at Exhibit GD5”. The plan concerned was produced by Knight Frank and is dated 23 October, 2015.
21. In paragraphs 5.5 to 5.12 of his Statutory Declaration, Mr Downes describes the alterations he has carried out to the structures on the Application Land since he purchased the property.
22. In paragraph 5.9 Mr Downes says:

“Although the footprint of some of the buildings has changed from 1968 to date, to the best of my knowledge, the extent of the buildings and their curtilage were partially situated on the Registered Land (i.e. the Application Land) at the date of the provisional registration and are still partially situated on the Registered Land today. To the best of my knowledge, there has not been any time between 1968 and today when the buildings and their curtilage were not partially situated on the Registered Land”.

This evidence is not accepted by Wiltshire Council. Overlays of maps demonstrate that, with the exception of the small temporary building to the east of the Application Land, reference to the extent of buildings and their curtilages was made during the registration of the Common and that they were excluded (see *Appendix B section 4*). As such the application does not meet the requirements of Paragraph 6 of Schedule 2 as set out in paragraph 11 above.

The application under Paragraph 7 of Schedule 2

23. In order to satisfy the grounds under Paragraph 7 of Schedule 2 the criteria referred to in paragraph 12 of this report (above) must apply.
24. The land was provisionally registered as common land on 10 April 1968 and the registration became final on 1 October 1970. The provisional registration was not referred to a Commons Commissioner.
25. The DEFRA ‘Guidance to Commons Registration Authorities and the Planning Inspectorate’ states that this impediment to registration will only apply where there has been an objection to registration rather than a reference to a Commons Commissioner for the purpose of clarifying ownership, as was the case here.

26. The land coloured orange on the plan referred to in the Land Section of the Commons Register (“the orange land”) includes all of the Application Land other than a small area of land to the north-west of the orange land. The orange land is stated in the Ownership Section as having been subject to a direction by the Chief Commons Commissioner:

“In pursuance of Section 8(2) of the Commons Registration Act, 1965, Ronald George Stride of “Little Trees”, The Common, Whiteparish and Vera Marie Bismas Stride (widow) of 26 Mill Road, Salisbury are hereby registered as owners of the land coloured orange on the register map following a direction by the Chief Commons Commissioner dated 12 May, 1975”.

The reference to the Chief Commons Commissioner was for the purpose of clarifying ownership and accordingly there was no impediment to registration.

27. The Stride Family had a long association with Herrington House. There is no evidence that, as owners of the Application Land, they had objected to its registration as common land on the basis that it was not in fact common land.
28. In paragraph 3.7 of the Supporting Statement made by Burges Salmon, they say:

“Whiteparish Common was provisionally registered as common land on 10 April 1968, before the rights came into existence. This is the case whether you look at the date of the applications, or the dates for provisional or final registration. This is clear evidence that there were no registered rights of common in existence before the date of provisional registration”.

This is considered incorrect as the land may have historically been subject to rights of common (which would satisfy the wording of the Act) even though rights of common had not been registered at the date of the provisional registration.

29. The following rights have been registered:

- An application was made on 7 June 1968 to register the grazing rights of J L M Andrews for the benefit of Barters Farm and Cottage Farm with an entry being made in the register on 31 March 1970;
- An application was made on 8 October 1968 by members of the Stride family for grazing rights and the rights of estover (to take wood) for the benefit of Goldens Farm with the rights being registered on 9 January, 1969.

30. In his statutory declaration (in paragraphs 6.1 and 6.2) Mr Downes refers to statutory declarations, made by Ronald Stride and Edward Fulford in 1975, in which they state that the Application Land was fenced up to 1975.

31. At paragraph 6.3 of his Statutory Declaration, Mr Downes states that the fences were in existence when he purchased the property in 1988 and that he replaced those fences with deer fences in that year.

32. Whilst the presence of fencing may have prevented the exercise of rights of common, it is considered by officers that fencing would not, of itself, have negated those rights. It is known that fencing occurs on other parts of Whiteparish Common and that the Application Land is now fenced. However, it was not always fenced and whilst it is accepted that the fence may well pre-date the registration of the common under the 1965 Act it is not known whether the fence was authorised (which it can be with the consent of the landowner and the Secretary of State) or whether it is an unlawful encroachment.
33. An Arboricultural Report dated 29 March 2016 prepared by Christopher Hoare Tree Services Ltd has been supplied by the applicant which supports the statement that there was a fenced enclosure predating registration of the common.
34. It is accepted on behalf of the commons registration authority and in the absence of any evidence relating to Inclosure that the Application Land is not waste land of a manor, or a town or village green or land specified in Section 11 of the Inclosure Act 1845, being the other criteria in the Act which disqualifies an application under Paragraph 7 of Schedule 2 as set out in paragraph 12 above.

Advertising the application and the representations received

35. As required by the Commons Registration (England) Regulations 2014 the application was advertised and four objections were received: from the Parish Council and from three local residents. The objections were forwarded to Burges Salmon and their comments are contained in a letter dated 6 April, 2016. The letter from Burges Salmon was sent to the objectors, but no further comments were received.
36. The letters of objection may be summarised as set out below.

The Parish Council: *the land was correctly registered as common land following an application by the Parish Council; any removal of the land from the Register would result in a loss of rights for the public and would create a precedent;*

Mrs M Dibdin: *aged 85, Mrs Dibdin recalls, as a child, cattle grazing on the Application Land and, as far as she is aware, it was not until Herrington House was occupied by Mr Downes that a hedge was planted to separate the Application Land from the rest of the common;*

Susan King: *common land is a special feature of Whiteparish; the deregistration of one area would create a precedent;*

Mrs Shirley Near (of Brympton Riding School): *the evidence provided by the applicant that the Application Land was always fenced is refuted; in the 1960's the Application Land was regularly crossed by horse-riders, passing very close to Herrington Cottage (as the house now known as Herrington House was then called); the fence in existence at that time enclosed a small garden; Whiteparish Common was grazed by cattle belonging to Goldens Farm and Cottage Farm long before the requirement for rights of common to be registered under the Commons Registration Act, 1965.*

37. The letter from Burges Salmon, in response to the letters of objection, may be summarised as set out below.
- (i) *None of the objections are disputing the fact that the buildings were present at the time the land was registered as common land and that consequently the land with buildings on should not have been registered as common land consequently the application under Paragraph 6 should be treated as unopposed.*
 - (ii) *The statutory declarations of Ronald Stride and Edward Fulford state the land had been fenced throughout the period when the land was registered as common land.*
 - (iii) *A report commissioned from an arboriculturist concludes that there is evidence of fences having been erected around the land for a number of decades.*
 - (iv) *The Application Land has been used by private arrangement for grazing animals belonging to Goldens Farm.*
 - (v) *The rights of common were registered after the land was registered as common land, therefore at the time the land was registered it was not subject to rights of common (**N.B. please note** this argument is **not** accepted by the commons registration authority because the rights of common could have been in existence but not registered).*
 - (vi) *Common Land was registered to protect rights of common and not recreational rights. The registration of land as a Town or Village Green provides protection for recreational rights.*
 - (vii) *There are statutory tests which must be met for the deregistration of common land and it is not possible to argue that evidence put forward by one applicant must be applied to another, thereby creating a precedent.*

Safeguarding Implications

38. There are no safeguarding implications.

Public Health Implications

39. There are no public health implications.

Procurement Implications

40. There are no procurement implications.

Equalities Impact of the Proposal

41. There are no equalities impact implications.

Risk Assessment

42. It is open to the Council to approve or reject the application. Whether the Council approves or rejects the application, it must do so for strong, legally valid reasons based only on the basis of the evidence before it. Failure to do so could result in a legal challenge by way of judicial review by any of the interested parties.

Financial implications

43. A successful legal challenge to the decision of the Council could involve the Council in the legal costs of both the Council and/or the applicant if successful arising from a legal challenge. At this stage it is not easy to quantify the costs; they could be in the region of £5,000 to £20,000 or significantly higher.

Legal Implications

44. If the application is successful the Application Land will be removed from the Commons Register; if the application is not successful the Application Land will remain as common land. There is no statutory right of appeal from the decision of the Council. As mentioned above, there could be a legal challenge, potentially by either the unsuccessful applicant or those commoners who have lost their rights of common (or someone on their behalf). This challenge would be by way of judicial review, based on whether the Council has demonstrated proper application of its decision making process or has made its decision in accordance with the law.

Options Considered

45. The Committee may either approve or reject the application but in so doing the Committee must be satisfied as to the following:
- (i) Under paragraph 6 of Schedule 2 the Committee is asked to consider whether evidence has been provided by the applicant that on the day of the provisional registration (10 April, 1968) the Application Land was covered by a building or was within the curtilage of a building (whether on the Application Land or on the property Herrington House) and continued to be so up to the date of the application (3 November, 2015). If so, the Committee must approve the application and if not the Committee must reject the application.
 - (ii) Under paragraph 7 of Schedule 2 the Committee is asked to consider whether evidence has been provided to establish whether or not on the day of the provisional registration the land was subject to rights of common. If not, the Committee must approve the application and if so the Committee must reject the application.

It is noted that if the land is de-registered as common land all rights of common associated with it will also be deregistered and lost.

Conclusion

46. It is noted that the applicant purchased the property almost thirty years ago in 1988 and would have been made aware at that time that the land was registered as common land. The Common Land (Rectification of Registers) Act 1989 offered an opportunity between 1989 and 1992 to object to the registration of land which had been registered but had been covered by a dwelling house and/or land which was ancillary to it (land ancillary to a dwelling house being defined as a garden, private garage or outbuildings used and enjoyed with a dwelling house), but this was not pursued by the applicant.
47. The time lapse of nearly 30 years unfortunately now means much of the evidence (in particular from the public) which was available during the time of registration (and the members of the public who knew and used the common) has now been potentially lost. However, responses have been received to the public notice from Mrs S Near and Mrs M Dibdin (see paragraph 34 above) who clearly recall the land being used for grazing cattle distinct from any use related to Herrington House.
48. **Paragraph 6 of Schedule 2 – buildings and curtilages on registered land**
- Officers have considered the evidence adduced by Mr Downes, the objections raised to the application, responses to the objections and all relevant evidence available to the Council. The use of GIS mapping layers is invaluable in defining the boundaries and footprints of features and in this case has allowed the Council to overlay the base map used for the Commons Registration with contemporary mapping of the period of registration and a range of aerial photographs. It has been possible to align reference features in the area to validate this approach. This approach has revealed that with the exception of the small temporary building to the east of the Application Land no other buildings or curtilage of any type existent at the time of registration were registered. See **Appendix B**.
49. Officers are satisfied that the registration of the Whiteparish Common at Herrington House was correctly considered in 1968 and that due regard was made to the buildings and curtilages present at that time. The presence of the fenced area could not have been considered to be curtilage at the time of registration and accordingly cannot be now, it is an enclosed area to the south of buildings, used for grazing purposes and very distinct from other areas. The buildings had and still have distinct curtilages but this area is not one of them. It is clear that at the time of registration allowances were made for the curtilage of buildings and the shape of the registered Common reflects this. The application therefore fails the legal test set out in Paragraph 6 of Schedule 2.
50. **Paragraph 7 of Schedule 2 – Incorrect registration of land that was not common land at the time of registration**
- It is clear from the historical evidence that the land has been regarded as common land since at least 1842. It was recorded as such by the Tithe Commissioners in 1842 and by the Inland Revenue in 1910. It was regarded as such by Whiteparish Parish Council in 1968 when provisional registration was made (though a small part covered by buildings and considered curtilage was specifically considered and excluded at the time of the provisional registration). The land was subsequently the subject of a Chief Commons Commissioner's direction to record ownership.

51. Although the provisional registration of the rights post date the provisional registration of the Common itself it is noted that the registration of the rights were finalised on 9 January 1969 and 31 March 1970 (see paragraph 29 above) whereas the registration of the extent of the Common was finalised on 1 October 1970 (see paragraph 6 above). It is considered that the land was common land before its registration and hence fails the legal tests for the satisfaction of Paragraph 7.
52. It is considered that the application fails to discharge the burden of proof necessary to satisfy either paragraphs 6 or 7 of Schedule 2 to the Commons Act 2006 and accordingly the application to deregister part of the Whiteparish Common at Herrington House should be refused.

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:

None

Appendices:

Appendix A Application

Appendix B Case Officer's report

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**BURGES
SALMON**

Mr Trevor Slack
Wiltshire Council
County Hall
Trowbridge
Wiltshire
BA14 8JN

One Glass Wharf
Bristol BS2 0ZX
Tel: +44 (0)117 939 2000
Fax: +44 (0)117 902 4400
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www.burgess-salmon.com
DX 7829 Bristol

Also via email

Direct Line: +44 (0)117 307 6964
sarah.sutherland@burgess-salmon.com

Our ref: SS19/JB13/44642.1/SUTHE

Your ref:

3 November 2015

Dear Mr Slack

Deregistration of common land

Further to recent correspondence, please see attached application to deregister common land at Herrington House, submitted on behalf of my client Gerard Downes. This application is made under paragraphs 6 and 7 of the Commons Act 2006 and comprises:

1. Signed application form, plan and letters of consent;
2. Sworn statutory declaration of the Applicant;
3. Supporting statement.

Regulation 17 of the Commons Registration (England) Regulations 2014 states that an application should be accompanied by a reasonable fee (if any) specified for an application of that type by the registration authority to which it is submitted. We have requested confirmation of the applicable fee but have not received this to date. This application is therefore submitted on the basis that there is no fee payable, however if a fee does apply, please confirm this and we will notify our client.

In addition, as per our previous correspondence, we have submitted one form in respect of both paragraphs with supporting evidence, however if you require us to submit two application forms, please let us know and we will do so. We are also happy to supply additional copies of the application documents, if required.

Our client's property is currently under offer as he is in the process of selling it and we would therefore be grateful if you could validate and determine this application at your earliest convenience.

Kindly acknowledge receipt of this application.

Yours sincerely

Sarah Sutherland
Senior Associate

WORK\24956776\w.1

Also at: 6 New Street Square, London, EC4A 3BF
Tel: +44 (0)20 7685 1200 Fax: +44(0)20 7980 4966

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INVESTORS
IN PEOPLE | Gold

Commons Act 2006: Schedule 2

Application to correct non-registration or mistaken registration

This section is for office use only

Official stamp

Application number

Register unit number
allocated at registration
(for missed commons
only)

Applicants are advised to read 'Part 1 of the Commons Act 2006: Guidance to applicants' and to note:

- Any person can apply under Schedule 2 to the Commons Act 2006.
- All applicants should complete boxes 1-10.
- Applications must be submitted by a prescribed deadline. From that date onwards no further applications can be submitted. Ask the registration authority for details.
- You will be required to pay a fee unless your application is submitted under paragraph 2, 3, 4 or 5 of Schedule 2. Ask the registration authority for details. You would have to pay a separate fee should your application relate to any of paragraphs 6 to 9 of Schedule 2 and be referred to the Planning Inspectorate.

Note 1

*Insert name
of commons
registration
authority.*

1. Commons Registration Authority

To the: *Wiltshire Council*

Tick the box to confirm that you have:

enclosed the appropriate fee for this application: *(see covering letter)*

or

have applied under paragraph 2, 3, 4 or 5, so no fee has been enclosed:

Note 2

If there is more than one applicant, list all their names and addresses in full. Use a separate sheet if necessary. State the full title of the organisation if the applicant is a body corporate or an unincorporated association. If you supply an email address in the box provided, you may receive communications from the registration authority or other persons (e.g. objectors) via email. If box 3 is not completed all correspondence and notices will be sent to the first named applicant.

Note 3

This box should be completed if a representative, e.g. a solicitor, is instructed for the purposes of the application. If so all correspondence and notices will be sent to the person or firm named here. If you supply an email address in the box provided, the representative may receive communications from the registration authority or other persons (e.g. objectors) via email.

2. Name and address of the applicant

Name:

Gerard John Mytton Downes

Postal address:

Hemington House, Whiteparish, Salisbury

Postcode SP5 2RD

Telephone number:

01794 884552

Fax number:

E-mail address:

gjmdownes@gmail.com

3. Name and address of representative, if any

Name:

Sarah Sutherland

Firm:

Borges Salmon LLP

Postal address:

One Glass Wharf, Bristol

Postcode BS2 0ZX

Telephone number:

0117 307 6964

Fax number:

E-mail address:

sarah.sutherland@borges-salmon.com

Note 4

For further details of the requirements of an application refer to Schedule 4, paragraph 14 to the Commons Registration (England) Regulations 2014.

4. Basis of application for correction and qualifying criteria

Tick one of the following boxes to indicate the purpose for which you are applying under Schedule 2 of the Commons Act 2006.

- To register land as common land (paragraph 2):
- To register land as a town or village green (paragraph 3):
- To register waste land of a manor as common land (paragraph 4):
- To deregister common land as a town or village green (paragraph 5):
- To deregister a building wrongly registered as common land (paragraph 6):
- To deregister any other land wrongly registered as common land (paragraph 7):
- To deregister a building wrongly registered as town or village green (paragraph 8):
- To deregister any other land wrongly registered as town or village green (paragraph 9):

Please specify the register unit number(s) (if any) to which this application relates:

CL7

Note 5

Explain why the land should be registered or, as the case may be, deregistered.

5. Description of the reason for applying to correct the register:

Please see attached supporting statement and statutory declaration of the applicant.

Note 6

You must provide an Ordnance map of the land relevant to your application. The relevant area must be hatched in blue. The map must be at a scale of at least 1:2,500, or 1:10,560 if the land is wholly or predominantly moorland. Give a grid reference or other identifying detail.

Note 7

This can include any written declarations sent to the applicant (i.e. a letter), and any such declaration made on the form itself.

If your application is to register common land or a town or village green and part of the land is covered by a building or is within the curtilage of a building, you will need to obtain the consent of the landowner.

6. Description of land

Name by which the land is usually known:

Land to the south of Hemington House

Location:

Grid reference SU2531 2245

Tick the box to confirm that you have attached an Ordnance map of the land:



7. Declarations of consent

The land is owned by the applicant, his wife Davina Claire Downes and Jasmine Trustees Limited.
Copies of letters from them confirming they consent to this application being made are attached

Note 8

List all supporting documents and maps accompanying the application, including if relevant any written consents. This will include a copy of any relevant enactment referred to in paragraphs 2(2)(b) or 3(2)(a) of Schedule 2 to the Commons Act 2006. There is no need to submit copies of documents issued by the registration authority or to which it was a party but they should still be listed. Use a separate sheet if necessary.

Note 9

List any other matters which should be brought to the attention of the registration authority (in particular if a person interested in the land is expected to challenge the application for registration). Full details should be given here or on a separate sheet if necessary.

8. Supporting documentation

Statutory declaration of the applicant dated 30/10/15 and all Exhibits

9. Any other information relating to the application

Please see attached supporting statement

Herrington House

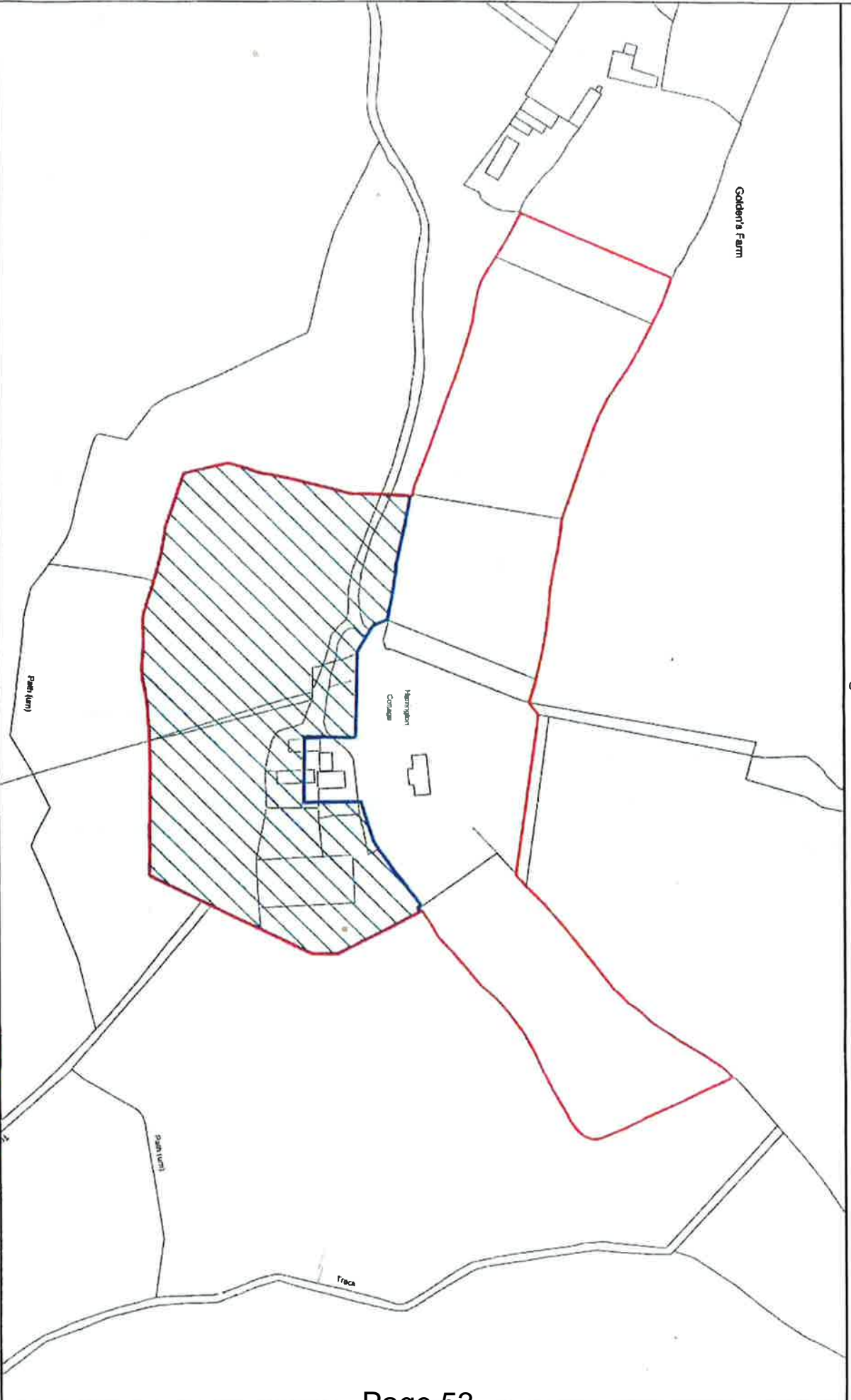
Golden's Farm

Herrington
Cottages

Path (unl)

Spout (unl)

Froca



Produced by:
 Mapping and GIS Department
 Knight Frank LLP
 22 High Street
 Newport, Shropshire, NP17 0WF
 (t) 01482 888208 (f) 01482 888205
 (e) mapping@knightfrank.com



Grid Reference - SU2531 2245



Knight Frank
 Title: Herrington House
 Date: 23/10/15
 Scale: 1:1250 @ A3

This Plan is prepared by Knight Frank LLP (incorporated in England) for the purposes of the Land Registration Act 2002. It is not intended to be used for any other purpose. The information on this Plan is based on the information provided to Knight Frank LLP by the Land Registry. Knight Frank LLP is not responsible for the accuracy of the information provided to it by the Land Registry. The information on this Plan is not to be relied upon for any other purpose.

<p>Note 10 <i>The application must be signed by each individual applicant, or by the authorised officer of an applicant which is a body corporate or an unincorporated association.</i></p>	<p>10. Signature</p> <p>Date: 03/11/15</p> <p>Signatures: Buges Salmon LLP</p>
---	---

REMINDER TO APPLICANT

You are responsible for telling the truth in presenting the application and accompanying evidence. You may commit a criminal offence if you deliberately provide misleading or untrue evidence and if you do so you may be prosecuted.

You are advised to keep a copy of the application and all associated documentation.

Data Protection Act 1998

The application and any representations made cannot be treated as confidential. To determine the application it will be necessary for the commons registration authority to disclose information received from you to others, which may include other local authorities, Government Departments, public bodies, other organisations and members of the public.

A copy of this form and any accompanying documents may be disclosed upon receipt of a request for information under the Environmental Information Regulations 2004 or the Freedom of Information Act 2000.

HERRINGTON HOUSE

WHITEPARISH

SALISBURY SP5 2RD

For the attention of Sarah Sutherland
Burgess Salmon
One Glass Wharf
Bristol
BS2 0ZX

2nd November 2015

Dear Sirs

I understand that you are submitting an application to Wiltshire Council to deregister land at Herrington House, which is owned jointly by Gerard Downes, Jasmine Trustees Limited and myself, on behalf of my husband Gerard Downes. The application is being made under Schedule 2 paragraphs 6 and 7 of the Commons Act 2006 and the land which is the subject of the application is the land hatched blue on the plan attached to this letter.

I confirm that I consent to this application being submitted for the purposes of part 7 of application form CA13.

Yours sincerely



Davina Claire Downes

Herrington House

Golden's Farm

Herrington
Cottage

Track

Path (km)

Path (km)

Produced by:
 Mapping and GIS Department
 Rambury House, 21 High Street
 Hungeford, Berkshire, RG47 0NF
 01448 686304 / 01448 686305
 e) mapping@knightfrank.com



Grid Reference - SU2531 2245



Plot No. 23.1015 CW 1:1250 @ A3
 Title Herrington House

This Plan is a preliminary plan and should not be relied upon for any purpose other than the one for which it is intended. It is subject to the provisions of the Land Registration Act 2002 and the Land Registration Rules 2003. It is not intended to constitute a contract and should not be used as such. It is not intended to constitute a contract and should not be used as such.

Jasmine

P.O. Box 675
9 Burrard Street
St. Helier
Jersey
JE4 8YQ

Telephone: +44 1 534 766622

telefax: +44 1 534 766637

E.Mail: <recipient>@lutea.com

For the attention of Sarah Sutherland
Burgess Salmon
One Glass Wharf
Bristol
BS2 0ZX

Date: 3rd November 2015

Dear Sirs

We understand that you are submitting an application to Wiltshire Council to deregister land at Herrington House, which is owned jointly by Gerard Downes, his wife Davina Claire Downes and Jasmine Trustees Limited, on behalf of Gerard Downes. The application is being submitted under Schedule 2, paragraphs 6 and 7 of the Commons Act 2006 and the land which is the subject of the application is the land hatched blue on the plan attached to this letter.

I confirm on behalf of the Trustees that we consent to this application being submitted for the purposes of part 7 of application form CA13.

Yours sincerely



Nicola Hodge

on behalf of Jasmine Trustees Limited

Jasmine Trustees Limited

WORK\24957110\Registered Office: P.O. Box 675, 9 Burrard Street, St. Helier, Jersey, JE4 8YQ
Regulated by the Jersey Financial Services Commission in the carrying on of Trust Company Business

44642.1

Herrington House

Golden's Farm

Herrington
Cottage

Track

Path (cm)

Field (cm)

Sheet
Date 23/10/15
Drawn by CW
Scale 1:1250 @ A3



Title
Herrington House

Grid Reference - SU2531 2245



Produced by:
Mapping and GIS Department
Ramsbury House, 22 High Street
Hungerford, Berkshire, RG11 0NF
(t) 01488 66400 (f) 01488 68900
(e) mapping@knightfrank.com

Application for Deregistration of Common Land
Land at Herrington House, Whiteparish, Salisbury, SP5 2RD
Supporting Statement

1 BACKGROUND

- 1.1 The Applicant, Gerard John Mytton Downes, is the registered proprietor of land at Herrington House, Whiteparish, Salisbury, SP5 2RD along with his wife Davina Claire Downes and Jasmine Trustees Limited.
- 1.2 Part of the Applicant's land to the South of Herrington House is registered as common land. The accompanying plan shows the area of land owned by the Applicant edged in red ("the Property") and the land registered as common land hatched blue ("the Registered Land"). The Registered Land consists of 2-3 acres which comprises part of some outbuildings and their curtilage, an access track, a tennis court and garden to the main house and fields which the Applicant uses for grazing sheep. The Applicant's statutory declaration dated 30 October 2015 contains evidence relating to the historic use of the property.
- 1.3 The Registered Land was registered as part of Whiteparish Common. The register of common land, at Exhibit GD3 of the Applicant's Statutory Declaration ("the Commons Register") shows that Whiteparish Common was provisionally registered under the Commons Registration Act 1965 on 10 April 1968 and the registration became final on 22 March 1971.
- 1.4 The Applicant believes that the Registered Land was wrongly registered as common land and is therefore submitting an application to deregister it under Schedule 2, paragraphs 6 and 7 of the Commons Act 2006 ("the Act").
- 1.5 The onus of proof is on the Applicant to prove each of the elements of the tests arising under each of these paragraphs on the balance of probabilities.

2 THE STATUTORY BASIS FOR AN APPLICATION TO DEREGISTER BUILDINGS WRONGLY REGISTERED AS COMMON LAND (SCHEDULE 2, PARAGRAPH 6 OF THE ACT)

- 2.1 This application is made under paragraph 6 of Schedule 2 in respect of that part of the Registered Land which is covered by the outbuildings and their curtilage, the access track, tennis court and garden to the main house.
- 2.2 Paragraph 6 states that '*if a commons registration authority is satisfied that any land registered as common land is land to which this paragraph applies, the authority shall, subject to this paragraph, remove that land from its register of common land.*'
- 2.3 For paragraph 6 to apply, the requirements are as follows:
- (a) the land must have been provisionally registered between 2 January 1967 and 31 July 1970;
 - (b) the registration must have become final;
 - (c) when it was provisionally registered, the land must have been covered by a building or within the curtilage of building; and
 - (d) the land must still be covered by a building or within the curtilage of a building when the application is made.
- 2.4 The land was provisionally registered on 10 April 1968 and the registration became final on 22 March 1971 so conditions (a) and (b) are satisfied.
- 2.5 The plans attached to the Commons Register show that at the date of provisional registration in 1968, there was an access track, buildings and curtilage to the main house and buildings in the location where the access track, outbuildings and curtilage, tennis court and curtilage to the main house stand today. These are all annotated on Exhibit GD5. The Applicant's statutory declaration confirms these areas fell within the

Registered Land at the date of provisional registration. Condition (c) above is therefore satisfied.

- 2.6 In relation to condition (d), the 'Guidance to Commons Registration Authorities and the Planning Inspectorate' dated December 2014 published by DEFRA explains that for the purposes of paragraph 6, the buildings on the land at the date of the application do not need to be the same buildings as were in place at the date of provisional registration. However, if a building was demolished and replaced, there must have been no significant intervening period where the land was not covered by a building.

Outbuildings and access track

- 2.7 The Applicant's statutory declaration confirms that the outbuildings to the south of the main house were in a similar position to the current layout in 1988 when he bought the Property.
- 2.8 The plan attached to the statutory declaration of Ann Cecilia Rosa Smith at Exhibit GD6 is stated to be from a conveyance dated 1975. The plans attached to the statutory declarations of Ronald George Stride and Edward Frank Fulford at Exhibits GD10 and GD11 are not dated but the three plans show a number of buildings in situ, albeit in a different layout to the 1988/current layout, together with their curtilage and the access track leading to them and the main house. These statutory declarations were made with the intention of confirming the boundaries of the Property, how it was used and the right of way over the access track so do not mention how the buildings were used at the time, however the Applicant's statutory declaration states his understanding that the original buildings from 1968 in place when he bought the Property in 1988 were the timber hut and stable building.
- 2.9 The Applicant's declaration also explains the works he has undertaken to the outbuildings from 1988 to date. Although the barn (the building on the West side) was knocked down and replaced, it was replaced immediately and so there was no 'significant intervening period' where no building or the curtilage of a building was present. The timber hut bungalow (the building on the East side) has been renovated and extended to the South by about 3 metres but it is still situated in the same area as the building in 1968 and as shown on the plans referred to in paragraph 2.8. The buildings to the north which comprise of a stable building and workshop have remained in the same position from 1988 to date.
- 2.10 The Applicant has extended the curtilage to the outbuildings to the south by 3-4 metres. The Applicant has not undertaken any works to the access track leading to the main house and outbuildings.

Garden to the main house

- 2.11 In addition to the outbuildings and access track, some of the Southern part of the garden to the main house falls within the Registered Land and the Applicant confirms that to the best of his knowledge, this would have been the case dating back to the date of provisional registration.

Historic sheds/garden to the main house

- 2.12 The Applicant also explains that when he bought the Property, there were two large adjoining sheds in the area to the east of the old access track which led to the South East corner of the Property. The sheds cannot be seen on the 1968 map of the area but the 1969 and 1975 maps clearly show the sheds in situ. The Applicant states that when he bought the Property, the sheds were used for a wood workshop and for keeping animals and the area surrounding the sheds was used in connection with them as a yard for activities such as parking cars, storing wood and the keeping of animals.
- 2.13 In 1992, the Applicant demolished the sheds and built a tennis court in their place. The whole area has been used by the Applicant as part of the garden of the main dwelling.

Curtilage

- 2.14 The term 'curtilage' is not defined in the Act but has been the subject of considerable case law over the years. It is generally interpreted to mean an area which is ancillary to the main building and which is used for the comfortable enjoyment of it. What classifies as curtilage will depend on the facts of each case but examples which have been taken as falling within the curtilage include a yard, basement area, passageway, driveway and garden which are ancillary to a dwelling house. Factors to be taken into account include the physical layout of the land and buildings, ownership and use and function.
- 2.15 The question to be considered is what area of common was covered by buildings and the curtilage of buildings at the date of provisional registration and has remained as such or covered by alternative buildings or curtilage up to the date of this application.
- 2.16 The historic plans referred to above all show an area delineated around the outbuildings. The statutory declaration of Edward Frank Fulford states that the access track to the buildings has been used since the Property was bought by George Stride in 1924. This evidences that, on the balance of probabilities, the curtilage of the outbuildings would have been used for the purpose of access to them in 1968.
- 2.17 The Applicant's statutory declaration explains that when he bought the Property in 1988, the courtyard between the buildings was already in place and that the buildings were surrounded by curtilage used for parking. In addition, he confirms that this curtilage has remained in use to the present day, and that the hard standing has been extended to the South side of the buildings to allow access to the courtyard from the South.
- 2.18 There is therefore clear evidence that the area surrounding the outbuildings has been used to access them from 1968 to date and forms part of their curtilage, along with the access track (which also forms part of the curtilage of the main house).
- 2.19 In addition, it is clear that the garden of the main house is included within its curtilage and the evidence shows that this has remained the same from 1968 to date. Turning to the historic sheds and their curtilage, it is submitted that the area edged orange on Exhibit GD5 was used as their curtilage dating back to 1968. The applicant has since purchased the Property and used the area as an extension to the garden to the main house and this is evidenced by the construction of the tennis court in 1992. This area has therefore either been covered by a building and its curtilage or has fallen within the curtilage of the main house from the date of provisional registration until the date of this application.
- 2.20 In the event that the view is taken that part of the Registered Land has not been covered by a building or its curtilage from 1968 to the date of this application and that paragraph 6 does not apply, then this application is, in the alternative, made under paragraph 7 in respect of the relevant area.

3 THE STATUTORY BASIS FOR AN APPLICATION TO DEREGISTER "OTHER LAND" WRONGLY REGISTERED AS COMMON LAND (SCHEDULE 2, PARAGRAPH 7 OF THE ACT)

- 3.1 This application is made under paragraph 7 of Schedule 2 of the Commons Act 2006 in respect of the whole of the Registered Land (subject to the statement at paragraph 2.20 above).
- 3.2 Paragraph 7 states that *'if a commons registration authority is satisfied that any land registered as common land is land to which this paragraph applies, the authority shall, subject to this paragraph, remove the land from its register of common land.'*
- 3.3 In order for paragraph 7 to apply, the following conditions must be satisfied:

- (a) the land must have been provisionally registered as common land between 2 January 1967 and 31 July 1970;
 - (b) the registration must have become final;
 - (c) the provisional registration of the land must not have been referred to a Commons Commissioner; and
 - (d) when the land was provisionally registered it must not have been:
 - (i) land subject to rights of common;
 - (ii) waste land of a manor;
 - (iii) a town or village green within the meaning of the Commons Registration Act 1965 as originally enacted; or
 - (iv) land of a description specified in section 11 of the Inclosure Act 1845.
- 3.4 The land was provisionally registered on 10 April 1968 and the registration became final on 22 March 1971 so conditions (a) and (b) are satisfied.
- 3.5 The 'Guidance to Commons Registration Authorities and the Planning Inspectorate' dated December 2014 published by DEFRA states that the requirement in (c) cannot be met in relation to any land contained in the Commons Register where there was an objection to the provisional registration which caused it to be referred to the Commissioner. As the Commons Register states that the registration was undisputed, condition (c) is also satisfied.

Rights of Common

- 3.6 The Commons Register shows two entries in the rights section in relation to Whiteparish Common. Entry 1 in the rights section shows that the owners of Goldens Farm and the land edged red on the supplemental map have certain rights of common over Whiteparish Common. Entry 2 shows that the owners of Barters End and Cottage farm also have certain rights of common over Whiteparish Common. The applications to register the rights in entries 1 and 2 on the rights register were made on 8 October 1968 and 7 June 1968 respectively. Entry 1 was provisionally added to the register on 9 January 1969 and entry 2 was provisionally added on 31 March 1970. The entries did not become final until 1 August 1972.
- 3.7 Whiteparish common was provisionally registered as common land on 10 April 1968, before the rights came into existence. This is the case whether you look at the date of the applications, or the dates for provisional or final registration. This is clear evidence that there were no registered rights of common in existence before the date of provisional registration.
- 3.8 The statutory declaration of the Applicant also confirms that he is not aware of any other rights of common existing at the time of provisional registration, for example unregistered rights, and has not seen evidence of any being exercised in the time he has been in occupation of the property.
- 3.9 The statutory declarations of Ronald George Stride and Edward Frank Fulford confirm that at the date of provisional registration, the Registered Land was fenced off and occupied solely by the owners of Herrington House who had undisturbed possession and enjoyment of the Registered Land. This is further evidence that the land was not subject to rights of common.
- 3.10 The title documents to the Property also show that the Property is free from encumbrances apart from unknown restrictive covenants, and rights relating to the passage of electricity and water and rights of entry for the purpose of repairing pipes. It

is likely that if any rights of common existed, they would have been mentioned in these documents.

Waste Land of a Manor

- 3.11 Waste land of the manor is not defined in statute but was defined in the case of *Attorney General v Hanmer* 1857 45 ER 80, in which Watson B stated "*the true meaning of wastes or waste lands or waste grounds of the manor, is the open, uncultivated and unoccupied lands parcel of the manor or open lands parcel of the manor other than the demesne lands of the manor.*" The Applicant has confirmed in his declaration that he is not aware of any evidence to suggest that the Registered Land previously belonged to a manor. In terms of the requirements for 'open', 'uncultivated' and 'unoccupied', there have been numerous Commissioners' decisions about the interpretation of these.

Open

- 3.12 In the context of commons, open is taken to mean unenclosed. This is noted in the leading practitioners text, *Gadsden on Commons and Greens*¹ and by the Chief Commons Commissioner in *In the Matter of Knacker's Hole Common, Puncknowle, Dorset (no.3) Reference 10/D/4*² who indicated that the erection of permanent fencing or another form of enclosure would deprive land of its status as manorial waste.

Uncultivated

- 3.13 In considering whether land is "uncultivated" in the required sense, Gadsden sets out that two factors are relevant:
- (a) the degree of cultivation that has occurred: land taken into arable cultivation or forestry is sufficient but the planting of a trees in an ad hoc fashion is not; and
 - (b) the purpose of the cultivation: importantly, it is stated that "an intention to maintain a site on a regular basis would seem to be sufficient to destroy the waste land status".
- 3.14 The Chief Commons Commissioner in *In the Matter of Chislehurst and St Paul's Cray Commons, Bromley, Greater London Reference 59/D/9-10* stated that "*in my view, uncultivated land is land which is left in its natural state, subject only to such restrictions on the growth of vegetation as necessarily follow from grazing and the exercise of other rights of removing the natural produce of the land.*" The land in that case had been brought in hand in a similar way to which land is brought in hand today by farmers who practice conservation farming through a combination of, for example, grazing, cutting, burning and spraying. Where these practices take place, the land should not be regarded as uncultivated as it has not been left in its natural state.

Unoccupied

- 3.15 When deciding applications under the 1965 Act, Commons Commissioners took the approach that the terms of land ownership and the actual use of the land should be considered in determining whether the land was unoccupied.
- 3.16 In the *Matter of Twn Barlwm Common, Risca and Rogerstone (1986) (Reference 273/D/106-107)*, the Chief Commons Commissioner stated, "*In my opinion, the fact that it has been let is a relevant consideration but is not conclusive. A tenancy merely gives a right to occupy. If a tenant never goes to the land he has taken it may well remain unoccupied. If he does make use of it the question whether the land is "occupied" is a question of fact. As Mr Harris correctly points out at least in this context the mere fact*

¹ *Gadsden on Commons and Greens*, 2nd Edition 2012, Edward F Cousins and Richard Honey, an excerpt is attached at Schedule 1.

² A copy of this decision and all other decisions referred to in this supporting statement are attached at Schedule 2.

that land is not fully fenced cannot be conclusive that it is unoccupied for if all land that is "open" is "unoccupied" no meaning can be given to the word "open" in Watson B's definition".

Demesne lands of the manor

- 3.17 Demesne lands of the manor are lands that are in the hands of the lord, including those which are let out to tenants for years or from year to year. In *In the Matter of Waste Land, Caperby, North Yorkshire (1977) (Reference 268/D/96)*, the land was found to still be within the control of the Lord of the Manor as the land was let under a tenancy agreement by the Lord of the Manor himself. It didn't matter that the tenants made no use of the land, and it was therefore unoccupied, because by virtue of its inclusion in the tenancy it was demesne land of the Lord of the Manor.

Evidence

- 3.18 The statutory declarations of Ronald George Stride and Edward Frank Fulford show that the entirety of the Property including the Registered Land has been enclosed by a fence since 1925, which predates the date of provisional registration. They also make clear that the Property has been used by the owners and occupiers of Herrington House to the exclusion of all others since 1924. This is clear evidence that the land was not open or unoccupied in 1968 and did not therefore classify as waste land of a manor.
- 3.19 The Applicant's statutory declaration confirms that to the best of his knowledge the Registered Land has been used for grazing animals but apart from that has never been taken into arable cultivation. It is therefore arguable that the land is cultivated as per the interpretation taken *In the matter of Chislehurst and St Paul's Gray Commons* as the land has not been left in its natural state but has been grazed.
- 3.20 As the land was neither open nor unoccupied and was grazed in 1968 and all elements of the definition need to be satisfied, the land could not have classified as waste land of a manor at the date of provisional registration.

Town or Village Green

- 3.21 Section 22 of the Commons Registration Act 1965 defined a town or village green as being land allotted as such by an Act of Parliament, land on which the local people have a customary right to play sports or indulge in pastimes or land on which the local people have played sports or indulged in pastimes without challenge for not less than 20 years. A recent local search relating to the Property at Exhibit GD12 confirms that the Registered Land is not a registered town or village green.
- 3.22 In addition, the statutory declarations of Ronald George Stride and Edward Frank Fulford show that the Registered Land has been used solely by the owners and occupiers of Herrington House since 1924 and has been enclosed by a fence. The Applicant confirms that there is no evidence of any local residents using the Registered Land for sports and pastimes. This is clear evidence that the Registered Land was not a town or village green under the Commons Registration Act 1965 at the time of provisional registration.

Land of a Description Specified in Section 11 of the Inclosure Act 1845

- 3.23 Section 11 of the Inclosure Act 1845 includes the following:
- (a) all lands subject to any rights of common whatsoever, whether such rights might be exercised or enjoyed at all times, or might be exercised or enjoyed only during limited times, seasons or periods, or were subject to any suspension or restriction whatsoever in respect of the time of the enjoyment thereof;

- (b) all gated and stinted pastures in which the property of the soil or of some part thereof was in the owners of the cattlegates or other gates or stints, or any of them;
- (c) all gated and stinted pastures in which no part of the property of the soil was in the owners of the cattlegates or other gates or stints, or any of them;
- (d) all land held, occupied or used in common, either at all times, or during any time or season, or periodically, and either for all purposes or for any limited purpose, and whether the separate parcels of the several owners of the soil were or were not known by metes or bounds or otherwise distinguishable;
- (e) all land in which the property or right of or to the vesture or herbage or any part thereof during the whole or any part of the year, or the property or right of or to the wood or underwood growing and to grow thereon, was separated from the property of the soil; and
- (f) all lot meadows and other lands the occupation or enjoyment of the separate lots or parcels of which was subject to interchange among the respective owners in any known course of rotation or otherwise.

3.24 All of these categories involve land being occupied or used in common with others. As mentioned above, all the evidence in the statutory declarations shows that at the date of provisional registration, the Registered Land was fenced off and the owners and occupiers of Herrington House had exclusive and undisturbed possession of it. There is therefore no evidence that the Registered Land fell within the definition of section 11 of the Inclosure Act 1845. In addition, there is no reference to any such encumbrances in the title documents.

4 CONCLUSION

- 4.1 Paragraph 6 of Schedule 2 of the Act states that any land registered as common land to which paragraph 6 applies, is to be removed from the register of common land.
- 4.2 The evidence contained in the statutory declaration of the Applicant, together with the supporting documents shows that:
 - (a) the Registered Land was provisionally registered between 2 January 1967 and 31 July 1970;
 - (b) the registration became final;
 - (c) when it was provisionally registered, part of the Registered Land was covered by buildings or within the curtilage of buildings; and
 - (d) the land is still covered by buildings or within the curtilage of buildings at the date of this application.
- 4.3 This demonstrates that the area of the Registered Land covered by the buildings and their curtilage is land to which paragraph 6 applies. The Applicant has discharged the onus of proof for paragraph 6 and the land covered by the buildings and curtilage of buildings should therefore be removed from the register of common land.
- 4.4 In the event that the view is taken that paragraph 6 does not apply to the area of Registered Land covered by the buildings and their curtilage, then this application is, in the alternative, made under paragraph 7 in respect of that area. In either case, this application is made under paragraph 7 in respect of the remainder of the Registered Land. Paragraph 7 states that any land registered as common land to which it applies, is to be removed from the register of common land.

- 4.5 The evidence contained in the statutory declaration of the Applicant, together with the supporting Exhibits, shows that:
- (a) the Registered Land was provisionally registered as common land between 2 January 1967 and 31 July 1970;
 - (b) the registration became final;
 - (c) the provisional registration of the Registered Land was not referred to a Commons Commissioner; and
 - (d) when the Registered Land was provisionally registered it was not:
 - (i) land subject to rights of common;
 - (ii) waste land of a manor;
 - (iii) a town or village green within the meaning of the Commons Registration Act 1965 as originally enacted; or
 - (iv) land of a description specified in section 11 of the Inclosure Act 1845.
- 4.6 This demonstrates that the Registered Land is land to which paragraph 7 applies. The Applicant has discharged the onus of proof and met the relevant test and the Registered Land should therefore be removed from the register of common land.

Burges Salmon LLP

3 November 2015

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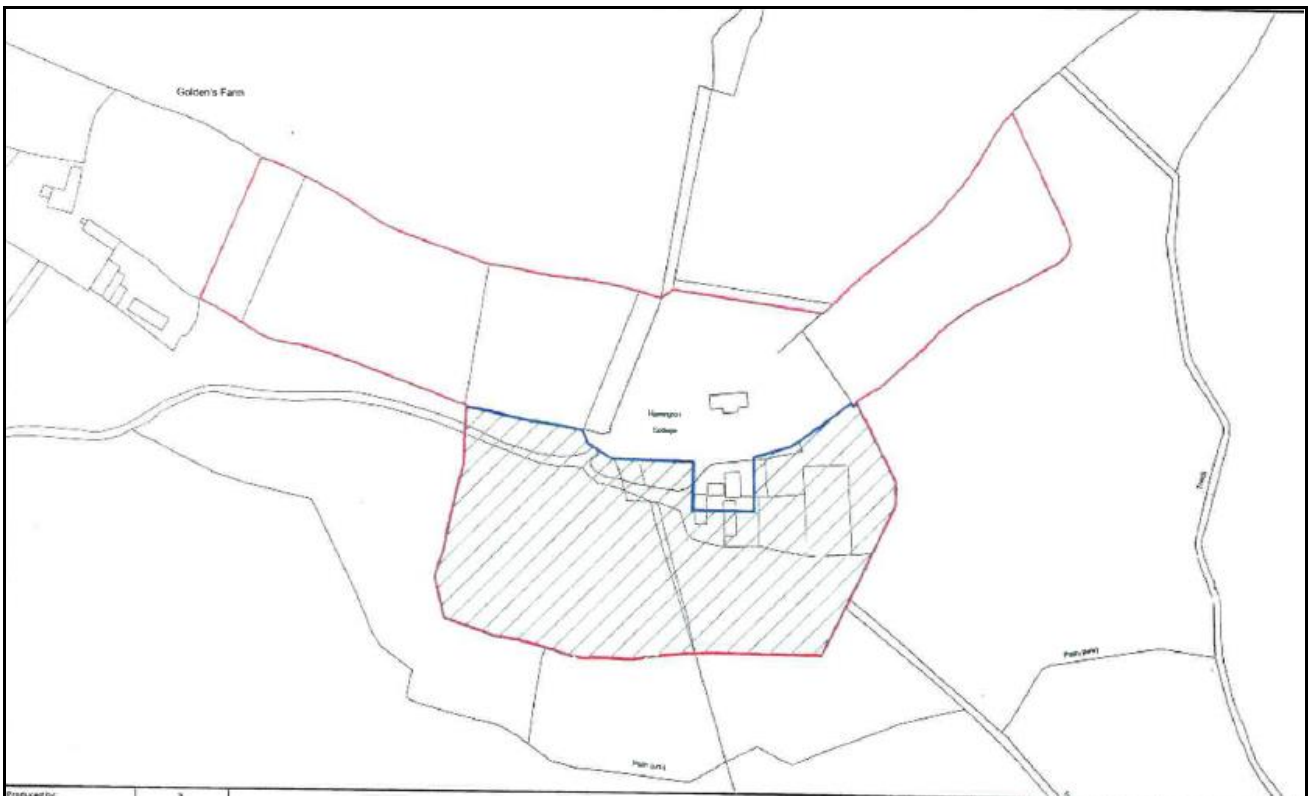
COMMONS ACT 2006: SCHEDULE 2

APPLICATION TO CORRECT MISTAKEN REGISTRATION OF COMMON LAND AT WHITEPARISH

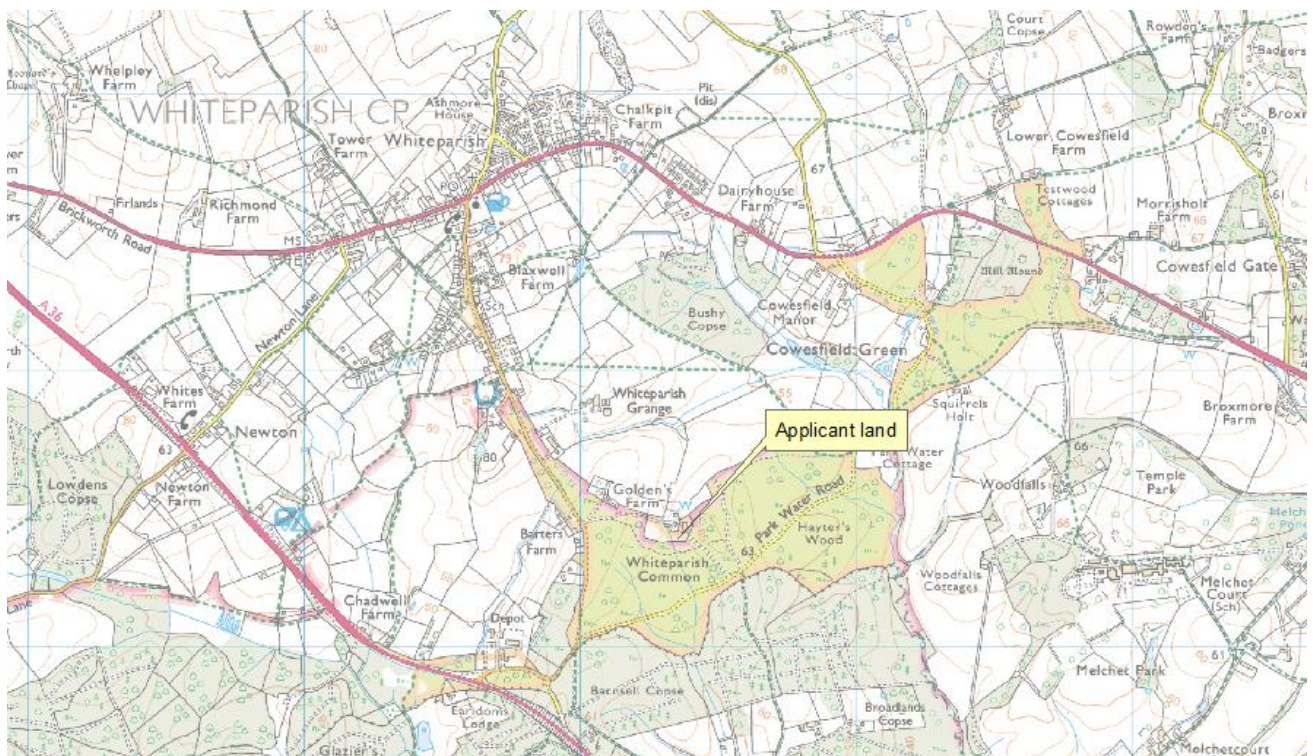
1.0 Application Details

Applicant:	Gerard Downes Herrington House Whiteparish Salisbury SP5 2RD
Application dated:	03 November 2015
Application to:	Deregister a building wrongly registered as common land <i>Schedule 2 Paragraph 6</i> Deregister other land wrongly registered as common land <i>Schedule 2 Paragraph 7</i>
Description of land:	Land to the south of Herrington House OS Grid ref. SU2531 2245
Land ownership:	Mr and Mrs G Downes and Jasmine Trustees Limited
Contents of application:	Form CA13 Application to correct non-registration or mistaken registration Plan showing the applicant land hatched in blue Letter of authority from Jasmine Trustees Limited Statutory declaration of Gerard Downes and Exhibits GD1 to 12 inclusive. Supporting statement from Burges Salmon LLP and Schedule

Land subject of application hatched in blue:



Location of applicant land



The land lies on the northern edge of Whiteparish Common to the south of Herrington House.

1.2 Legislation *Notes from Commons Act 2006 Factsheet 2 Department for Environment, Food and Rural Affairs*

The registers of common land (and town and village greens) were first prepared under the Commons Registration Act 1965 and continue to be maintained by Commons Registration Authorities. Wiltshire Council is the Commons Registration Authority (CRA) for Wiltshire excluding the Borough of Swindon.

- 1.3 In some cases the original applications to register land included maps that were either difficult to interpret or incorrectly defined the boundary of the land. Consequently some land registered under the 1965 Act was wrongly registered as common land or town or village green. Paragraphs 6 to 9 of Schedule 2 to the Commons Act 2006 enables applications to be made to deregister certain types of land and buildings that were wrongly registered as either common land or town or village green. Wiltshire Council has a duty to consider these applications.
- 1.4 **Paragraphs 6 and 8** of Schedule 2 to the 2006 Act enable the deregistration of land which is and has been covered by a building or the curtilage of a building ever since the land was registered under the 1965 Act. Typically, such land may include cottages or gardens on or abutting the common or green. It does not matter whether the building or curtilage was lawfully present on the land when it was provisionally registered under the 1965. Neither is it necessary for the land to have been covered by the same building throughout the period since the date of provisional registration. It would be sufficient, for example, that the land had at the date of registration been covered by a garage adjacent to a house, but the garage had subsequently been demolished and the land became part of the garden of that house.
- 1.5 The full criteria for deregistration set out in paragraph 6(2) and 8(2) of Schedule 2 to the 2006 Act are:
- The land was provisionally registered as common land or green under section 4 of the 1965 Act;
 - On the date of provisional registration, the land was covered by a building or was within the curtilage of a building;
 - The provisional registration became final;
 - Since the provisional registration, the land has at all times been, and still is, covered by a building or within the curtilage of a building.
- 1.6 **Paragraph 7** of Schedule 2 to the 2006 Act allows for the deregistration of land which was wrongly registered as common land if it was provisionally registered under section 4 of the 1965 Act and the provisional registration of the land was not referred to a Commons Commissioner for determination. It must be shown that before its registration, the land was not common land (whether subject to rights of common or as waste land of the manor), nor a town or village green within the

meaning of the 1965 Act as originally enacted, nor was within the special definition of common land subject to be inclosed under section 11 of the Inclosure Act 1845.

- 1.7 The onus of proof is on the applicant to prove each of the elements of the tests arising under each of these paragraphs on the balance of probabilities.

Commons Act 2006 Schedule 2:

Buildings registered as common land

6(1) If a commons registration authority is satisfied that any land registered as common land is land to which this paragraph applies, the authority shall, subject to this paragraph, remove that land from its register of common land.

(2) This paragraph applies to land where—

(a) the land was provisionally registered as common land under section 4 of the 1965 Act;

(b) on the date of the provisional registration the land was covered by a building or was within the curtilage of a building;

(c) the provisional registration became final; and

(d) since the date of the provisional registration the land has at all times been, and still is, covered by a building or within the curtilage of a building.

(3) A commons registration authority may only remove land under sub-paragraph (1) acting on—

(a) the application of any person made before such date as regulations may specify; or

(b) a proposal made and published by the authority before such date as regulations may specify.

Other land wrongly registered as common land

7(1) If a commons registration authority is satisfied that any land registered as common land is land to which this paragraph applies, the authority shall, subject to this paragraph, remove the land from its register of common land.

(2) This paragraph applies to land where—

(a) the land was provisionally registered as common land under section 4 of the 1965 Act;

(b) the provisional registration of the land as common land was not referred to a Commons Commissioner under section 5 of the 1965 Act;

(c) the provisional registration became final; and

(d) immediately before its provisional registration the land was not any of the following—

(i) land subject to rights of common;

(ii) waste land of a manor;

(iii) a town or village green within the meaning of the 1965 Act as originally enacted; or

(iv) land of a description specified in section 11 of the Inclosure Act 1845 (c. 118).

(3) A commons registration authority may only remove land under sub-paragraph (1) acting on—

(a) the application of any person made before such date as regulations may specify; or

(b) a proposal made and published by the authority before such date as regulations may specify.

1.8 Curtilage *From Department for Environment Food and Rural Affairs publication “Part 1 of the Commons Act 2006: Guidance to commons registration authorities and the Planning Inspectorate” December 2014*

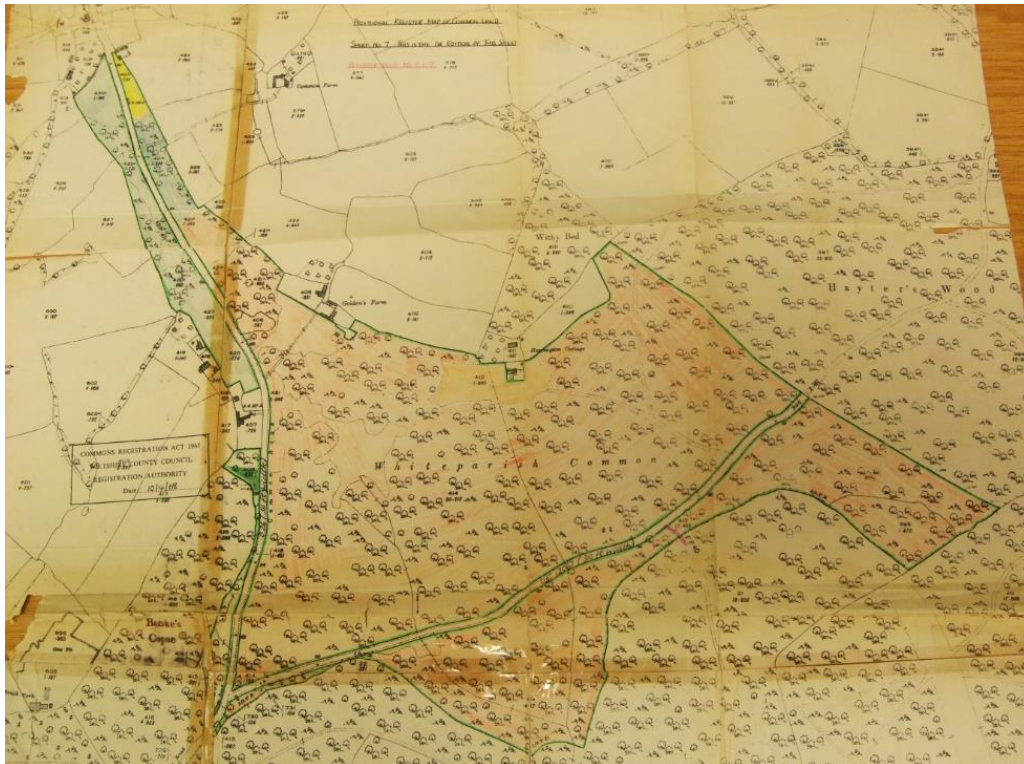
7.2.10 The word ‘curtilage’ is not defined in the 2006 Act, but has been considered by the court in various contexts, in particular in the context of planning and development legislation. From such cases, it appears that the question of whether land is considered to be within the curtilage of a building is a question of fact and degree (Skerritts of Nottingham Ltd v Secretary of State for the Environment, Transport and the Regions and Dyer v Dorset County Council). Earlier decisions suggested that the key factors to be taken into account were the physical layout of the land and buildings, past and present ownership and past and present use and function (Attorney – General v Calderdale Borough Council). However, recent judgments appear to place more weight on present use and function than common ownership (Sumption v Greenwich London Borough Council; Morriz v Wrexham County Borough Council; Lowe v First Secretary of State). Examples include a yard, basement area, passageway, driveway and garden which are ancillary to the house.

7.5.8 See paragraph 7.2.10 for advice about the interpretation of ‘curtilage’. For example, if a house had been built on one part of a registered green, Defra would not expect the whole of the green to be regarded as the curtilage of the house. If the house had a physical enclosure around it to create its own ‘space’, the curtilage might well be taken as defined by that enclosure, but would not extend to the rest of the green.

2.0 Current Registration Details

The applicant land was registered pursuant to an application by Whiteparish Parish Council on the 26th March 1968. The applicant land is recorded as part of Whiteparish Common on a map dated 10 April 1968. The land to be registered as common is shown edged in green.

2.1 The undisputed registration was finalised on the 1st October 1970 and was entered into the Commons Register on the 22nd March 1971.



2.2 Detail of the area of the applicant land as shown in the Commons Register:



- 2.3 The land shown coloured orange in the plan at 2.2 was the subject of a decision by the Chief Commons Commissioner made on the 19th March 1975 relating to the ownership of the land. Further to the publication of a public notice informing the public of those parts of registration unit CL7 (Whiteparish Common) for which no owner is registered Mr R G Stride and Mrs V M B Stride claimed to be the freehold owner of the south of Herrington Cottage.
- 2.4 Mr R G Stride as the personal representative of Mr G Stride assented to the vesting of the land to him and V M B Stride following evidence that the land was conveyed by an indenture made 24th December 1924 between (1) Thomas Horatio, Earl Nelson (the Vendor)(2) The Vendor and the Hon. Edward Agar Horatio Nelson (3) Eliza Blanche, Viscountess Trafalgar (4) Charles Clement Tudway and Frederick John Dalgety (5) George Stride.
- 2.5 Wiltshire County Council was directed to register them as owners and did so on the 12th May 1975.
- 2.6 Application was made to Wiltshire County Council on the 8th October 1968 by Mrs A F Stride, Mr C W Stride and Mrs A F Brown Stride of Golden's Farm to register Rights of Estovers and the grazing rights for 30 cattle and 20 pigs.
- 2.7 These were registered on the 9th January 1969 and a map included in the Commons Register for the purpose of identifying the land (edged in red) to which these rights were attached.



- 2.8 It has been noted that the underlying mapping for this map is different to that used for the Registration of the Common land itself. It is undated but considered to be more recent than the underlying plan for the Commons Register and shows a small building and additional enclosures on the land registered as common that is not shown on the Commons Register plan.



3.0 History of the Common

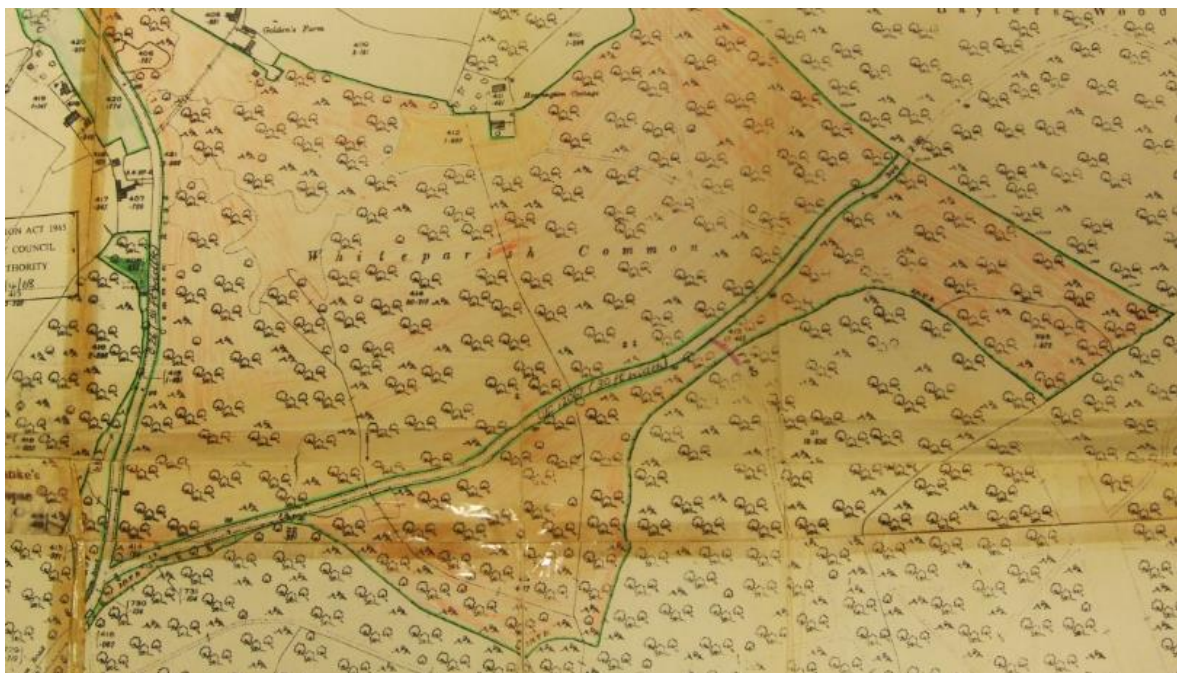
Whiteparish Common is shown on Andrews and Dury's Map dated 1773 as a wooded area forming part of Landford Wood and The Earldoms.

- 3.1 The map produced for the Tithe survey in 1842 shows the Common in a very similar shape to the land that is registered as Common today. The land that is labelled and numbered 1208 is described in the apportionment as "Whiteparish Common" "Pasture" owned by "Countess Nelson".
- 3.2 The applicant land lies within parcel 1208. A small building to the north is recorded and is considered to be Herrington Cottage, this is not part of the common and is recorded as number 1209. Golden's Farm immediately to the west is also recorded but again not as part of the Common.
- 3.3 There is agreement with the shape of the common as recorded by the tithe commissioners in 1842 and as recorded in Wiltshire Council's Commons Register.

3.4 Extract from Tithe Map:



3.5 Compared with current registration:



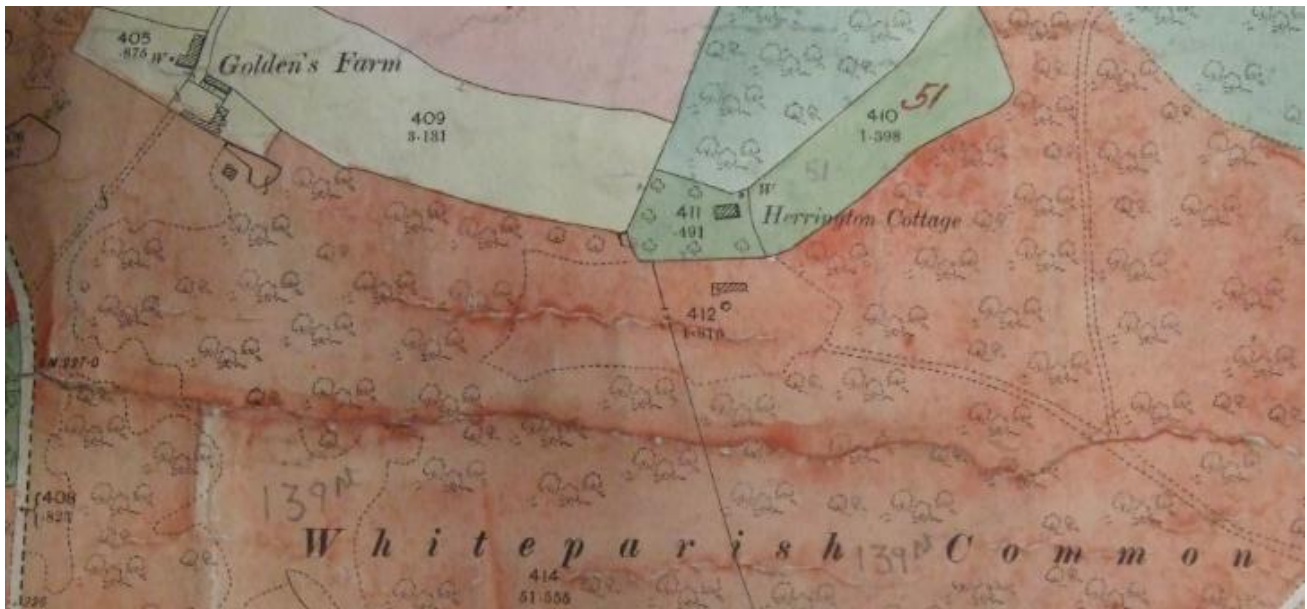
3.6 It is clear that in 1842 the applicant land formed part of the Common.

3.7 **Inland Revenue Finance Act Plans and Valuation Book 1910**

Plans produced by surveyors acting for the Inland Revenue in 1910 record Whiteparish Common in red and make similar exclusions for Herrington Cottage and

Goldens Farm as made by the Tithe Commissioners in 1842. The base map is the Ordnance Survey's County Series Map at the scale 1:2500 surveyed in 1874 and revised in 1900.

- 3.8 The applicant land forms part of the Common at that time. It is noted that the applicant land is unfenced on its perimeter but that a building is shown on it.



3.9 **Ordnance Survey County Series Maps 1:2500 Sheet 72.16**

Various editions of Sheet 72.16 have been viewed with a view to understanding the changes to the topographical detail that have occurred with time.

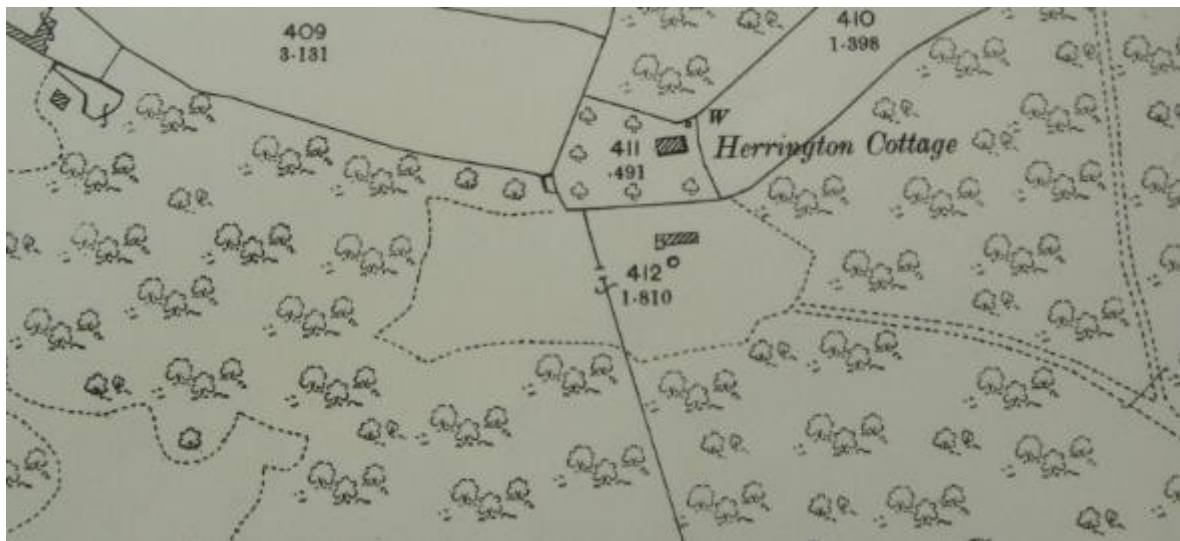
3.10 **First Edition 1876**



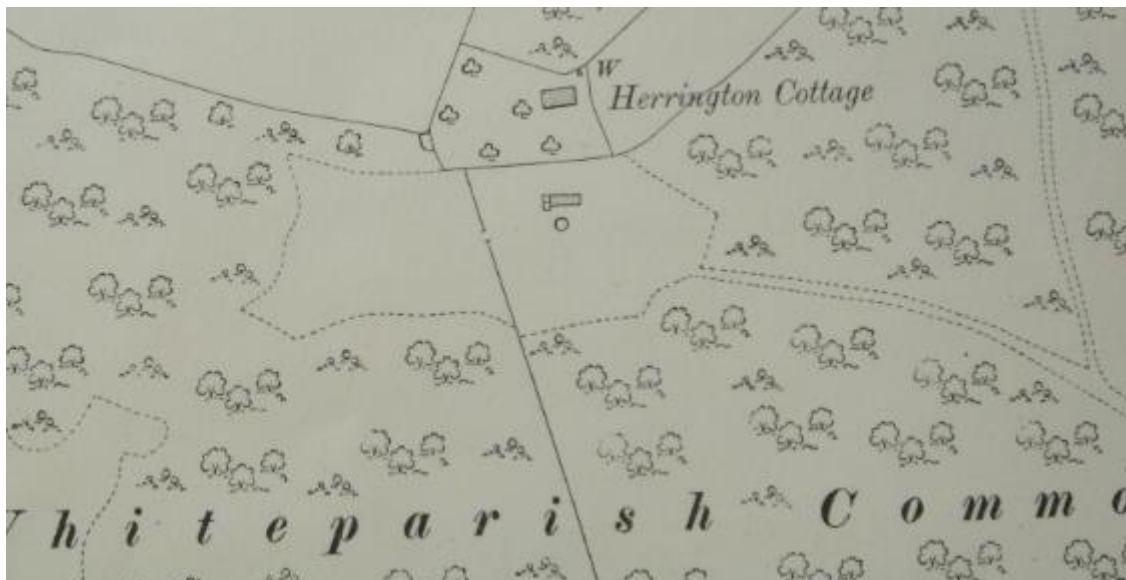
The applicant land is represented as a clearing in the common with a fence across it (leading north to south). The common is heavily wooded and is criss-crossed by open tracks. The applicant land has one of these tracks leading through it. A building that is not a dwelling is shown on the Common, south of Herrington House.

3.11 Second Edition 1874 Survey - revised in 1900

The applicant land remains unfenced on its perimeter but has a north to south fence across it with a clear gap. A building continues to be shown on the western side of this fence.



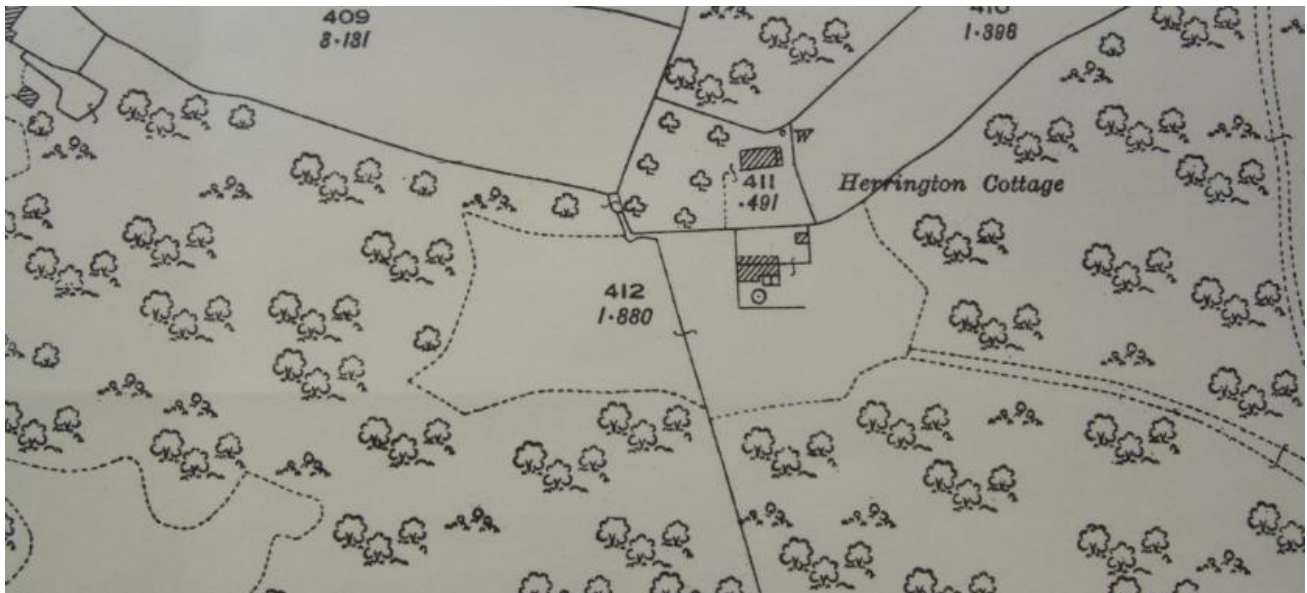
3.12 Edition of 1909 Survey – revised 1908



The 1909 edition was a simplified version, probably printed for the purposes of the Finance Act. The representation of the applicant land remains as per the 1900 edition.

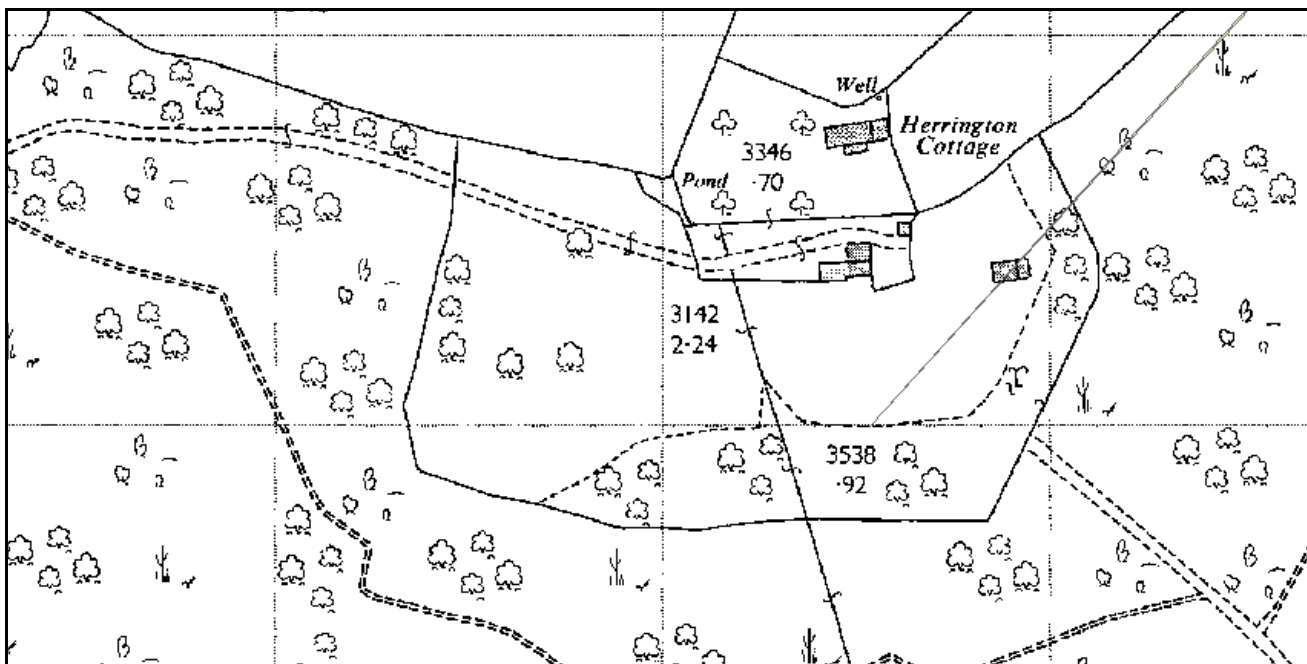
3.13 Edition of 1925 1874 survey – revised 1924

By 1924 the fence across the applicant land was recorded as being closed. The land was unfenced on the perimeter at this time and the building on the applicant land is represented in a different way and it has now shown with a small enclosure to the north.



3.14 National Grid Series 1:2500 c.1970

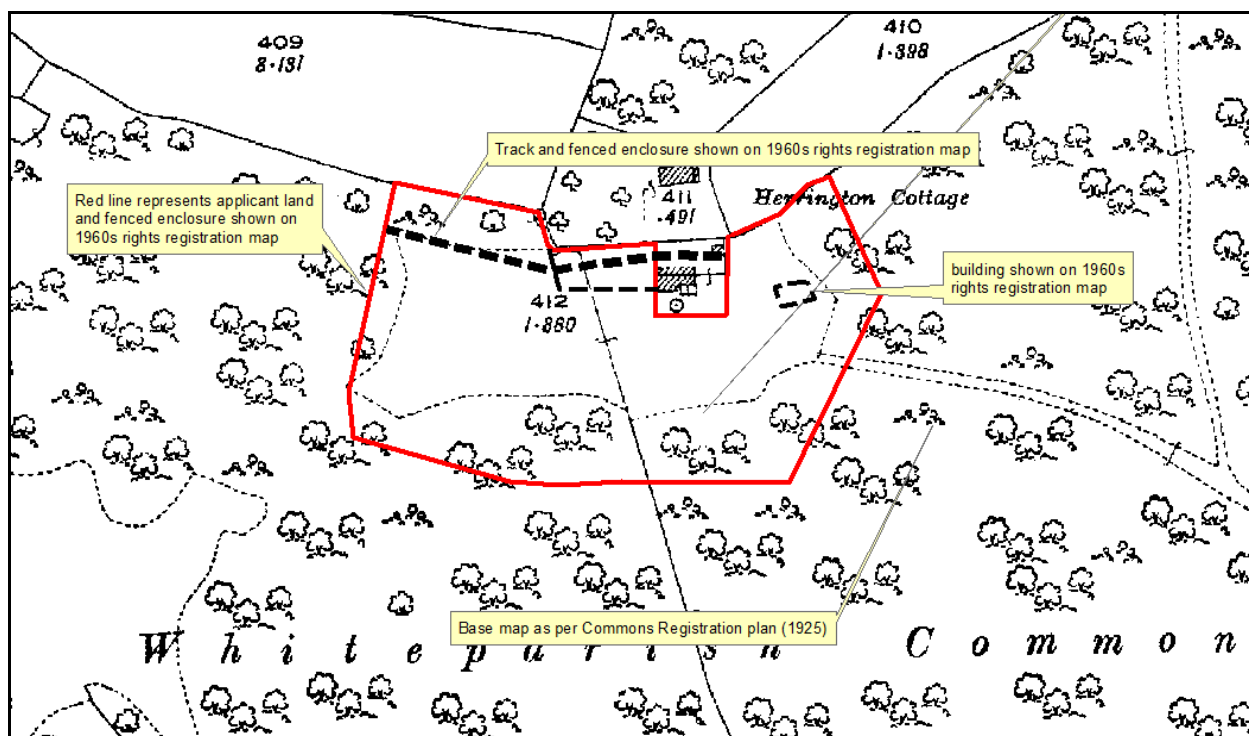
This map records significant changes to the land. The applicant land is shown with perimeter fencing and has been enlarged from the original clearing to take in some woodland. The enclosure around the building has been enlarged and a new small building has appeared on the land to the east.



4.0 Considerations relating to the application – Paragraph 6 of Schedule 2

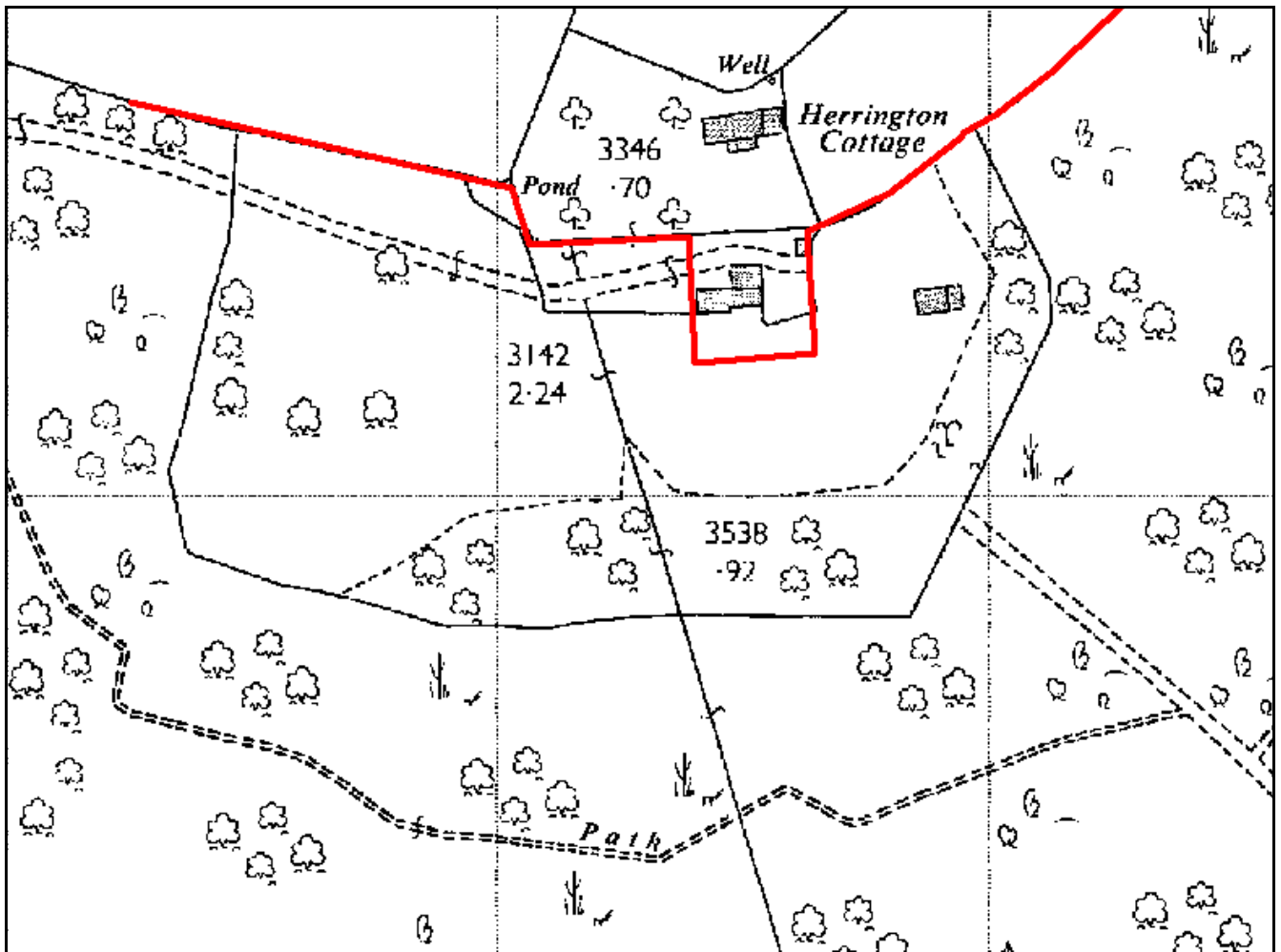
It is the applicant's case that rights were registered that should not have been.

- 4.1 At the time of registration of the Common an Ordnance Survey map of 1925 was used which, in probability, failed to accurately record features that were on the ground at the time of application for registration (1968).
- 4.2 When Rights were applied to be registered separately (1969) a different base map was used which had a more up to date survey. This map revealed that features were in place which were not recorded on the earlier map.
- 4.3 The map below has been produced to illustrate:
- Base map is the 1925 Ordnance Survey map.
 - Black pecked lines illustrate the additional features recorded on later (rights registration) map.
 - Red line represents the applicant land for de-registration and also the fenced boundary shown on the later rights registration map.
- 4.4 It is further noted that the land originally forming part of the Common owned by Mr and Miss Stride (as confirmed by the 1975 Commissioner's decision) relates only to that within the pecked line (i.e. the clearing) and does not extend further into the woodland or to include part of the applicant land for this deregistration application..
- 4.5 This additional perimeter strip has more recently been granted Possessory Title to Mr Downes (WT242190).



4.6 The Council is able to overlay various maps held as layers in its GIS system. It is possible to define the limit of the Common as shown on the Commons Registration Plan (“the 1924 plan”) as registered in 1968 and finalised in 1971 and to overlay this extent onto the map used for defining the apportionment of Rights of Common (undated base map but used for registration purposes in 1969 – “the 1969 plan”).

4.7 **Northern extent of Registered Common from 1924 plan overlaid in red on 1969 plan.** All land south of red line is registered Common.



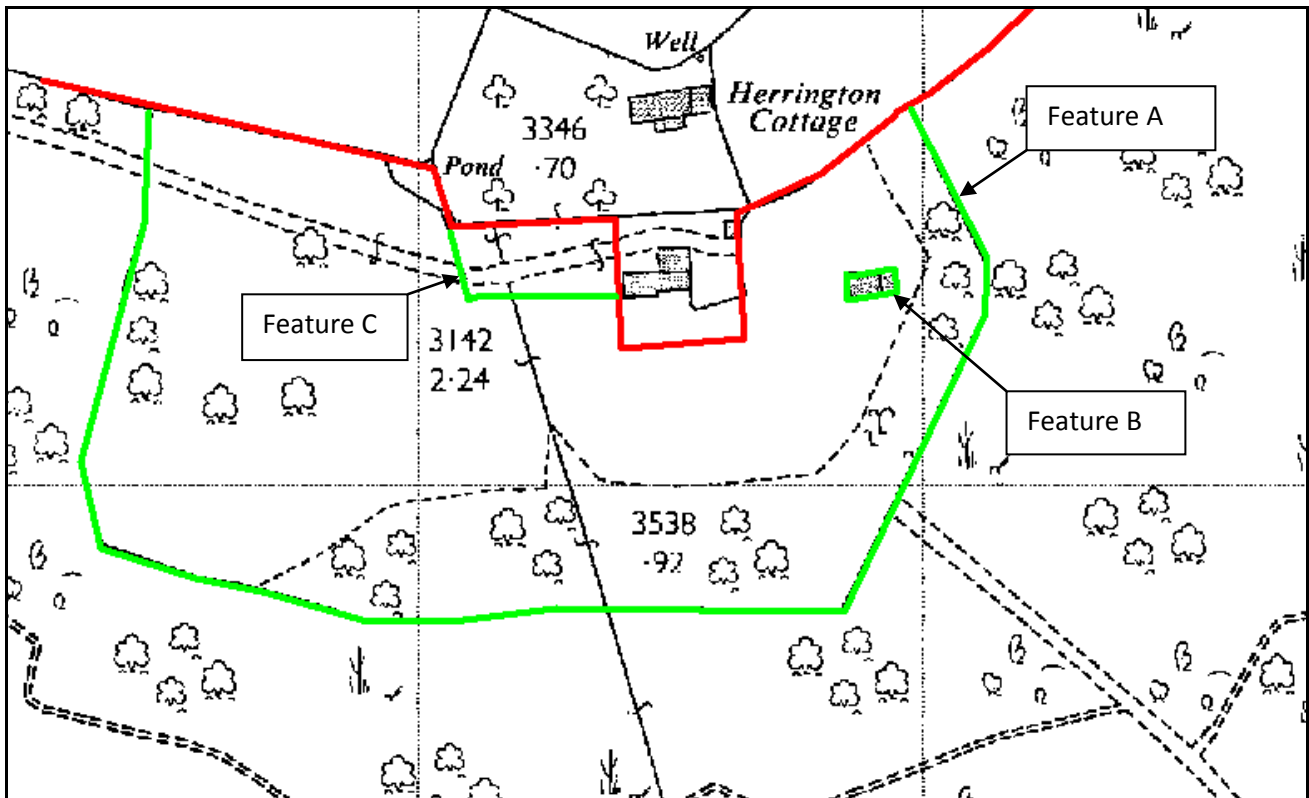
4.8 It is now clear what structures, enclosures and features were present in 1969 that are additional to those present in 1924. These include:

- i) Enclosure on the driveway to the west of the buildings
- ii) Building to the south west of Herrington Cottage
- iii) Enclosure fence within the Common

4.9 Officers consider it a reasonable assumption to make to say that these features were in place at the time of Registration even though they were not recorded on the base

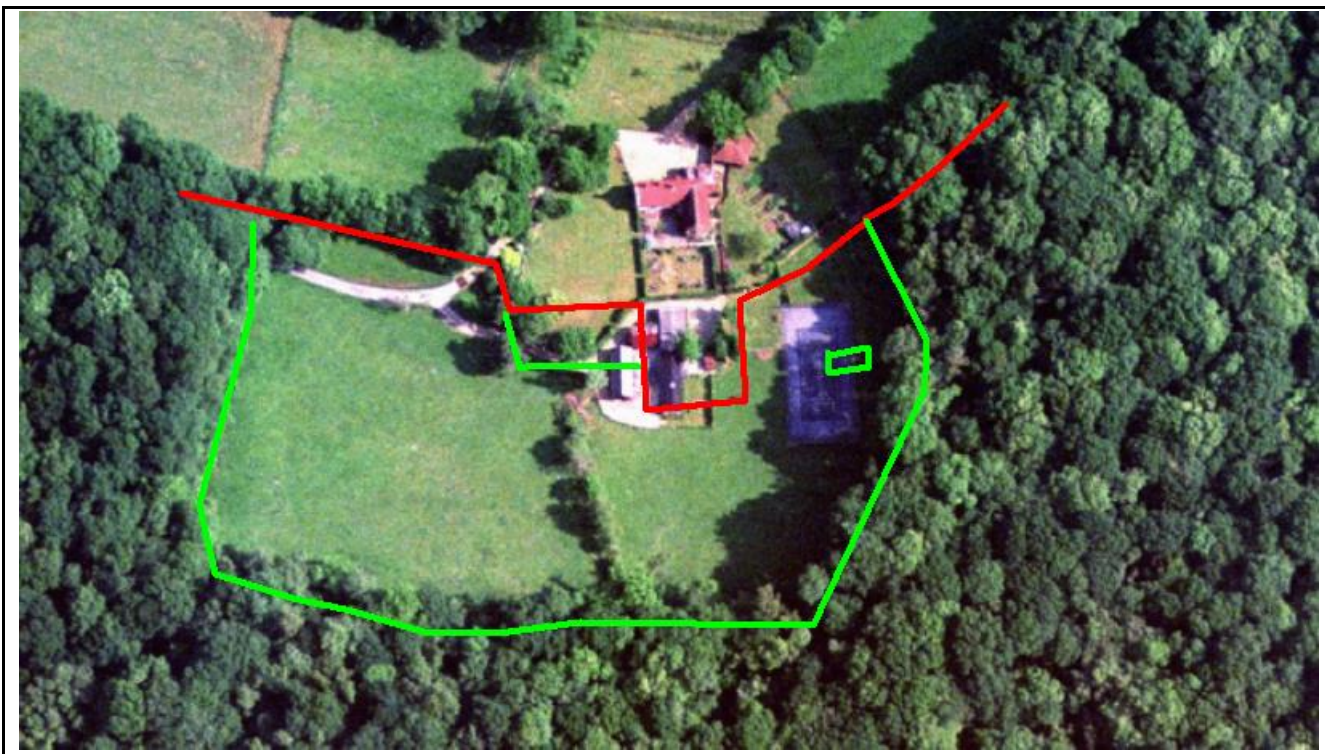
map used for the Commons Register. The map of 1924 was clearly out of date by 1968 and the basemap shown at 4.7 and used in 1969 is likely to record features that were in place only one year earlier.

4.10 These additional features are shown on the 1969 plan outlined in green. The red line continues to represent the extent of the boundary of the registered Common:

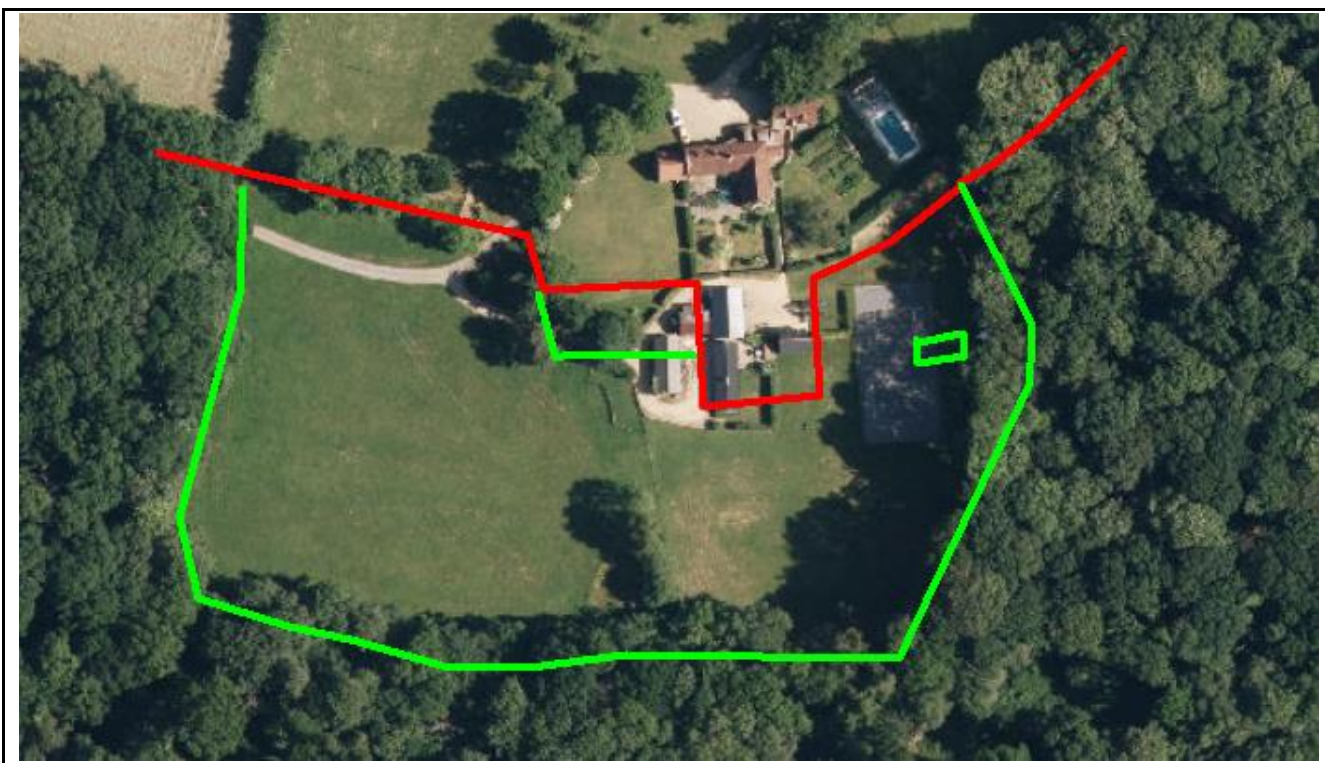


- 4.11 For the application to deregister Common Land to be successful it must be demonstrated that any features which should not have been registered have been in place (or something else on their footprint) since that time.
- 4.12 It is agreed that the fence (Feature A) that defines the southern, western and eastern extent of the applicant land (and the southern extent of the applicant's registered title) has been in place since the time of registration.
- 4.13 Feature B is a small building of some type which has been removed and a tennis court built over half of its footprint.
- 4.13 Feature C is a small enclosure that separates the larger piece of enclosed land from the buildings to the east. Officers consider that this enclosure defines a curtilage associated with those buildings. However, this enclosure has not remained in place and aerial photography reveals it had gone by 2001.
- 4.14 Aerial photography and map overlays reveal that only half of Feature B has been replaced by the tennis court by 2001.

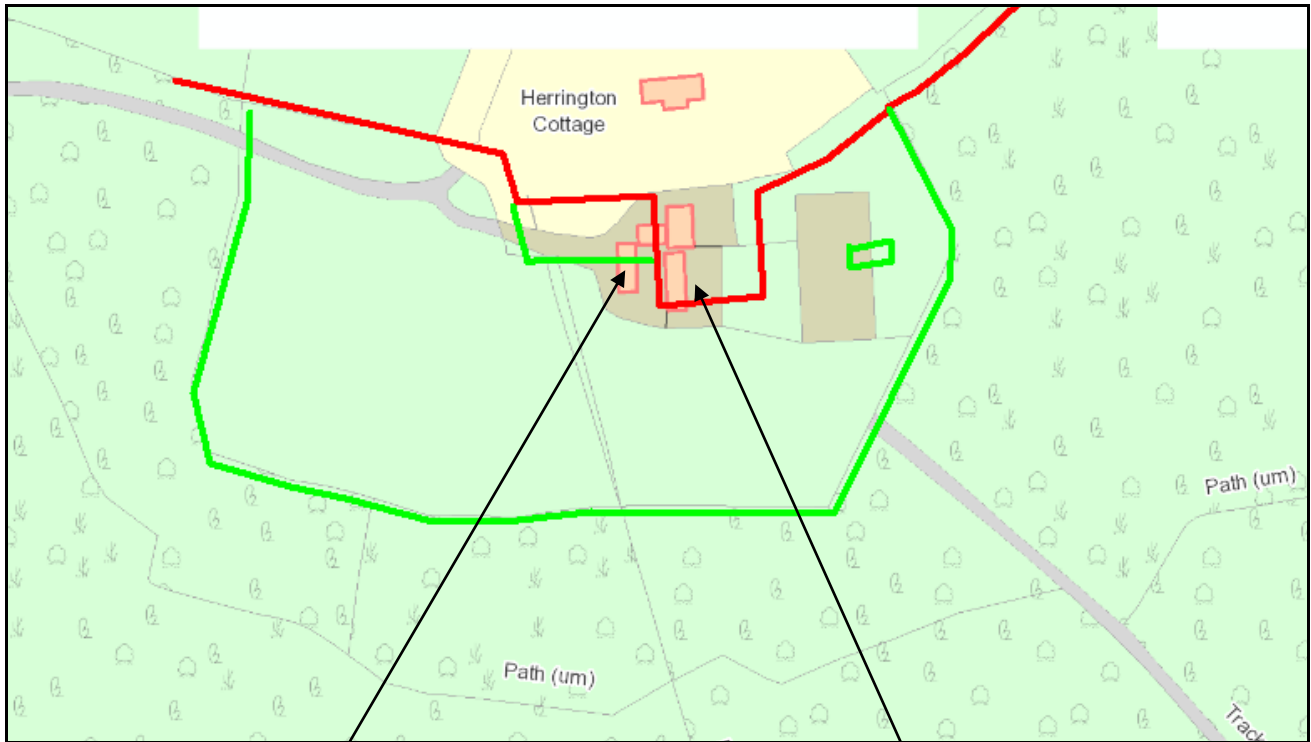
4.15 Plan showing the position of Features A, B and C relative to the Registered Common boundary and the layout of the property in 2001.



4.16 Plan showing the position of Features A, B and C relative to the Registered Common boundary and the layout of the property in 2014.



4.17 **Plan showing the position of Features A, B and C relative to the Registered Common boundary and the layout of the property in 2016**



- 4.18 These overlays make it clear that all of the buildings here lie within land that is not registered as Common land.
- 4.19 They also reveal that Feature C is not an enduring feature for the purposes of this application and that there have been significant changes in this area, not least the encroachment onto the Registered Common by the extension of the building seen here.
- 4.20 It is also clear that the building shown in the east (Feature B) is not an enduring feature or the footprint of one and has only in recent times (compare 2001 aerial image with the 2014 one) had the appearance of being within the curtilage of a property.
- 4.21 It is considered that the larger section of land defined at Feature A cannot reasonably be considered to define the curtilage of the temporary building Feature B or to have defined the curtilage of either the dwelling created and enlarged as described at 4.19 above.
- 4.22 While it is not disputed that the fence is a feature present both at registration and now, it merely encloses part of the Common. There are other enclosed parts of Whiteparish Common and the situation is not unique. It is possible to exercise rights of common over enclosed ground.
- 4.23 It must be noted that not only was the registration of Whiteparish Common not objected to at the time of provisional registration but care was clearly taken at the

time of registration to exclude the buildings and curtilage south of Herrington Cottage. Indeed, the Common is an unusual shape because of this. Historically, the Common was not this shape (see evidence History of the Common section 3.0).

- 4.24 Subsequent to the provisional application to register the Common in March 1968 rights of common were applied for in October 1968 and registered in 1969. The land cannot reasonably be viewed to form the curtilage of Herrington Cottage or its associated buildings when clear rights to graze animals were specifically claimed and recorded over it, notably, without objection.
- 4.25 Further to the registration of the Common and the registration of the Rights, in 1975 the Commons Commissioner considered the case of ownership of the applicant land and judged it to have been conveyed in 1924 to Mr R G stride and W M B Stride. Any dispute as to the registration of the land as common land is not evident from the Commissioner's decision.
- 4.26 It is illogical to consider that at the time of the conveyance of the land that the land was fenced as it is noted that the fence that was put up covers a wider area than the land covered by the conveyance. Why would you accept a smaller piece of land on paper than that which appeared on the ground? Although there is evidence for a perimeter fence from definitely the late 1960s onward (and possibly a time between then and 1924) it is clear that only the smaller conveyed parcel was recorded by the Commissioners in 1975. The additional land appears to be that which forms part of Mr Downes Possessory Title WT242190.

5.0 Considerations relating to the application – Paragraph 7 of Schedule 2

Paragraph 7 allows for the deregistration of common land that was wrongly registered. For this to succeed it must be shown that before its registration, the land was not common land (whether subject to rights of common or as waste land of the manor), not a town or village green within the meaning of the 1965 Act as originally enacted, nor was within the special definition of common land subject to be inclosed under section 11 of the Inclosure Act 1845 (which includes stinted pastures, land held in severalty by joint tenants and equivalent lands).

- 5.1 It is clear from the historical evidence that the land has been regarded as common land since at least 1842. It was recorded as such by the Tithe Commissioners in 1842 and by the Inland Revenue in 1910. It was regarded as such by Whiteparish Parish Council in 1968 when provisional registration was made (though a small part covered by buildings and considered curtilage was considered and excluded at this time) and was the subject of a Commissioners decision to record ownership.
- 5.2 Although the provisional registration of the rights post date the provisional registration of the Common itself it is noted that the registration of the Rights were finalised on the 9th January 1969 whereas the registration of the extent of the Common was finalised on the 1st October 1970.

5.3 The land was common land before its registration and hence fails the legal tests for the satisfaction of Paragraph 7.

6.0 Conclusion

It is considered that the application fails to discharge the burden of proof necessary to satisfy either paragraphs 6 or 7 of Schedule 2 to the Commons Act 2006 and accordingly the application to deregister part of the Whiteparish Common should be refused.

6.1 Officers have considered the evidence adduced by Mr Downes, the objections raised to the application, responses to the objections and all relevant evidence available to the Council. The use of GIS mapping layers is invaluable in defining the boundaries and footprints of features and has allowed the Council to overlay the base map used for the Commons Registration with contemporary mapping of the period of registration, a range of aerial photographs and contemporary mapping. It has been possible to align reference features in the area to validate this approach.

6.2 It is further noted that the base maps for the registration are at the scale of 1:2500 and that it is unwise to digitally enlarge to any extent that exceeds the use and purpose of the maps for their original purpose.

6.3 Officers are satisfied that the registration of the Whiteparish Common at Herridge House was correctly considered in 1968 and that due regard was made to the buildings and curtilages present at that time. The presence of the fenced area could not have been considered to be curtilage at the time of registration and cannot be now, it is an enclosed area to the south of buildings, used for grazing purposes and distinct from other areas. The buildings had and have distinct curtilages but this area is not one of them. It is clear that at the time of registration allowances were made for the curtilage of buildings and the shape of the registered Common reflects this.

7.0 Recommendation

That the application to deregister land at Herrington House, Whiteparish Common is refused.

Sally Madgwick

Team Leader Rights of Way and Highway Records

08 May 2017

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REPORT OUTLINE FOR AREA PLANNING COMMITTEES

Report No. 1

Date of Meeting	29 th June 2017
Application Number	17/00280/VAR
Site Address	Stonehenge Visitor Centre, A344 Airmans Corner, Winterbourne Stoke, Wiltshire, SP4 7DE
Proposal	Variation of the pedestrian and cycle route scheme agreed under Condition 27 of S/2009/1527 for the proposed permissive pedestrian and cycle path on the grassed over section of the former A344 to now be open to the public by 1st October 2017 (allowing a further year from the original agreed scheme to enable the proposed permissive path to establish itself prior to it being opened to the public)
Applicant	Mrs Kate Davies
Town/Parish Council	AMESBURY
Electoral Division	AMESBURY WEST
Grid Ref	410063 142800
Type of application	Full Planning
Case Officer	Lucy Minting

Reason for the application being considered by Committee

Councillor West called in the application for the following reasons:

- Visual impact upon the surrounding area;
- Relationship to adjoining properties;
- Design – bulk, height, general appearance;
- Environmental/highway impact; and
- Three local Parish and Town Councils and numerous local residents have objected to this application I believe this application should be dealt with by the 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 of the Head of Development Management that planning permission should be APPROVED subject to conditions.

2. Report Summary

The main issues which are considered to be material in the determination of this application are listed below:

- Principle of Development
- Justification for additional timescale
- Alternative temporary route proposals
- Conditions

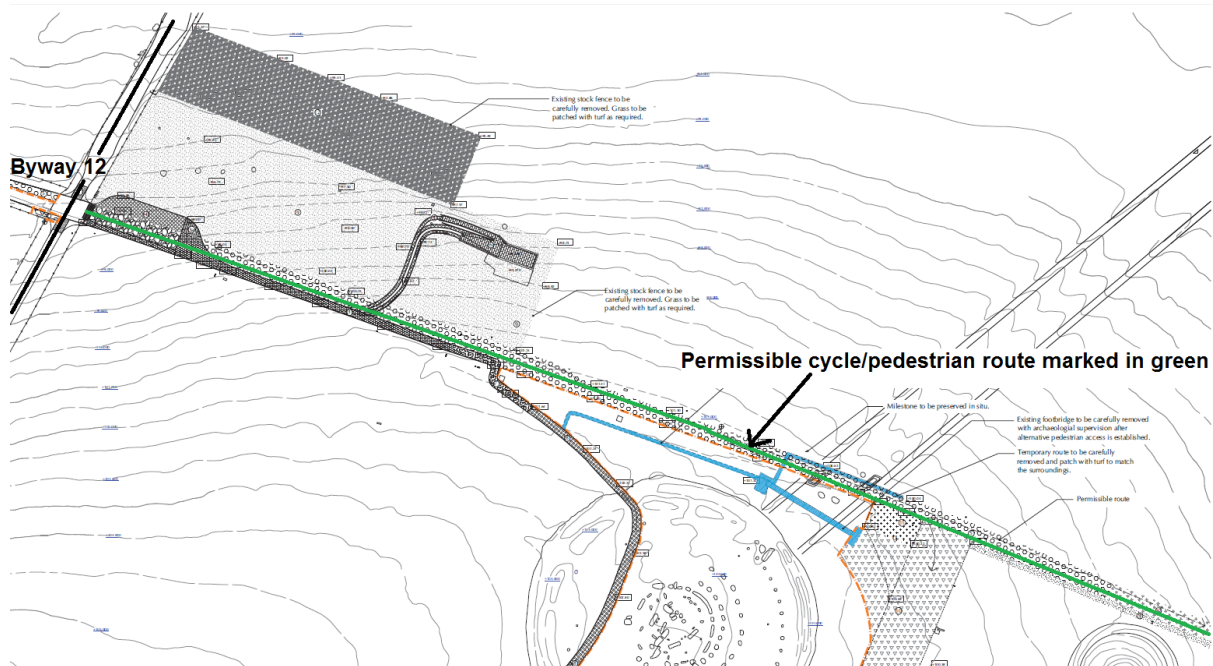
Representations received:

- Amesbury Town Council and Shrewton Parish Council object to the proposal
- Chitterne Parish Council comment that the path should be opened asap
- Durrington Town Council raise no objections
- Winterbourne Stoke Parish Council support the proposal subject to no further extensions of time to open the path being given

21 third party letters object to the application

3. Site Description

Full planning permission was granted under S/2009/1527 for the erection of a new visitor's centre, car park, coach park and ancillary services building; and related highways and landscaping works. The highways works included decommissioning a section of the A344 between its junction with A303 at Stonehenge Bottom between Stonehenge Bottom and Byway 12 which has been grassed over with a reinforced grass surface to allow service vehicles and pedestrians and cyclists to continue to use this part of the road. The approved permissible route between the A303 and Byway 12 is marked in green on the plans below:



A Stopping Up Order for the closure of the A344 between Byway 12 and the A303 was confirmed in a letter from the Secretary of State dated 31st October 2011.

The visitor centre and its associated facilities are open to the public. This application relates to the grassed over section of the A344 only.

4. Planning History

Application ref	Proposal	Decision
S/2009/1527	Decommissioning of existing visitor facilities and a section of the a344; the erection of a new visitors centre, car park, coach park and ancillary services building; and related highways and landscaping works	Approved with conditions 23/06/2010
S/2012/0118	Erection of an ancillary services building which replaces the proposed ancillary services building granted under planning permission S/2009/1527	Approved with conditions 25/05/2012
S/2013/0101	Creation of new access and associated works	Approved with conditions 18/03/2013
S/2013/0102	Installation of interpretation panels, archaeological presentations and associated works	Approved with conditions 18/03/2013
13/06505/FUL	Erection of 2 Neolithic houses and the temporary siting of a portacabin, marquee, generator, diesel supply unit, water bowser and two portaloo	Approved with conditions 11/03/2014
14/11874/SCR	EIA Screening request for temporary coach park	EIA not required 22/01/2015
14/12106/FUL	Change of use from agricultural land and creation (temporary consent 2 years) of a 26 space coach park and associated ancillary works	Approved with conditions 13/04/2015
15/07038/FUL	Resurfacing of pedestrian crossing point and Kent Carriage Gap, revision to Fargo drop off layout and relocation of cycle racks	Approved with conditions 15/07038/FUL
15/12605/SCR	EIA Screening Opinion request for Stonehenge Visitor's Enhancement Project - Permanent coach park, ancillary coach visitors facilities building, visitors transit system	EIA not required 05/02/2016
16/03988/FUL	Permanent use of temporary coach park and modification of existing coach park to create 53 coach spaces and 26 motorhome spaces; construction of ancillary building for new coach visitor facilities; change of use from agricultural land and creation of new visitor transit system turnaround area for shuttle bus use; creation of extended visitor transit system turnaround area for shuttle bus use; decommissioning of existing visitor transit system turnaround area; all with associated ancillary and landscaping works.	Approved with conditions 25/07/2016

5. The Proposal

The NPPG explains that an application can be made under section 73 of the Town and Country Planning Act 1990 to vary or remove conditions associated with a planning permission.

The original planning consent is subject to 28 conditions. Condition 27 required details of the pedestrian and cycle route along the whole of the A344 to be agreed with the local planning authority:

(27) No development shall commence until (i) details of the pedestrian and cycle route along the whole of the A344, including crossing arrangements at the A303 (Stonehenge Bottom) and (ii) a scheme for reviewing such access and crossing arrangements, have been submitted to and approved (in consultation with the Highways agency) in writing by the local planning authority. The development shall not be occupied until the agreed works have been completed. Any changes shall be implemented in accordance with the approved scheme. REASON: To accommodate and facilitate the inevitable future local pedestrian and cyclist demand travelling the route between the Stones and west Amesbury, and provision of a safe crossing point on the A303 when the right turn facility currently in place is removed.

The details for condition 27 were formally agreed in writing by the local planning authority on 25/06/2012. These included the details of the pedestrian and cycle route along the A344 and provision of pedestrian and cycle gates at the A303 end of the route. The agreed details for the crossing arrangements at the A303 included a report submitted by Highways England (then known as the Highways Agency) confirming that with the exception of hi grade reflective signs and audible/tactile central line hatching; the crossing arrangements at the A303 would remain unaltered.

It was also agreed with the local planning authority under condition 13 (Landscape Management Plan) which set out a phasing strategy for the landscape restoration works following the closure of the A344, that a temporary permissive path would be provided on land north of the A344 between Byway 12 and Stonehenge Bottom to ensure establishment of the grassland over the permissive pedestrian and cycle path section of the former A344, which would be open to the public by 1st October 2016 (phase 4 of the agreed phasing strategy).

However, due to delays to the commencement of the phase 4 works, establishment of the grassland was delayed and a revised Landscape Management Plan was agreed by the local planning authority on 21st December 2016 for the permissive path to be opened by 1st October 2017 (allowing the grass surface of the permissive path to be sufficiently established).

This application is to vary the agreed details for condition 27 for the timing of the opening of the permissive pedestrian and cycle path to now be open to the public by 1st October 2017 (allowing a further year from the original agreed scheme to enable the proposed permissive path to establish itself prior to it being opened to the public).

The alternative temporary diverted route (agreed under condition 13 of the original consent) is provided on National Trust Land.

6. Local Planning Policy

The Wiltshire Core Strategy (WCS) - adopted by Full Council on the 20th January 2015:

Core Policy 1: Settlement Strategy

Core Policy 2: Delivery Strategy

Core Policy 4: Spatial Strategy: Amesbury Community Area

Core Policy 6: Stonehenge
Core Policy 57: Ensuring high quality design and place shaping
Core Policy 58: Ensuring the conservation of the Historic Environment
Core Policy 59: The Stonehenge, Avebury and Associated Sites World Heritage Site and its setting
Core Policy 60: Sustainable Transport
Core Policy 61: Transport and New Development
Core Policy 64: Demand Management

Saved policies of the Salisbury District Local Plan:

C6 (Special Landscape Area)

Government Guidance:

National Planning Policy Framework (NPPF) March 2012
National Planning Policy Guidance (NPPG)

Supplementary Planning Guidance:

The Stonehenge, Avebury and Associated Sites World Heritage Site Management Plan 2015
UNESCO Guidelines for the implementation of the World Heritage Convention (2015)

7. Summary of consultation responses

Amesbury Town Council: Object

Amesbury Town Council strongly objects to the application.

Members of Amesbury Town Council feel that the permissive path has been in place for a number of years and considers that sufficient time has elapsed for it to become established.

Investigations have taken place and councillors have walked the permissive path in both directions and found the ground to be hard/solid and the new grass well established. It is understood that a tractor mower is currently used to cut the grass. It can be assumed therefore that the grass would be able to withstand pressure from bicycles and pedestrians.

Walking visitors to Amesbury should be able to approach Stonehenge along Stonehenge Road, to enter through the gate and proceed along the path. Further deferrals could result in losing the path altogether.

It should be noted that, at the eastern end of the path where visitors enter the area of the stones, there is no provision for keeping apart those people walking the permissive path and those coming from the visitors centre. It is felt that this could be a contributory factor in deferring the opening of the path, despite the reason being given as a need for the further establishment of the grass. As above, Amesbury Town Council has noted evidence to the contrary.

Chitterne Parish Council: Comments

Chitterne Parish Council suggest that the permissive path has had long enough to become established and that it should be opened to the public as soon as possible. Another year would seem excessive.

Durrington Town Council: No objections

Shrewton Parish Council: Object

The parish Council feel that this amenity, which was agreed when the A344 was closed, should not have any further delay.

Local people wish to be able to walk and cycle on this route safely. Local people have had to put up with the repercussions of a vast amount of extra traffic through the Villages since the A344 was closed and would like to see this path opened as per planning agreement.

Winterbourne Stoke Parish Council: Support subject to conditions

Winterbourne Stoke Parish Council have considered the planning application and consider that the lack of progress is wholly unacceptable and, consequently, Councillors are minded to object to the application. However, Councillors appreciate that it is not sensible for the public to be given access to an unsuitable surface because that would only result in more problems, and additional planning applications in the future to repair the surface; therefore, Councillors support the application with the understanding that any future resubmission will not be supported.

Wiltshire Council Highways: No objections

Original comments:

We have received complaints about the poor signage provided for the alternative route path, which I understand crosses National Trust land. The local signage of the alternative route should be improved, making it clear from both ends and along the route of the exact route of the path, and its availability to cyclists and pedestrians. Is it possible for such a requirement to be conditioned?

I have no objection in relation to the general principle of the proposal to defer provision of a permissive path along the former A344 route, subject to a well signed alternative being maintained in good order until the permanent route is provided.

Comments following receipt of alternative path route and waymarker details received 06/06/2017:

Apart from a need to include a waymarker at the junction of the A344 and Byway 12, I think the submitted sketch represents an acceptable way forward.

Wiltshire Council Rights of Way: This application to vary the condition would be acceptable to us.

Highways England: Offer no objection.

Historic England: No comments

On the basis of the information available to date, we do not wish to offer any comments. We suggest that you seek the views of your specialist conservation and archaeological advisers, as relevant.

MOD Safeguarding – RAF Boscombe Down: The MOD has no safeguarding objections with respect to this.

Natural England:

Natural England currently has no comment to make on the variation of condition 27.

8. Publicity

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

21 representations have been received objecting to the scheme, summarised as follows:

- Delay is unwarranted - more than enough time has elapsed for the grass to become established (grass does not take over 5 years to become established)
- Lack of supporting evidence to justify deferral

- Grass appears to be well established and no independent agronomy report on the condition of the grass and its usability has been provided
- Enforcement action should be taken to require it to be opened
- This is a matter specifically referred to in the Inspector's report into the Stopping Up Order (SUO) of the A344 *'While the SUO would extinguish existing rights of way along the length of the A344 concerned in accordance with the planning permission, there would remain a permissive path along the line of the road for pedestrians and cyclists, provision and details of which would be controlled through a condition attached to the planning permission and the related S106 obligation'* and indicates the importance of this path
- Delays the provision of safe route for pedestrians, horse riders and cyclists from the visitor centre or to West Amesbury
- Concerns that applicant is preventing/obstructing/discouraging the use of historic byways that surround the Stonehenge Area and delay in opening permissive path is to prevent visitors getting close to Stonehenge without entry charge
- Delays in establishment of grass include errors in laying low grade topsoil with asbestos contaminated materials
- Unwelcome visual appearance of the former A344 and fencing more appropriate to urban environment
- Path could be opened and if any problems arose these could be dealt with
- Concerns that users of the alternative path (which is on National Trust land) could be charged for access (public access required free of charge)
- Alternative path is not signed and route across a rough livestock grazed field is not comparable to the access that the path on the route of the A344 would provide, discriminates against equal access and not suitable for cyclists and wheelchairs (requiring long diversions and/or unsuitable rights of way, or the A303 trunk road or poorly surfaced Byway 12)
- National Trust wardens ask cyclists to dismount using alternative route
- Alternative route expected to remain open even when condition 27 is satisfied
- Permissive path when opened will not be signed and no visible indication it will be available for free access and will not fulfil the permissive requirements
- Permissive path is the missing link in providing safe and easy sustainable access from Amesbury to Stonehenge. Stakeholders such as Sustrans and Ramblers Association not consulted
- Where are arrangements for crossing the A303
- Delays economic benefits from increased numbers of tourist footfall along the permissive path to/from Amesbury and surrounding villages
- Concern that future applications may request a permanent waiver for the requirement to provide a route for pedestrians and cyclists
- Use alternative surface material - other permissive paths in vicinity are either chalk or gravel

CPRE: CPRE agrees with Parish (Town) Council (Amesbury) and Parish Councils (Chitterne, Shrewton) who all feel the surface is sufficiently established. Further, there is no documentation provided to support the proposal.

Cycling Opportunities Group for Salisbury: Objection

This response is made on behalf of the Cycling Opportunities Group for Salisbury (COGS), a voluntary organisation with 140 members seeking to improve cycling facilities in an around Salisbury and South Wiltshire. We work closely with Sustrans as a ranger group for National Cycle Network routes 24 and 45, and are affiliated to the national cycling charity, Cycling UK.

I participated in pre-planning application discussions for the Stonehenge Visitors' Centre that aimed to avoid objections to that application and the Stopping Up Order (SUO) for the A344.

We were pleased to see that a planning condition was imposed to provide permissive rights for non-motorised users (NMUs) along the route of the A344 and we withdrew our objection to the SUO on the basis that a suitable surface for cycling would be provided, as stated in the Closing Statement on behalf of EH at the Stonehenge Stopping Up Order Enquiry (points 13 and 14) “Para 9 of Part of Schedule 3 contains a covenant on the part of the landowners for the use of the A344 by pedestrians and cyclists at all times.....” “The works to be carried out will ensure that the surface is appropriate for cycling”. We researched and visited various sites where such surfaces had been built that allow grass to grow through open matrices and protect the green surface whilst allowing use by different types of cycle under varying weather conditions. This is not new technology and has been employed widely on many cycle routes, car parks and areas of high pedestrian footfall. In an email communication to me dated 06 February 2014, EH stated that mat reinforcements were to be laid and seeded that spring. Whilst recognising that weather conditions may affect the establishment of grass surfacing, it is hard to believe that 3 years is not sufficiently long for this to have occurred and allow the permissive route to be used.

Therefore, it is very disappointing that EH are applying for a further extension to “Condition 27 of S/2009/1527/FUL to allow a further year for the proposed permissive path to establish itself prior to it being opened to the public” and are still denying cyclists and other non-motorised users the right to take a properly-surfaced direct route between Amesbury and Shrewton and avoid the A303. There seem to be no reasonable grounds for further delay.

9. Planning Considerations

9.1 Principle of development

The National Planning Policy Framework (NPPF) came into force on 27th March 2012 and makes it clear that planning law (Section 70(2) of the Town and Country Planning Act 1990 and section 38(6) of the Planning and Compulsory Purchase Act 2004) requires applications for planning permission to be determined in accordance with the development plan unless material considerations indicate otherwise. Paragraph 12 of the NPPF confirms that the ‘NPPF does not change the statutory status of the development plan as the starting point for decision making’ and proposed development that is in accordance with an up-to-date Local Plan should be approved and proposed development that conflicts should be refused unless other material considerations indicate otherwise.

The NPPG advises that Section 73 applications should be considered against the development plan and material considerations, under section 38(6) of the 2004 Act, and conditions attached to the existing permission. Local planning authorities should, in making their decisions, focus their attention on national and development plan policies, and other material considerations which may have changed significantly since the original grant of permission.

Since the 2009 consent, the Wiltshire Core Strategy has been adopted. The proposals are therefore to be considered in the context of the National Planning Policy Framework (NPPF) which sets out Central Government’s planning policies, and the adopted Wiltshire Core Strategy (WCS) which also includes some saved policies of the Salisbury District Local Plan (SDLP).

Core Policies 6 and 59, together with paragraph 137 of the NPPF, allows for development within the World Heritage Site that better reveals the heritage significance and provides education on the heritage, whilst not adversely impacting on the heritage asset and its setting. Therefore the principle of development within the Stonehenge World Heritage Site, relating to the Stonehenge Visitor Centre is acceptable.

9.2 Justification for additional timescale

The applicant (English Heritage) have advised that *'In accordance with planning permission for the Stonehenge Environmental Improvements Project, English Heritage is committed to providing a permissive path for pedestrians and cycles on the grassed over section of the former A344 between the A303 at Stonehenge Bottom and Stonehenge.'*

English Heritage has explained that *'The intention had been to open the path to the public in 2016. However, English Heritage's Conservation Maintenance Team has been monitoring the establishment of the grass since 2015 and recommends that a further growing season is needed to enable the grass to be fully established prior to its use as a path (see advice in email below from English Heritage's Landscape Manager). For this reason, English Heritage is seeking approval to vary condition 27 of planning permission S/2009/1527 to open the permissive path to the public by 1st October 2017.'*

The Landscape Manager (Chris Bally) has provided the following justification:

'Further to my previous inspection on 1st November 2016 of the progress of the grass establishment on the closed section of the former A344 down to Stonehenge Bottom, I have been keeping an eye on it over Winter and last visited on 6th April 2017. I would still recommend that it is rested from use this Summer in order for the grasses to continue to thicken and further develop their root systems.

From a distance, the former roadway appears to have successfully established and appears green but, on a closer look, the grass is still quite thin and would benefit from another season's growth before it is opened up to regular use and the wear of being a pathway. The high proportion of wildflower seed that was included in the original seed mix will greatly help the establishment of a natural chalk grassland, but also slows the process of creating a thick grass sward.

Once this season's wildflowers have set seed later in the Summer, the grass will be cut which will help spread the seed and also encourage tillering of the grass, which is to increase the number of side shoots on each individual grass stem, helping it to thicken up. I will continue to monitor the condition of the grass throughout the Summer but would hope that one more season of unhindered growth will mean that it will be ready for use by the 1st October.'

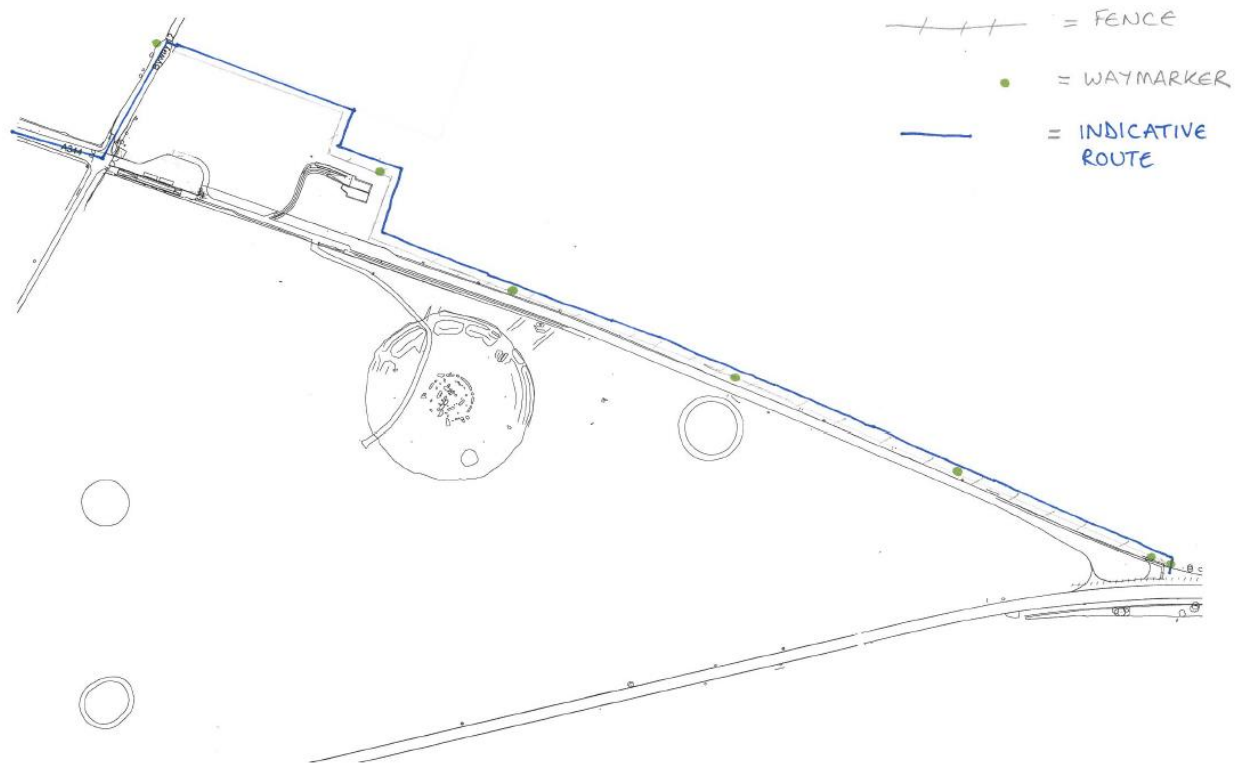
Following the submission of this additional justification, it is considered reasonable that the path remain closed until 1st October 2017. Objections/concerns to the proposal include why enforcement action has not been taken against English Heritage to open the permissive path. Whilst serving a breach of condition notice requiring the opening of footpath is an option for the council, this course of action has not be pursued because the footpath would be open when it wasn't properly established and then become eroded by premature use meaning it would have to be closed for a substantive length of time whilst it re-established elongating the length of time the permissive path was closed rather than shortening it.

9.3 Alternative temporary route

The highways authority's original comments referred to complaints received about poor signage of the alternative path which crosses National Trust Land although raised no objections to the general principle of the deferral of the provision of the permissive path along the former A344 route subject to a well signed alternative route to be provided and maintained until the permanent route is provided.

Following these comments, a plan showing the route of the existing temporary path (outlined in blue) and the proposed locations of new temporary waymarker signs (marked in green) to

be attached on the adjacent fence posts has been submitted (The waymarker signs are 7.5cm diameter yellow discs with black directional arrows and the words "Temporary Permissive Path for Pedestrians and Cyclists" also in black).



The highways authority has advised that subject to an additional waymarker being added at the junction of the A344 and Byway 12, that the signage proposals and alternative temporary route is an acceptable way forward.

It will be necessary to condition that the signage proposals for the alternative route (including the additional waymarker at the junction of the A344 and Byway 12) are provided promptly (a reasonable timescale is considered to be 4 weeks from the date of decision of the application).

9.4 Conditions

Where an application under section 73 is granted, the effect is the issue of a new planning permission, sitting alongside the original permission, which remains intact and un-amended.

A decision notice describing the new permission should be issued, setting out all of the conditions related to it. To assist with clarity decision notices for the grant of planning permission under section 73 should also repeat the relevant conditions from the original planning permission. In this case details have been agreed for the original 'pre-commencement' conditions in writing by the local planning authority on 13/06/2012 and 25/06/2012 and the conditions have been reworded that the development is completed (and where relevant maintained) in accordance with the approved details/schemes.

10. Conclusion

The permissive pedestrian and cycle route on the grassed over area of the former A344 is controlled by planning condition and was due to be opened to the public 1st October 2016. However, this application is to defer opening the permissive path until 1st October 2017 to avoid any damage to the grassed surface because it is not presently established enough (for which justification has been submitted, detailed above). In the meantime there is an

alternative path that can be used, and details of this are now considered acceptable (subject to conditioning the provision of waymarkers).

RECOMMENDATION: To grant planning permission subject to the following conditions:

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

Alternative path route and waymarker details received 6th June 2017

Drawing no As received on the 5th October 2009

AB-A-G200-E-WE rev C
AB-A-G200-E-N rev C
AB-A-G200-P-RP rev C
AB-A-G200-P-00 rev G
VC-A-G200-S-FF rev C
VC-A-G200-S-EE rev C
VC-A-G200-S-CCDD rev D
VC-A-G200-S-BB rev C
VC-A-G200-S-AA rev D
VC-A-G200-E-S rev C
VC-A-G200-E-Ea
VC-A-G200-E-E rev C
VC-A-G200-P-RP rev C
VC-A-G200-P-00 rev G
MP-A-G100-P-03 rev I
MP-A-G100-P-02 rev G
MP-A-G100-P-01 rev F
MP-A-G000-P-XP-03 rev B
MP-A-G000-P-XP-02 rev B
MP-A-G000-P-XP-01 rev B
AC-G200-PA-01 rev B
VC-A-G200-E-W rev C
VC-A-G200-E-N rev D
10110301 - SEIW-21 rev A
HB-A-G200-P-00 rev E
MP-A-G100-P-03 rev K
11110201-PA-001
10110301-SEIW_17
10110301-SEIW_18
10110301-SEIW_20
10110301-SEIW_22 rev A
10110301-SEIW_19
HB-A-G200-P-RP rev D
HB-A-G200-S-AABB rev C
HB-A-G200-S-CCDD rev C
HB-A-G200-S-EEFF rev C
SE14283-SK-C-01 rev P2
SE14283-SK-C-02 rev P3
10110301-SEIW_16
10110301-SEIW_23
8877 (A) VC 001
8877 (L) VC 001
8877 (E) VC 001
8877 (E) VC 003
8877 (E) VC 002
TH/STON/SK09 rev A

HB-A-G200-XA-00
HB-A-G200-XS-AABB rev B
HB-A-G200-XP-00 rev B
AB-A-G200-S rev C
AB-A-G200-E-S rev C
MP-A-G100-P-02 rev I
SE14283-SK-C-03 rev P6
SE14283-SK-C-04 rev P4
Environmental Statement and appendices received 5th October 2009
Transport assessment and outline travel plan received 5th October 2009
Ecological management strategy received 5th May 2010
Lighting strategy document received 5th May 2010
including plan no's -
TH/STON/LIG/500
10110301-DT05 rev D
10110301-GA002 rev D
AC-N-G1
HUB-N-G1
VC-A-G500-D-01 rev A
VC-A-G500-D-02 rev A
Tabular response of clarification of ecological matters received on the 22nd
December 2009.
REASON: For the avoidance of doubt and in the interests of proper planning.

(2) The development shall be carried out in accordance with the approved schedule of materials and finishes to be used for the external walls and roofs and all other built structures agreed in writing by the local planning authority on 13/06/2012.

REASON: To comply with the provisions of Section 91 of the Town and Country Planning Act 1990.

(3) The development shall be carried out in accordance with the approved boundary treatments and timetable for provision, agreed in writing by the local planning authority on 13/06/2012.

REASON: To enable the local planning authority to secure the satisfactory treatment of the boundaries in the interests of the visual amenity of the World Heritage Site.

(4) The development shall be carried out in accordance with the approved landscaping scheme including the timetable for implementation, agreed in writing by the local planning authority on 13/06/2012.

If any plant dies, becomes diseased, seriously damaged or fails to thrive within a period of 5 years from the date of planting, or is removed, uprooted or destroyed, it must be replaced by another plant of the same kind and size and at the same place, unless the local planning authority agrees to a variation beforehand in writing.

Retention of existing trees and shrubs

No tree, shrub, or hedge which are shown as being retained on the approved plans shall be cut down, uprooted, wilfully damaged or destroyed, cut back in any way or removed other than in accordance with the approved plans and particulars, without the written approval of the local planning authority.

All tree works approved shall be carried out in accordance with British Standard Recommendations for Tree Work (B.S.3998: 1989). If any tree, shrub or hedge shown to be retained in accordance with the approved plans and particulars is removed, uprooted or destroyed, or dies, or becomes severely damaged or diseased within 5 years of the completion of the development, another tree, shrub, or hedge shall be planted at the approximate same place, and that tree, shrub, or hedge shall be of such a size specification, and species, and should be planted at such time as may be specified in writing by the Local

Authority. If within a period of five years from the date of planting any replacement tree is removed, uprooted or destroyed, or dies or becomes seriously damaged or defective another tree of the species and size as that originally planted shall be planted at approximately the same place, unless the Local Planning Authority gives its written consent to any variation.

REASON: To comply with the duties indicated in Section 197 of the Town and Country Planning Act 1990 so as to safeguard the amenity of the existing trees and to ensure a satisfactory appearance of the development.

(5) The development shall be carried out in accordance with the approved Arboricultural Method Statement, agreed in writing by the local planning authority on 13/06/2012, unless the Local Planning Authority has given its prior written consent to any variation.

REASON: To comply with the duties indicated in Section 197 of the Town and Country Planning Act 1990, so as to ensure that the amenity value of the most important trees, shrubs and hedges growing within or adjacent to the site is adequately protected during the period of site clearance and construction.

(6) The development shall be carried out in accordance with the approved details of the Visitor Transit System agreed in writing by the local planning authority on 13/06/2012 and shall be maintained and operated as approved.

REASON: To ensure that the proposed layout can properly accommodate the operational requirements of the VTS trains and to ensure visitors who are mobility impaired can continue to access the Stonehenge monument.

Informative: The VTS will be running on a public highway. It must therefore comply with all necessary legislation related to such vehicles.

(7) The development shall be carried out in accordance with the approved details showing how vehicles accessing the A344 can turn around and return westbound in forward gear, (including all points where access is restricted by proposed gating), agreed in writing by the local planning authority on 13/06/2012. The development shall be operated in accordance with the approved arrangements and details.

REASON: In the interests of highway safety and to avoid the inconvenience otherwise caused to larger vehicles that might need to gain access for highway maintenance or other purposes.

(8) The development shall be carried out in accordance with the approved scheme demonstrating how any gating or bollarding measures on the A344 are to be operated, their legal status, and what provisions are to be made for vehicles reasonably requiring access to the public highway and, beyond, to the stopped up section of A344 between Byway 12 and Stonehenge Bottom, agreed in writing by the local planning authority on 13/06/2012. Gating arrangements shall only be provided and operated in accordance with the approved scheme.

REASON: To demonstrate that a managed scheme will allow for the requirements of all proper vehicular users of the highway at all times of the day and night throughout the year.

(9) The development shall be carried out in accordance with the approved scheme demonstrating how any gating or bollarding measures on the A344 are to be operated, their legal status, and what provisions are to be made for vehicles reasonably requiring access to the public highway and, beyond, to the stopped up section of A344 between Byway 12 and Stonehenge Bottom, agreed in writing by the local planning authority on 13/06/2012. Gating arrangements shall only be provided and operated in accordance with the approved scheme.

REASON: To demonstrate that a managed scheme will allow for the requirements of all proper vehicular users of the highway at all times of the day and night throughout the year.

(10) The development shall be carried out in accordance with the approved visitor management strategy, agreed in writing by the local planning authority on 13/06/2012. The

development shall not be operated other than in accordance with the approved visitor management strategy in perpetuity.

REASON: In order to protect the Salisbury Plain SAC/SPA and the wider landscape and nature conservation interests.

(11) The development shall be carried out in accordance with the approved scheme and programme for cycle parking and storage provision at the western end of the retained A344 and for cycle parking at the eastern end, agreed in writing by the local planning authority on 13/06/2012. The facilities shall be provided in accordance with the approved scheme and programme and maintained thereafter.

REASON: In order to facilitate the objectives of the travel planning requirements for the site insofar as they relate to encouraging pedestrian and cycle transport, and to discourage random parking of cycles within the vicinities of the Stones and the proposed Visitor Centre.

(12) The development shall be completed in accordance with the approved construction management plan, agreed in writing by the local planning authority on 25/06/2012.

REASON: To mitigate the impact of construction traffic during the construction period and in the interests of highway safety on the local and strategic road network.

(13) The development shall be completed in accordance with the approved landscape management plan (including a statement for the long-term effective maintenance of the agreed landscape scheme and full details of all management and establishment operations over a ten-year period including details of the relevant management, and supervisory responsibilities), agreed in writing by the local planning authority on 13/06/2012 as amended by the revised landscape management plan dated 25/07/2016 and agreed in writing by the local planning authority dated 21/12/2016 for the permissive path to be opened by 1st October 2017.

The approved landscape management plan includes the provision for a review to be undertaken during the course of the plan with a final review being undertaken before the end of the ten-year period. A revised landscape management plan shall be submitted for the agreement of the Local Planning Authority before the ten years has expired. The revised details shall make similar provisions for the long-term maintenance and management of the landscape scheme. The revised scheme shall also make provision for future revision and updating. The provisions of the landscape management plan and subsequent revisions shall be adhered to and any variation shall have been agreed beforehand in writing by the Local Planning Authority. No trees, shrubs, hedges or other plants shall be removed for the duration of the landscape management scheme or its revisions, without the prior written approval of the Local Planning Authority. Management of the landscape scheme in accordance with the landscape management plan or their agreed revisions shall not cease unless agreed in writing by the local Planning Authority.

REASON: To comply with the duties indicated in Section 197 of the Town and Country Planning Act 1990, so as to ensure that the amenity to be provided by the new landscaping is achieved and safeguarded, and to ensure satisfactory appearance to the development.

(14) The development shall be completed in accordance with the approved water supply and water efficiency scheme agreed in writing by the local planning authority on 13/06/2012. The approved scheme shall be maintained in perpetuity.

REASON: The site is located on a major aquifer within the catchment of the River Avon SAC/SSSI and the South Wiltshire core strategy proposed submission document (July 2009; policy 19) includes the requirement for non-residential development to include water efficiency measures.

(15) The development shall be completed in accordance with the approved scheme for the disposal of foul drainage, agreed in writing by the local planning authority on 13/06/2012. The approved scheme shall be maintained in perpetuity.

REASON: The site is located on a major aquifer within the catchment of the River Avon SAC/SSSI. Appropriate drainage arrangements will ensure groundwater is protected.

(16) The development shall be completed in accordance with the approved construction environmental management plan and timetable, agreed in writing by the local planning authority on 25/06/2012.

REASON: The site is located on a major aquifer with the catchment of the River Avon SAC/SSSI. Appropriate pollution prevention arrangements during construction will ensure groundwater and surface water are protected.

(17) The development shall be completed in accordance with the approved lighting scheme (including street lighting, lighting for the car and coach parks, lighting for footpaths, lighting at the drop off points, including intensity of the lighting and design for the light column and arrangements for testing of the works on their first operation), agreed in writing by the local planning authority on 13/06/2012. All the works and operation of the development shall subsequently accord with the approved details.

REASON: To ensure that the lighting scheme respects the overall design qualities required from the development and to minimise impact of the lighting scheme upon both the World Heritage Site and wider landscape and nature conservation interests and the Salisbury Plain SAC/SPA.

(18) The development shall be completed in accordance with the approved written programme of archaeological investigation, agreed in writing by the local planning authority on 13/06/2012.

REASON: To ensure that artefacts of archaeological importance are properly recorded and evaluated.

(19) The development shall be completed in accordance with the approved waste audit, agreed in writing by the local planning authority on 13/06/2012

REASON: In the interests of achieving a sustainable development.

(20) The development shall be completed in accordance with the approved scheme of internal pedestrian footpaths within the visitor centre site, agreed in writing by the local planning authority on 13/06/2012.

REASON: To facilitate pedestrian movement on identified desire lines.

(21) The retail unit within the visitor centre shall not sell goods outside of the agreed range of goods, agreed in writing by the local planning authority on 13/06/2012, other than as a minor and ancillary part of the stores operation without the prior written approval of the local planning authority.

REASON: To enable the local planning authority to exercise adequate control over the kind of good which are sold from the premises, in the interests of maintaining the vitality and viability of Amesbury Town Centre.

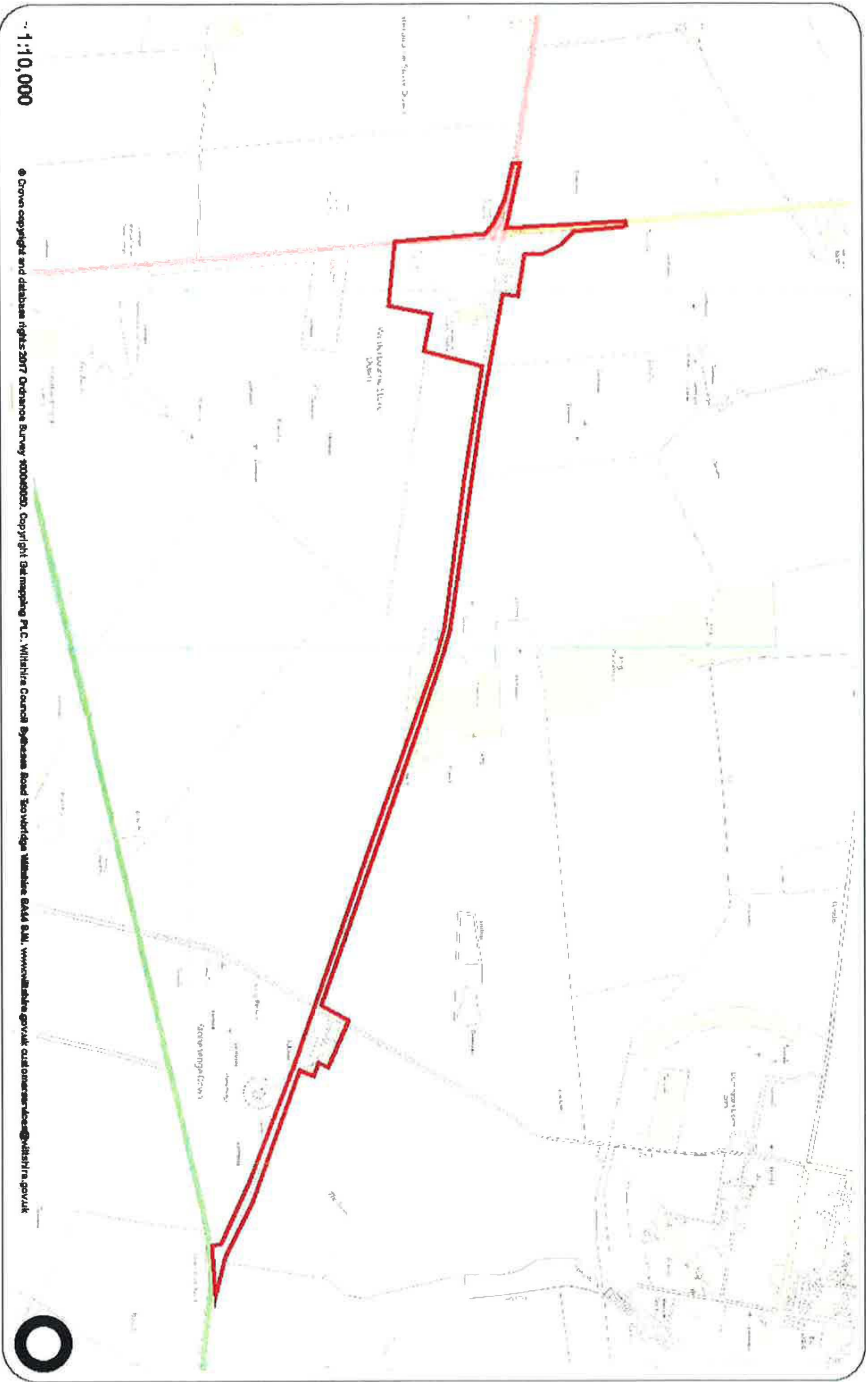
(22) The development shall be completed in accordance with the approved details of the pedestrian and cycle route along the whole of the A344, including the approved scheme for reviewing such access agreed in writing by the local planning authority on 25/06/2012 as amended by this application for the permissive path on the grassed over section of the A344 to be opened to the public by 1st October 2017.

Within 1 month of the date of this decision, waymarker signs (7.5cm diameter yellow discs with black directional arrows and the words "Temporary Permissive Path for Pedestrians and Cyclists" also in black) shall be attached to the adjacent fence posts in the positions shown on the route plan of the temporary path (including an additional waymarker at the junction of the A344 and Byway 12), received by the local planning authority on the 06/06/2017. These shall be removed within 1 month of the opening of the permissive path.

REASON: To accommodate and facilitate the inevitable future local pedestrian and cyclist demand travelling the route between the Stones and west Amesbury.

INFORMATIVE TO APPLICANT:

This permission shall be read in conjunction with an Agreement made under Section 106 of the Town and Country Planning Act, 1990 and dated 23rd June 2010.



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SOUTHERN AREA PLANNING COMMITTEE

Report No. 2

Date of Meeting	29.06.17
Application Number	17/01402/FUL
Site Address	79 Southampton Road Clarendon Salisbury Wiltshire SP5 3DG
Proposal	Replacement of existing structures
Applicant	Mrs Sally Wells
Town/Parish Council	CLARENDON PARK
Electoral Division	WINTERSLOW – Cllr Chris Devine
Grid Ref	417179 128526
Type of application	Full Planning
Case Officer	Warren Simmonds

Reason for the application being considered by Committee

The application has been called-in to Committee by Cllr Devine if officers recommend refusal as there are wider local issues to consider.

1. Purpose of Report

The purpose of the report is to assess the merits of the proposal against the policies of the development plan, local and national planning policy guidance and other material considerations and to consider the recommendation that the application be refused.

2. Report Summary

- (i) Principle of the proposed development
- (ii) Impact on the surrounding landscape
- (iii) Impact on amenity
- (iv) Highways considerations

The Parish Council: No response received
Neighbourhood responses: None

3. Site Description

The application site constitutes a parcel of land of approx. 2.6 hectares located off Southampton Road. The site has an access at the north west corner via a consolidated driveway and internal service road which extends into the site and serves the existing assortment of buildings within the site.

Within the site there is a small hardstanding/parking area near to the access, and a larger parking and turning area more centrally towards the north east of the site.

The site is recognised by the Council as a Gypsy and Traveller site and contains a number of single storey buildings and structures, including three static mobile homes.

The site is relatively well screened within the surrounding landscape by existing mature trees and bushes.

4. Planning History

S/2010/0245	MOBILE HOME (RETROSPECTIVE APPLICATION)
S/2004/0700	CERTIFICATE OF LAWFULNESS FOR SINGLE MOBILE HOME INSTALLED FOR USE BY THE APPLICANTS SON AND FAMILY TO HELP WITH RUNNING THE SMALL HOLDING
S/2004/2194	CERTIFICATE OF LAWFUL DEVELOPMENT FOR STATIONING AND OCCUPATION OF A RESIDENTIAL MOBILE HOME AS A FAMILY DWELLING
15/10530/FUL	Permanent siting and occupation of mobile home (retrospective)

5. The Proposal

The application proposes the removal of an existing mobile home and the construction of an L-shaped bungalow and associated single storey outbuilding.

6. Local Planning Policy

Wiltshire Core Strategy Core Policies CP1, CP2, CP47, CP48, CP51, CP57 & CP64

Saved local plan policy C6

Planning Policy for Traveller Sites (March 2012)

Gypsy and Traveller DPD (currently under preparation. Consultation was carried out in 2010. Further consultation is planned for 2017. A new Gypsy and Traveller Accommodation Assessment (GTAA) was published in December 2014 which informs the emerging plan).

NPPF & NPPG

7. Summary of consultation responses

Spatial Planning – Recommend refusal on planning policy grounds

WC Highways – No Highway objection

Conservation – No response received

Clarendon Park parish council – No response received

The application was publicised by site notice and neighbour notification letters.

Neighbourhood responses: None

8. Planning Considerations

This site is located within the designated Special Landscape Area of Salisbury (saved local plan policy C6 and adopted Core Policy CP51 refer), but is outside of the defined limits of development. For the purposes of the interpretation of the application site within the context of the local plan, the site is thereby defined as being within the countryside.

The application site is a long established and recognised gypsy site occupied by the applicant's family in mobile homes with associated day room structures.

Principle of the proposed development

Core Policy 1 outlines the settlement strategy for Wiltshire and identifies the settlements where sustainable development will take place. Core Policy 2 addresses the issue of development outside of settlement boundaries. Under Core Policy 2, development will not normally be permitted outside the limits of development unless it has been identified within the subsequent Site Allocations Development Plan Document and Neighbourhood Plan.

Core Policy 2 states that development proposals outside of defined settlement edges will be strictly limited, and only acceptable in certain circumstances. Under normal circumstances therefore, the provision of a permanently built dwellinghouse within the countryside would be unacceptable in principle unless the exceptions criteria set out under CP48 are met: WCS Core Policy CP48 deals with supporting rural life and explains the approach that will be taken to support rural communities, outside the limits of development of Principal Settlements, Market Towns, Local Service Centres and Large Villages and outside the existing built areas of Small Villages. The policy is based on the following key objectives:

- Protecting the countryside and maintaining its local distinctiveness.
- Supporting the sensitive reuse of built assets to help meet local needs.
- Supporting improved access between places and to services.
- Supporting the community in taking ownership of local services.

CP 48 states, that outside the defined limits of development of the Principal Settlements, Market Towns, Local Service Centres and Large Villages, and outside the existing built areas of Small Villages, proposals for residential development will only be supported where these meet the accommodation needs required to enable workers to live at or in the immediate vicinity of their place of work in the interests of agriculture or forestry or other employment essential to the countryside.

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.

From the information submitted in support of the application it would appear that none of the exceptions criteria set out under CP48 apply to the current application. This is confirmed in

the consultation response of the Spatial Planning Senior Planning Officer, whose comments include the following:

“The development plan strictly controls new residential dwellings in the countryside. The proposal is in conflict with Core Policy 2 in the Wiltshire Core Strategy as it does not meet any of the exceptions in paragraph 4.25 of the plan. The first 3 exceptions are not relevant as the proposal is for a new bungalow, which constitutes residential development.

The fourth exception via Core Policy 44 is not relevant as the proposal is not for an affordable dwelling on a rural exception site. Core Policy 46, which deals with specialist accommodation for vulnerable or older people, does not apply here either.

In terms of Core Policy 47, a proposal for an additional pitch would theoretically qualify as an exception under Core Policy 2; however the proposal is to erect a bricks and mortar bungalow to be lived in. Bricks and mortar structures can form part of a traveller pitch but only if they are not to be lived in (i.e. dayrooms).

Exceptionally, bricks and mortar accommodation on traveller sites in the countryside have been granted in Wiltshire before. One example is the traveller site at Braemar, Coombe Bissett, where permission for replacement of a mobile home with a bricks and mortar bungalow was granted in 2015 (15/08191/FUL). The permission was granted because the evidence relating to the applicant’s poor health was considered to outweigh the provisions in the development plan.

However that application was supported with additional (confidential) evidence such as doctor’s notes and other. Other than stating that the elderly resident is in poor health due to her age, no additional information is supplied in this current application, to substantiate that this would require moving into a bricks and mortar bungalow. In addition, the case officer confirmed that the elderly resident would not actually move into the proposed bungalow but continue to live in the authorised mobile home.

Therefore on the basis of all the information available at this point, there are no considerations which would outweigh the provisions in the adopted development plan. Again, the situation may be different if there was a clear and demonstrable need for the elderly resident to move into a bricks and mortar property due to health reasons (i.e. in connection with Para. 24c in the PPTS); and exceptional circumstances would have to be qualified with robust evidence.

For sake of completion, Core Policy 48 (Supporting Rural Life) may apply as development under that policy could qualify as an exception. However the supporting text at para .6.67 states that “Residential development will not normally be permitted in the countryside unless it meets the requirements of Core Policy 44 (Rural Exceptions Sites). However, additional dwellings may be justified in certain circumstances when they are required in the interests of supporting rural employment, for example in association with equestrian activities when worker accommodation is needed onsite. In view of the exceptional circumstances, applications will be scrutinised thoroughly and opportunities for accommodation within nearby settlements must be considered initially.”

The application does not provide that information, nor does it attempt to demonstrate how the policy’s criteria would be met. In any event the proposed bungalow is on an authorised

traveller site for persons that meet the definition in PPTS Annex 1, and therefore it would be misleading to apply Core Policy 48 in this instance which has a different purpose altogether.

Based on the information available to the Spatial Planning Team at this point the application cannot be supported as it conflicts with Core Policy 2 in the Wiltshire Core Strategy. No evidence has been supplied to demonstrate that other material consideration would outweigh the provisions in the development plan.”

The Planning Statement accompanying the application briefly puts forward a set of personal, medical and family circumstances to explain and justify the proposed development, however no independent medical or other evidence has been provided such as could constitute a material planning consideration sufficient to dictate that the normal planning policy considerations in respect of the proposed development (i.e. the provision of a permanent dwelling outside of the defined limits of development) should not apply.

Additionally, the application is for a ‘bricks and mortar’ dwellinghouse in the countryside, rather than for a replacement mobile home – it has not been explained or justified within the submitted application why improved/increased accommodation within a new/enlarged static mobile home would not meet the applicant’s needs.

Therefore, on the basis of the lack of substantive evidence/justification put forward by the applicant to demonstrate to the contrary, it is considered the normal planning policy requirements of the adopted Wiltshire Core Strategy and other local and national planning policy guidance set out within the NPPF & NPPG should apply in this case. The proposed development is therefore considered unacceptable in principle as it constitutes the provision of a new dwellinghouse in the countryside (outside of the defined limits of development) contrary to adopted Wiltshire Core Strategy Core Policies CP1 & CP2 and the aims and objectives of the NPPF & NPPG.

Impact on amenity

Being situated within a private gypsy site and adjacent to family members in other existing mobile homes it is considered the proposal would not unduly affect the amenity of other occupiers of the wider site or other residents within the surrounding area.

Impact on the character of the surrounding landscape

WCS Core Policy 51 seeks to protect, conserve and enhance Wiltshire’s distinctive landscape character and states that development should protect, conserve and where possible enhance landscape character and must not have a harmful impact upon landscape character, while any negative impacts must be mitigated as far as possible through sensitive design and landscape measures.

By reason of the single storey form of the proposed dwelling and adjacent outbuilding, and by reason of substantial natural screening afforded by existing mature trees and hedgerow screening around the application site, it is considered the proposed development would not adversely affect the existing character of the surrounding landscape.

Highways considerations

The Highways officer has assessed the proposal and raises no Highway objection. The proposed development is therefore considered acceptable in terms of Highway safety.

9. Conclusion

On the basis of the lack of substantive evidence/justification put forward by the applicant to demonstrate to the contrary, it is considered the normal planning policy requirements of the adopted Wiltshire Core Strategy and other local and national planning policy guidance set out within the NPPF & NPPG should apply in this case.

The proposed development is therefore considered unacceptable in principle as it constitutes the provision of a new dwellinghouse in the countryside (outside of the defined limits of development) contrary to adopted Wiltshire Core Strategy Core Policies CP1 & CP2 and the aims and objectives of the NPPF & NPPG.

RECOMMENDATION Refuse, for the following reason(s):

01 The proposal constitutes the provision of a new dwellinghouse in the countryside, outside of the defined limits of development, where development of permanent dwellings is strictly limited. The site is recognised by the Council as a Gypsy and Traveller site and contains a number of single storey buildings and structures, including three static mobile homes.

On the basis of the lack of substantive evidence/justification put forward by the applicant, the proposed development is therefore considered unacceptable in principle as it constitutes the provision of an unjustified new dwellinghouse in the countryside (outside of the defined limits of development), and is thereby considered contrary to the aims of adopted Wiltshire Core Strategy Core Policies CP1 & CP2, and the aims and objectives of the NPPF & NPPG.



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REPORT OUTLINE FOR AREA PLANNING COMMITTEES

Report No.

Date of Meeting	29 th June 2017
Application Number	17/03126/FUL
Site Address	Caddens, Lower Road, Homington, Wiltshire, SP5 4NG
Proposal	Extensions, alterations and construction of replacement garage.
Applicant	Mr G Munday and Miss C Howard
Town/Parish Council	Homington
Electoral Division	Homington – (Richard Clewer)
Grid Ref	412057 126039
Type of application	Full Planning
Case Officer	Joe Richardson

Reason for the application being considered by Committee

The application has been called-in by Cllr Clewer if officers are minded to approve.

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 for the reason(s) set out below.

2. Report Summary

The issues in this case are:

- The principle of residential development in this location;
- Scale, design, materials and impact on neighbourhood amenity;
- Impact to the Homington Conservation Area and wider AONB
- Highway Impact

The publicity has generated five letters in objection of the application with an objection from the Homington Parish Council given to the proposed development.

3. Site Description

The application site is a detached dwelling house with a large residential curtilage located in the village of Homington. Core Policy 1 of the Wiltshire Core Strategy identifies the settlements where sustainable development will take place to improve the lives of all those who live and work in Wiltshire. The Wiltshire Core Strategy defines Homington as a settlement without a boundary. The dwelling house is located in the Homington Conservation Area and within the Cranborne Chase and West Wiltshire Downs Area of Outstanding Natural Beauty (AONB).



4. Planning History

N/A

5. The Proposal

The application proposes to carry out various alterations and extensions to the main dwelling and erect a new double bay garage within the residential curtilage of the property.

6. Local Planning Policy

The Wiltshire Core Strategy (WCS) was adopted in January 2015 and constitutes the primary planning document. Also of relevance are the NPPF & NPPG.

7. Summary of consultation responses

Homington Parish Council – Object

WC Conservation Officer – Object

WC Highways Officer - Support

8. Publicity

The application has been advertised by way of site notice and letters to near neighbours.

The publicity has generated five letters of objection for the application with an objection from the Homington Parish Council given to the proposed development.

9. Planning Considerations

9.1 Principle of development and policy

The application site is a detached dwelling known as Caddens located in the settlement of Homington. Core Policy 1 of the Wiltshire Core Strategy identifies the settlements where sustainable development will take place to improve the lives of all those who live and work in Wiltshire. Core Policy 1 of the Wiltshire Core Strategy (WCS) sets out the Settlement Strategy for Wiltshire, and identifies the settlements where sustainable development will take place to improve the lives of all those who live and work in Wiltshire. There are 4 categories: Principal Settlements, Market Towns, Local Service Centres and Large & Small Villages.

Core Policy 51 of the WCS states development should protect, conserve and where possible enhance landscape character and must not have a harmful impact upon landscape character, while any negative impacts must be mitigated as far as possible through sensitive design and landscape measures.

Core Policy 57 of the WCS requires there to be a high standard of design is required in all new developments, including extensions, alterations, and changes of use of existing buildings. Development is expected to create a strong sense of place through drawing on the local context and being complimentary to the locality. Applications for new development must be accompanied by appropriate information to demonstrate how the proposal will make a positive contribution to the character of Wiltshire.

Core Policy 58 of the WCS states development should protect, conserve and where possible enhance the historic environment. Designated heritage assets and their settings will be conserved, and where appropriate enhanced in a manner appropriate to their significance, including:

- i. Nationally significant archaeological remains
- ii. World Heritage Sites within and adjacent to Wiltshire
- iii. Buildings and structures of special architectural or historic interest
- iv. The special character or appearance of conservation areas
- v. Historic parks and gardens
- vi. Important landscapes, including registered battlefields and townscapes.

Distinctive elements of Wiltshire's historic environment, including non-designated heritage

Section 72 of the Planning (Listed Building and Conservation Areas) Act 1990 requires local planning authorities to pay special attention to the desirability of preserving or enhancing the character or appearance of conservation areas.

9.2 Design and Impact on area and amenity

It is proposed to alter and extend the existing dwelling by reconfiguring the existing roof by removing the existing catslide pitch and erecting new extensions to the front and side (east elevations), the former being a two storey height, the latter adopting a lower eaves to modulate the ridge/roof height. The proposed L-shaped plan will reduce the expansive drive by siting a replacement garage/garden store building to the front of the site. Further works proposed include a more formal boundary treatment in the form of a dwarf brick wall with fabricated metal railings and entrance gates.

The eaves height of the dwelling will be raised slightly with the new plan adopting the existing 40 degree roof pitch with the hipped roof form punctuated by chimney stacks to the reception rooms. To the rear of the dwelling, a single storey garden room is to be erected to

facilitate additional ground floor space with a parapet/lantern roof arrangement. On the side (west) elevation, a porch is to be erected that will provide sheltered access to the rear hall with provision for bins/recycling.

The existing site is set back from the street boundary with the site frontage providing an access with a gravel driveway to the existing garage. The boundaries of the dwelling are a mixture of shrubs/planting and established hedgerow to the east adjacent to Etrick House and close boarded fences to the west adjacent to May Cottage. Views from the rear of the dwelling are of the open countryside.

Although it is noted that there may be a degree of overlooking with oblique views obtained from first floor windows on the rear elevation to that of the adjacent dwelling, Etrick House, it is considered by reason of the siting, orientation and general relationship between this neighbouring dwelling and the proposed development, that it would not unduly disturb, interfere or conflict to the detriment of the existing occupiers.

9.3 Impact on the Homington Conservation Area and AONB

Consultation comments received from the Council's Conservation Area state the following:

You will be aware that I commented on a pre-application submission and said the following:

"The existing building is of no historic interest and contributes little to the character of the CA. I would therefore have no objection to its demolition and replacement.

In terms of the design of the replacement, it should at least 'preserve' the existing character of the CA (section 72 of the Planning LB and CA Act 1990); meet the design requirements of CP57; the requirements of increasing significance of designated heritage assets (the CA) in CP58 and nurture local distinctiveness (para 131 of the chapter 12 of the NPPF).

The predominant character of Homington is a variety of styles of more modest vernacular buildings. The proposed design is classical in tone and high status (sash windows, portico etc). I would have preferred a design that was more vernacular in character and suggested a building that had incrementally grown. It seems odd to me (and at odds with the character of the proposed dwelling) to place an 'agricultural style' garage in a prominent position in front of a classically detailed building. I consider the design overly pretentious and suggest that an appraisal of the character of historic buildings in the locality should inform the design."

In terms of the revised proposals, I think these are better in that the massing of the proposed new house is broken down more as evidenced by the more varied roof scape. However, I can see no appraisal of the character of the area and a justification for the design approach followed. I am also concerned that there seems to be a lack of commitment to quality materials as evidenced by the annotations on the plans ie render for the elevations and reconstituted stone sub cills, recon stone elevations on the rear. I also consider the siting of the large garage to the fore to result in the impression of a more cramped form of development, in contrast to the more spacious existing character.

For the above reasons, I am of the view that the proposed scheme would fail to enhance the significance of the Homington CA (a designated heritage asset).

The tweaks to the drawings are acceptable but do not overcome my fundamental concerns about the proposed grand classical style in a rural village. I can't see an analysis/appraisal of the area that justifies the design. Also, I still object to the garage which will result in a cramped form of development which I think will be harmful to the character of the Conservation Area.

Notwithstanding the comments received from the Council's Conservation Officer, the agent has since provided a street scene drawing to show the proposed alterations to the dwelling against the surrounding dwellings. Further drawings have also been submitted showing the choice of material and render to be used on the proposed works this being, face brickwork (Flemish Bond) to the front and eastern elevations and white render to the rear and western elevations.

The current dwelling does not hold any significant architectural merit and so the proposed works would improve its appearance within the street scene and surrounding area. Therefore, in the opinion of the case officer, the proposed works will not cause any significant detrimental impact on the character of the Homington Conservation Area or to that of the AONB that would justify the refusal of planning permission.

9.4 Highways matters

Access to the proposed site is obtained via by the existing entrance to the site. A secondary access to the site is to be/has been removed. The proposed access to the site for this scheme would be via the existing opening to and from Lower Road. It is proposed to provide two parking spaces with the erection of a double garage and garden room constructed with facing brick, sash windows with a slate pitched roof matching that of the works to the proposed dwelling. The Highways Team of Wiltshire Council have been consulted on this application and have raised no objection to the proposed works subject to conditions regarding the surface access and works being completed in accordance with the plans submitted.

10. Conclusion

The proposed development conforms to the objectives of Core Policies 51, 57 and 58 of the Wiltshire Core Strategy and the aims of the NPPF. Taking the above into account, the application is not considered contrary to these policies as it does not cause any significant material harm that would justify a refusal of planning permission. Therefore, planning permission should be granted for the development.

11. RECOMMENDATION:

Approve with conditions

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

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

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

DWG No: 216083/01 Site Location Plan and Proposed Block Plan Date Received 28.03.17

DWG No: 216083/07 Proposed Replacement Garage Elevations and Boundary Treatment Date Received 28.03.17

DWG No: 216083/05 Rev A Proposed Front and Rear Elevations Date Received 30.05.17

DWG No: 216083/06 Rev A Proposed Side Elevations and Section Date Received 30.05.17

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

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

REASON: In the interests of highway safety.

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

REASON: In the interests of highway safety.

17/03126/FUL
Caddens
Barbers Lane
Homington
Salisbury
Wiltshire
SP5 4NG



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