

AGENDA

Meeting: Southern Area Planning Committee
Place: Alamein Suite - City Hall, Malthouse Lane, Salisbury, SP2 7TU
Date: Thursday 8 March 2018
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 Trevor Carbin	Cllr Bridget Wayman
Cllr Ernie Clark	Cllr Graham Wright
Cllr Tony Deane	Cllr Robert Yuill
Cllr John Walsh	

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Public Participation

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

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

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

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

AGENDA

Part I

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

1 **Apologies**

To receive any apologies or substitutions for the meeting.

2 **Minutes of the Previous Meeting** (*Pages 7 - 18*)

To approve and sign as a correct record the minutes of the last meeting held on Wednesday 10 January 2018.

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 1st March 2018**, in order to be guaranteed of a written response. In order to receive a verbal response questions must be submitted no later than 5pm on **Monday 5th March 2018**. 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 **Path No. 83 Diversion Order and Definitive Map and Statement Modification Order 2017 - Tisbury** *(Pages 19 - 204)*

To consider the thirty objections received to the making of The Wiltshire Council Parish of Tisbury Path No. 83 Diversion Order and Definitive Map and Statement Modification Order 2017.

With the recommendation that the Order be revoked and the application abandoned.

7 **Planning Appeals and Updates** *(Pages 205 - 208)*

To receive details of completed and pending appeals and other updates as appropriate for the period between 21/12/2017 and 23/02/2018.

8 **Planning Applications**

To consider and determine planning applications in the attached schedule.

8a **17/00842/OUT - Land opposite Horefield, Idmiston Road, Porton, SP4 0LD** *(Pages 209 - 244)*

Outline Planning Application for residential development of 16 dwellings with all matters reserved. Provision of new footways and dropped kerb crossings to Nicholas CofE Primary School and 18 public car parking spaces for Horefield residents/school use.

8b **17/06709/FUL - Corrindale, The Street, Teffont Magna, SP3 5QP**
(Pages 245 - 280)

Construction of a new house and vehicular access

8c **17/11250/FUL & 17/11681/LBC - Little Manor Nursing Home, Manor Farm Road, Millford, Salisbury, SP1 2RS** (Pages 281 - 306)

External and internal alterations/refurbishments of the historic part of a 24 bed residential care home. Demolition of the recent extensions to the rear, and construction of a Care Quality Commission (CQC) compliant replacement extension, increasing capacity to 30 beds and alteration to existing access. Demolition of 2 ancillary buildings and associated landscape works.

8d **17/10559/OUT - 34 Park Lane, Salisbury, SP1 3NP** (Pages 307 - 318)

Outline planning application for demolition of existing five bedroom detached bungalow and replacement with two detached chalet style dwellings and a single block containing four apartments.

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 10 JANUARY 2018 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 Ian McLennan and Cllr John Smale

Also Present:

243 Apologies

- Cllr George Jeans

244 Minutes of the Previous Meeting

The minutes of the meeting held on Thursday 14 December 2017 were presented.

Resolved

To approve as a correct record and sign the minutes.

245 Declarations of Interest

There were none.

246 Chairman's Announcements

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

247 Public Participation

The committee noted the rules on public participation.

248 Planning Appeals and Updates

The committee received details of the appeal decisions as detailed in the agenda.

Resolved

To note the update for the period 01/12/2017 to 21/12/2017.

249 **Planning Applications**

250 **17/10079/FUL: Nightwood Farm, Lucewood Lane, West Grimstead, SP5
3RN**

Public Participation

Peter Claydon (CPRE) spoke in objection of the application.

David Hogan spoke in objection to the application.

Geoff Lownds spoke in objection to the application.

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

Cllr Elaine Hartford spoke in objection, on behalf of Alderbury Parish Council

Cllr Gill Sowerby spoke in objection, on behalf of Grimstead Parish Council

The Senior Planning Officer, Matthew Legge, introduced the report which recommended that the retrospective application for a grass planted bunds in the south-western corner of the site at Nightwood Farm, West Grimstead be approved subject to conditions.

It was noted that at the rear of the site was an ancient woodland. The reason for the creation of the bund given by the applicant had been due to the placement of waste materials arising from restoration work on the existing agricultural buildings on the site. These materials included asbestos from the roof panel and soil from the ground in-between the buildings.

Members then had the opportunity to ask technical questions of the Officer, it was clarified that whilst the Environmental Health Officer had provided a written response, it was not known whether they had actually attended the site. The soil report had indicated that the asbestos was a fibre kind from the roofing materials.

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

The red boundary shown on the report was questioned as incorrect and misleading.

The resident in the adjacent site ran a holiday let and had concerns surrounding the health and safety of the asbestos in the bund and the associated contamination of the watercourse and the impact of the development on the ancient woodland, with substantial harm already caused by the removal of some trees.

The Forestry Commission had previously written to the Officer to state there had been trees felled on the site.

It was felt that the asbestos had been illegally dumped on the site in a criminal manner and remained a health hazard to residents for years to come, and the approval of this application would encourage further hazardous waste disposal by others.

Soil and Air tests had been carried out, the associated report stated there was no risk, if the bund had a capping of fresh soil across the top.

The applicant had agreed to replant some trees to replace those that had been felled.

Representatives from Alderbury and Grimstead Parish Councils, which were both affected by this development, spoke in objection to the application.

The Unitary Division Member Cllr Britton moved the motion of refusal, this was seconded by Cllr Devine.

Cllr Richard Britton then spoke in objection to the application, noting the resentment and anger of the residents and parishes.

To access the site with a HGV, you either had to violate the 7.5t limit in Alderbury or navigate winding roads.

For months, the Enforcement Officers sought a retrospective application for a turning circle, eventually it was felt that no application was required as it followed the original piggery. In addition, a retrospective application was sought to cover the building works, eventually they were persuaded by the agent that one was not required.

It appeared that in this case, the two statutory bodies were each doing their best to slope their shoulders and responsibility at Nightwood farm. The Environment Agency had said this was a matter for the Local Authority and the Local Authority were passing it back to the Environment Agency.

These bunds serve no purpose other than a repository for getting rid of asbestos. This amounted to fly tipping asbestos waste in ancient woodland.

The Environment Agency did talk about the leeching of possible fibres into the air if removal of the materials in the bund were to take place, however no one had looked at the possible leaking down in to the ancient watercourse.

The applicants reason for not removing the asbestos from the site was to minimise vehicle movements for residents.

He feared for the harm that would be caused, if fly tipping in ancient woodland was allowed.

A debate followed where the key issues raised included, that the cost of using a contractor to remove the asbestos from the site correctly would be quite high, despite this, landowners should be responsible for taking appropriate action when carrying out building works on their land.

The support of the statutory bodies in place to make judgements on cases such as these was questioned. The Committee felt that it had been let down in this instance and proposed that the dumping of asbestos in a manner outside of that which was prescribed may be illegal.

Land owners had the responsibility to manage their land properly, in this case the land owner had not done this. This was a retrospective application, because the land owner had already moved the asbestos from between the buildings to the bund site. If the application had been applied for prior to the creation of the bund, the Committee felt that it would not have granted permission to bury asbestos on site, as it would be expected that the appropriate channels were adhered to in the disposal of asbestos by an approved contractor.

The loss of trees in the ancient woodland was not acceptable, this was a loss of amenity if historic woodland was removed, as planting new trees was not a substitute.

The Committee then voted on the motion of refusal, against Officer's recommendation.

Resolved

That application 17/10079/FUL be refused for the following reasons:

The application site is located outside of an established mixed used site (Agricultural & B8 storage) and is sited on the edge of a County Wildlife Site and ancient woodland known as Nightwood Copse. The proposal, involving the dumping and retention of contaminated soil and general rubble identified in the form of a bund is considered, by reason of the associated removal of the ancient woodland and its position, to constitute unnecessary development in the countryside which has had unjustified and a detrimental impact on the ecological value of the area. The proposals are therefore considered to be contrary to the provisions of the National Planning Policy Framework paragraphs 118 and 120; and Wiltshire Core Strategy policies CP50 (Biodiversity and Geodiversity), CP51 (Landscape) and criteria ii, iv and vi of CP57 (Design and Place Shaping).

Members further resolved that enforcement action be taken to remove the existing bund and restore the land to it's previous use as ancient woodland.

251 **17/09192/FUL: Land at Manor Farm House, Newton Toney, SP4 0HA**

Public Participation

Michael Fowler (Architect) spoke in support of the application.

Simon Hunt (applicant) spoke in support of the application.

Bob Edwards (Heritage consultant) spoke in support of the application.

The Senior Planning Officer, Georgina Wright, introduced the report which recommended that the application for the erection of one two storey dwelling; associated access, turning, parking, landscaping and private amenity space be refused.

A site visit had taken place earlier in the day.

It was noted that the revised report contained the following amendments:

- A Heritage Statement has been received since the earlier committee report was written (Section 5 of the attached report)
- The Conservation Officer provided additional comments as a result of this heritage statement (Section 7 of the attached report)
- The Highway Authority provided additional comments as a result of the revised access arrangements/amended plans (Section 7 of the attached report)
- The Drainage officer had provided additional comments as a result of the amended plans (Section 7 of the attached report)
- The Environment Agency provided comments (Section 7 of the attached report)
- An additional appeal reference was added to the housing land supply commentary in Section 9.1 of the attached report
- Additional commentary has been added to section 9.2 of the attached report to reflect the Conservation Officer's comments and submitted Heritage Statement
- The commentary in section 9.4 of the attached report has changed to reflect the Highway Authority comments
- The second reason for refusal has been altered to reflect the Conservation Officer's comments

Members then had the opportunity to ask technical questions of the Officer. There were none.

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

Enormous effort to discuss the proposals with the local residents and the parish council had taken place, and no objections had been received. The parish council was behind the proposed development 100%.

The Unitary Division Member Cllr John Smale moved the motion of approval against Officer's recommendation, this was seconded by Cllr Hewitt.

Cllr Smale then spoke in support of the application, noting that he was also a member of the parish council.

The definition of infill was a building between two existing buildings. This was the case with this application.

There had formerly been a cottage stood here in the garden where the greenhouse was. The problem in using the same space to build the new dwelling was that now, this area was a flood zone. This was why the development has been moved back to avoid the flooding.

Highways, the Environment Agency and Wessex Water had not objected and the Parish council was 100% behind this project.

There would always be sustainability issues in small villages, in a rural location, people were able to overcome this with the use of a vehicle.

A debate followed where the key issues raised included, that Highways had objected on sustainability. In planning terms, this location was unsustainable.

The ground beyond the walled garden rose sharply, so the proposed house would be higher compared to the road level, even though it was set back which could detract from the listed building.

The benefits of having another unit in the village outweighed any negative impacts.

There was a drainage objection relating to foul drainage. This would need to be included as a condition should the application be approved.

There were good replicas of fencing available to replace like for like.

The design was sympathetic to the streetscene.

LBC was required for some of the works and would be obtained before those works could go ahead.

CP2 was clear about the nature of development in villages, housing need for low cost housing or affordable housing. The proposed development was for a 4-bedroom dwelling, which did not meet the terms of housing need. However, villages needed to be allowed to grow. If the village is happy to accept a small dev then so be it.

The Committee considered that the proposals represented an infill form of development within the existing parameters of the village and therefore was compliant with the provisions of Wiltshire Core Strategy policy CP2 (Delivery Strategy). In addition, the evidence of historic development of the walled garden confirmed that the introduction of a new dwelling in the position proposed would be a natural continuation of the existing development in this street scene and would not cause any harm to the significance of the listed building or conservation area. The opportunity to enable a new dwelling to be built in the village that was well designed, attractive and supported locally was welcomed to ensure the long-term future/health of the village and it was considered that any harm that may be caused could either be controlled by condition or would be outweighed by the benefits of the scheme.

The Committee then voted on the motion of approval with conditions.

Resolved

That application 17/10079/FUL 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:**

Ref: 170414 - 01 Location Plan. Received - 21.09.2017

Ref: 170414 - 03 Rev C. Design Scheme. Received - 16.11.2017

Ref: 170414 - 04 Rev B. Site Plan. Received - 16.11.2017

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 flint work shall be constructed to any buildings or walls on site until a sample panel of flint work, not less than 1 metre square, constructed using flints hand laid in a random pattern (with no preformed panels to be used), has been erected on site, inspected and approved in writing by the Local Planning Authority. The panel shall then be left in position for comparison whilst the development is carried out. Development shall be carried out in accordance with the approved sample panel, using flints hand laid in a random pattern with no preformed panels.**

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

- 5 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:-**

- o location and current canopy spread of all existing trees and hedgerows on the land;**
- o full details of any to be retained, together with measures for their protection in the course of development;**
- o a detailed planting specification showing all plant species, supply and planting sizes and planting densities;**
- o finished levels and contours;**
- o details of all means of enclosure, including full details of the reuse/reposition of the frontage boundary railings;**
- o car park layouts;**
- o other vehicle and pedestrian access and circulation areas;**
- o 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.

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

REASON: In the interests of highway safety.

- 9 Any gates shall be set back 4.5 metres from the edge of the carriageway, such gates to open inwards only, in perpetuity.

REASON: In the interests of highway safety.

- 10 No part of the development hereby permitted shall be 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.

- 11 No part of the development shall be first occupied until the visibility splays shown on the approved plans have been provided with no obstruction to visibility at or above a height of 1m above the nearside carriageway level. The visibility splays shall be maintained free of obstruction at all times thereafter.

REASON: In the interests of highway safety

- 12 The finished floor levels of the dwelling hereby approved shall be set no lower than 81.04 metres above Ordnance Datum (AOD) as stated in the Flood Risk Assessment (AAH Planning Consultants, August 2017, Job Reference 81854).

REASON: To reduce the risk of flooding to the proposed development and future occupants.

- 13 No spoil, or any other material, arising from any ground lowering shall be deposited within the floodplain (flood zones 3 and 2) of the River Bourne as shown in Figure 1 on page 7 of the Flood Risk Assessment (AAH Planning Consultants, August 2017, Job Reference 81854). There shall be no raising of ground levels within the floodplain of the River Bourne.

REASON: To ensure that there will be no increased risk of flooding to

other land/properties due to impedance of flood flows and/or reduction of flood storage capacity of the floodplain.

- 14 No development shall commence on site until a scheme for the discharge of surface water from the site (including surface water from the access/driveway), incorporating sustainable drainage details, has been submitted to and approved in writing by the Local Planning Authority. The development shall not be first occupied until surface 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.

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

REASON: The application contained insufficient information to enable this matter to be considered prior to granting planning permission and the matter is required to be agreed with the Local Planning Authority before development commences in order that the development is undertaken in an acceptable manner, to ensure that the proposal is provided with a satisfactory means of drainage and does not increase the risk of flooding or pose a risk to public health or the environment.

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

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

- 17 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 north

western or south eastern of the development hereby permitted.

REASON: In the interests of residential amenity and privacy.

- 18 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 gates, fences, walls or other means of enclosure, other than those shown on the approved plans, shall be erected or placed anywhere on the site.

REASON: In the interests of the heritage and visual amenities of the area.

- 19 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 statement shall include the following:

- a) the parking of vehicles of site operatives and visitors;
- b) loading and unloading of plant and materials;
- c) storage of plant and materials used in constructing the development;
- d) a scheme for recycling/disposing of waste resulting from demolition and construction works; and
- e) hours of construction, including deliveries;

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

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

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) The applicant is reminded of the need to obtain separate listed building consent for certain works in addition to this planning permission
- 3) The applicant's attention is drawn to the comments made by the Environment Agency about the application and in particular the recommendations and informatives made that you are advised to note
- 4) The applicant's attention is drawn to the comments made by the Wessex Water about the application and in particular the recommendations and informatives made that you are advised to note
- 5) The applicant's attention is drawn to the comments made by Wiltshire Council's Drainage Officer about the application regarding the requirements of any building regulation application and in order to satisfy conditions 14 & 15

252 Urgent Items

There were no urgent items

(Duration of meeting: 3.00 - 5.00 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

WILTSHIRE COUNCIL

AGENDA ITEM NO.

SOUTHERN AREA PLANNING COMMITTEE

8 MARCH 2018

HIGHWAYS ACT 1980 and WILDLIFE AND COUNTRYSIDE ACT 1981

THE WILTSHIRE COUNCIL PARISH OF TISBURY PATH NO. 83 DIVERSION ORDER AND DEFINITIVE MAP AND STATEMENT MODIFICATION ORDER 2017

Purpose of Report

1. To:
 - (i) Consider the thirty objections received to the making of The Wiltshire Council Parish of Tisbury Path No. 83 Diversion Order and Definitive Map and Statement Modification Order 2017;
 - (ii) Recommend that the Order be revoked and the application abandoned.

A copy of the Order is appended at **Appendix A**.

Relevance to Council's Business Plan

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

Background

3. Although applications to divert and extinguish paths are accepted and processed by Wiltshire Council, it is not a statutory duty to do so and accordingly officers must prioritise other work that forms a core duty for Wiltshire Council. This has resulted in a waiting time of approximately two to three years for applications to divert or extinguish paths as they are given a lower priority than other work.
4. This situation is common in other local authorities and in some cases external consultants are used to perform the initial consultation stages of the application. This can have the effect of relieving the pressure on officers to deal with applications to divert and extinguish and can also expedite the process for applicants.
5. In this case an application to divert footpath Tisbury 83, received in April 2016, had already been the subject of a local consultation performed by a consultant (Mr M Walker) employed by the applicant. The application was accompanied by a comprehensive report addressing the proposal to divert, the legal tests, the objections and representations received during the consultation and the alterations made to the proposal in light of comments received.

6. The application was to divert footpath Tisbury 83 from its route past The Priory, St Annes Cottage and Wardour Catholic Primary School (where it passes across a playing field and along a driveway accessing two residential properties and the school) to a route leading around the perimeter of a cultivated area attached to The Priory, across the driveway to St Annes Cottage, across a field and past an electricity sub-station to join the road, the C.21.
7. The application was made by the owners of The Priory who seek to improve the security and privacy of their home by taking the path further away from the immediate frontage of their house. The applicant also pointed out the advantages for the school of removing the public and their dogs from the school site and especially, the playing field.
8. Officers of the council considered the application and the consultant's report, concluded that the legal tests contained within Sections 119(1) and (2) of the Highways Act 1980 had been met and recommended that an order be made. A copy of the council's decision report with the Consultant's report appended is included here at **Appendix B**.
9. The order was duly made and advertised. Thirty objections were received within the advertisement period with a further three received after the closing date. Wiltshire Council may not now confirm the order and must decide whether it supports the order or not. If it no longer supports the order it may decide to abandon it and revoke it. If it supports the order then it must be sent to the Secretary of State for Environment, Food and Rural Affairs with the recommendation that it be confirmed, either with modifications or as made.

Main Considerations for the Council

10. Copies of the Objections are appended at **Appendix C**. No representations in support of the order were received.
11. The legal tests that must be applied by Wiltshire Council in considering whether or not the order should be confirmed are contained within Section 119 of the Highways Act 1980.
12. **Section 119(1)** of the Highways Act 1980 states that:

“Where it appears to a council as respects a footpath, bridleway or restricted byway in their area (other than one that is a trunk road or a special road) that in the interests of the owner, lessee or occupier of land crossed by the path or way or of the public, it is expedient that the line of the path or way, or part of that line, should be diverted (whether on to land of the same or of another owner, lessee or occupier), the council may, subject to subsection (2) below, by order made by them and submitted to and confirmed by the Secretary of State, or confirmed as an unopposed order:

 - (a) *create, as from such date as may be specified in the order, any such new footpath, bridleway or restricted byway as appears to the council requisite for effecting the diversion, and*
 - (b) *extinguish, as from such date as may be specified in the order or determined in accordance with the provisions of subsection (3) below, the*

public right of way over so much of the path or way as appears to the council requisite as aforesaid.

An order under this section is referred to in this Act as a 'public path diversion order'.

13. **Section 119(2)** of the Highways Act 1980 states:

"A public path diversion order shall not alter a point of termination of the path or way:

- (a) if that point is not on a highway; or*
- (b) (where it is on a highway) otherwise than to another point which is on the same highway, or a highway connected with it, and which is substantially as convenient to the public".*

- Section 119(3)** of the Highways Act 1980 states:

"Where it appears to the council that work requires to be done to bring the new site of the footpath, bridleway or restricted byway into a fit condition for use by the public, the council shall –

- (a) specify a date under subsection (1)(a) above, and*
- (b) provide that so much of the order as extinguishes (in accordance with subsection (1)(b) above) a public right of way is not to come into force until the local highway authority for the new path or way certify that the work has been carried out.*

14. Although the council is only required to consider Sections 119(1) and (2) to make an order it is clear that it must consider Section 119(6) at the order confirmation stage.

15. **Section 119(6)** of the Highways Act 1980 states:

"The Secretary of State shall not confirm a public path diversion order, and a council shall not confirm such an order as an unopposed order, unless he or, as the case may be, they are satisfied that the diversion to be effected by it is expedient as mentioned in subsection (1) above and further that the path or way will not be substantially less convenient to the public in consequence of the diversion and that it is expedient to confirm the order having regard to the effect which:

- (a) the diversion would have on public enjoyment of the path or way as a whole;*
- (b) the coming into operation of the order would have as respects other land served by the existing public right of way; and*
- (c) any new public right of way created by the order would have as respects the land over which the right is so created and any land held with it*

16. The council must also have regard to the Wiltshire Council Rights of Way Improvement Plan (ROWIP) - the current plan is entitled Wiltshire Countryside Access Improvement Plan 2015 – 2025 – Rights of Way Improvement Plan 2.
17. At 2-5 page 38 the council recognises opportunities for improving access:
 - Make routes more accessible, undertake surface improvements and improve maintenance.
 - Work within the framework of Wiltshire Council’s Gaps, Gates and Stiles Policy.
 - Encourage landowners to follow best practice for furniture design as set out in the above mentioned policy.
 - Work in partnership to promote and create accessible trails.
18. The proposed new route would have two gates along it. The current route has no gates recorded in the definitive statement though does have four gates along it. None of these gates have been authorised for stock control (or any other reason) and accordingly should not be taken into account when comparing the accessibility of the path. However, it is recognised that two gates would be necessary for stock control purposes; accordingly it is likely that there is no net gain with the new route when compared with the old.
19. Where a route is being diverted Wiltshire Council will specify a level of accommodation works that must be met before the new route is accepted by the council and any order made comes into force.
20. The council must also have regard to the needs of agriculture, forestry and the conservation of biodiversity.

Comments on the objections

21. Members of the Committee are now required to consider the objections received. The applicant has considered the objections and their comments are appended at **Appendix D**.
22. The tests within Section 119 (Diversion of footpaths, bridleways and restricted byways) in relation to the order require the council to be satisfied that the diversion is expedient as detailed in Section 119(1) and (2) i.e. relating to interest of the landowner and whether any new termination point is substantially as convenient and whether the new path or way will not be substantially less convenient for the public. Further (Section 119 (6)), that it is expedient to confirm the order having regard to the effect which the diversion will have on public enjoyment of the path or way, the effect on land affected by the removal of the ‘old’ path and the effect on land affected by the addition of the ‘new’ path.
23. The objections have highlighted a number of failings in the original application with regard to the effect on land served by the existing path:

Section 119(6)(b) – regard to the effect of:

“(b) the coming into operation of the order would have as respects other land served by the existing public right of way;”

24. Contrary to the applicants' claim that no persons have an interest in the land over which the existing path passes (question 6(c) application form) other than them it is apparent that the existing path passes over land owned by The Wardour Chapel Trust (the owners of Wardour Catholic School) and a small unregistered parcel of land at St Annes Cottage.
25. Both the Wardour Chapel Trust and the owners of St Annes Cottage have objected to the order and would like to see the existing path retained over their land.
26. The Wardour Chapel Trust objects on four grounds (objection number 9 Appendix C). One ground is that currently the children from Wardour Catholic Primary School walk along the footpath Tisbury 83 to attend chapel every Tuesday. They access the path from their own grounds but if the path were to be diverted they would not be able to do so. Although the applicant has made it clear they are willing to enter into an arrangement for a more convenient access for the school children, this could be revoked at anytime and is subject to the opinion of the landowner at any time.
27. Other grounds of objection made by the Trust include:
 - “(i) the footpath provides a sensible route for people travelling between the school and the church – the diversion would make the route less straightforward and unnecessary*
 - “(ii) the footpath was originally created for local people who needed to access the church; This has not changed and a diversion would take away that simple route which is steeped in historical usage.*
 - “(iii) The school children who use this path every week would be denied their easy straightforward walk to church with a longer diversion.”*
28. The owners of St Annes Cottage (Objection No. 6 Appendix C) also object to the diversion. Their response makes it clear that they are content with the path in its current position and that they object to the proposed change.
29. Taking just these two objections into account it can be seen that the order is not in all of the landowners' interest (and hence Section 119(1) fails) and that the diversion has a significant impact on the owners of the land over which the existing route passes in respect of the School (Section 119(6)(b) also fails). It is noted that The Wardour Trust own approximately 40% of the length of the land over which the existing route passes, which is considered a significant proportion of the total length affected.
30. Other tests contained within Section 119(6) are more subjective. The council must consider the convenience of the new path (the new path or way must not be substantially less convenient) and it must also consider the effect on the public's enjoyment of the way as a whole.

31. The new path can only be less convenient for the pupils of the school when making their weekly walk to the chapel and also to the residents of the houses by the school should they wish to walk north along the path to visit the chapel or the greater network. The two houses by the school are called Spring Cottage and School Cottage and representatives from both properties have objected to the order (objections numbers 24 and 32 Appendix C).
32. It is considered that it can also only be less convenient to walk across an open field (that may be stocked with animals) than to follow a defined route with at least one clear boundary. When officers visited the site in May 2017 the field was being grazed and the definitive line of Tisbury 83 had been fenced to separate the public from the stock. This would not happen if the path led diagonally across the field. There have also been a number of objections relating to the lack of convenience in having to walk along a length of highway verge from the sub-station at point H to the school entrance. Objectors who raise these points include Nos 3, 8, 9, 21, 24, 25 and 33 (Appendix C).
33. A considerable number of objectors consider that their use and enjoyment of the path would be lost if it failed to follow its historic route. It is accepted that the line of the path at the school was varied in 2011. The line of the path was moved by a maximum of 10 metres and a width of 4 metres was recorded for the affected section. However, maps provided by objector No.1 (Appendix C) demonstrate a path existing from at least the late 19th century. There was clearly a link between the School, the convent (now The Priory) and the chapel and various objectors have made it clear that they value that sense of history which they would not get from the new path which lacks the sense of purpose of the existing.
34. The existing path forms part of a promoted walking route, The Wessex Ridgeway, and it is likely that the historic aspect is enjoyed by users of that route also.
35. It is noteworthy that amongst the objectors are Tisbury Parish Council, West Tisbury Parish Council, the Tisbury Footpath Club, The Ramblers and the Open Spaces Society. This is in addition to the owners of the School land, St Annes Cottage and residents from School and Spring Cottages. Although it is clear that some of the points of objection raised are irrelevant to the legal tests contained within Section 119 of the Highways Act 1980, the substantive body of individual objections raised to this order does demonstrate that a significant number of users of the path do consider that their enjoyment would be lessened by the diversion of the path.
36. The committee should be aware that points raised by objectors relating to:
 - (i) whether or not the applicants knew about the footpath when they bought The Priory;
 - (ii) the addition of the path to the definitive map and statement in 1997 and all related processes (including the public inquiry and the Inspector's report);
 - (iii) the diversion of part of the path in 2011;

- (iv) whether it is 'right' that a path can be diverted in the interest of the landowner;

are irrelevant points that must not form a part of the council's reasoning or decision making process.

Safeguarding Considerations

37. Although some respondents have referred to the diversion improving the school's ability to safeguard the children it is noted that no response has been received from Wardour Catholic Primary School either in support or objection to the application or the order. At the initial consultation stage the applicant received 22 short emails of support from people with children at the school but 16 of these were identical and it is not clear how much information the respondents had about the diversion or how their support was canvassed.
38. The existing path leads across the school's playing field and around the edge of the site. It was clearly not considered a risk to the children's safety in 2011 when the path was only moved by a minimal extent to facilitate a development and although it is reasonable to say that safeguarding would be improved by the path's removal, the owner of the school land has objected to the diversion and the school itself is silent on the matter.
39. Safeguarding has not been given as a concern raised by the applicants with regard to The Priory end of the path.

Public Health Implications

40. There are no identified public health implications which arise from the confirmation of the making of this order.

Corporate Procurement Implications

41. In the event this order is forwarded to the Secretary of State there are a number of opportunities for expenditure that may occur and these are covered in paragraphs 45 to 47 of this report.

Environmental and Climate Change Considerations

42. There are no environmental or climate change concerns associated with the confirmation of the making of this order.

Equalities Impact of the Proposal

43. The existing route leads over a number of differing surfaces, some well drained and 'weatherproof' and others grass and soil. The proposed new route leads over mown grass and field grass. On balance, it is considered that the new route may be more problematic for someone walking with a mobility aid or who was vision impaired though it is accepted that in dry conditions there would be little difference. Currently, there are four gates on the existing route compared to two on the proposed new route. However, although two of the gates on the existing route could be authorised for stock control it is difficult to see how the other gates could be lawfully authorised and accordingly they have not been counted for comparison purposes.

Risk Assessment

44. The financial and legal risks to the council are outlined in the “Financial Implications” and “Legal Implications” sections below.

Financial Implications

45. The applicant has agreed to pay all of the council’s costs associated with the making of the order, with the advertisement of the confirmed order and with the creation of the new path. However, Wiltshire Council is not empowered to charge the applicant any costs related to forwarding the application to the Secretary of State for the Environment, Food and Rural Affairs for confirmation by the Planning Inspectorate and accordingly would have to fund these from existing rights of way budgets.
46. Where there are outstanding objections to the making of orders, the committee may resolve that Wiltshire Council continues to support the making and confirmation of the orders. The orders will then be determined by the Planning Inspectorate by way of written representations, local hearing or local public inquiry, all of which have a financial implication for the council. If the case is determined by written representations the cost to the council is negligible; however, where a local hearing is held the costs to the council are estimated to be around £200 and £1,500 to £3,000 where the case is determined by local public inquiry with legal representation (£200 without). The estimate is based on a one day inquiry.
47. There are no costs associated with the council resolving to abandon the orders though the council may be liable to judicial review and associated costs as a result of that action (see paragraph 48 below).

Legal Implications

48. Where the council does not support confirmation of the making of the orders and resolves to abandon them, it must be clear that decision relates to the legal tests contained within Section 119 of the Highways Act 1980. The applicant may seek judicial review of the council’s decision if this is seen as incorrect. The cost for this may be up to £50,000.

Options Considered

49. Members may resolve that:
- (i) The order is forwarded to the Secretary of State for Environment, Food and Rural Affairs for confirmation as made.
 - (ii) The order is forwarded to the Secretary of State for Environment, Food and Rural Affairs for confirmation with modifications.
 - (iii) The order is revoked and abandoned.

Reason for Proposal

50. Although on the face of it the application appeared to meet the legal tests contained within Section 119(1) and (2), on advertisement of the order and the wider publicity that is given by way of site notices it has become apparent that the owners of the land at Wardour School object to the proposal and that the order cannot be in their interest. Also the owners of St Annes Cottage object to the proposal and so do the local users of the path including Spring and School Cottages.

51. It is therefore doubtful that the proposal ever met the test contained within Section 119(1) of the Highways Act 1980 despite the application giving the appearance that it did.

52. In the decision report to make the order (Appendix B) officers observed the following:

“It should however be noted that the proposed diversion generated an unusual amount of correspondence and interest for a diversion and that although the applicant has worked with local people and the Senior Rights of Way Warden, Nick Cowen, to address concerns, it is possible that the Order will attract objections when made. The applicant is aware of this.

The making and confirmation of an Order under s.119 of the 1980 Act involves different and distinct legal tests to be applied. Although it is hoped that the proposal has met and satisfied all objections voiced initially....if it does receive objections that are not withdrawn the Order must be considered by the Southern Area Planning Committee.”

53. The ‘different and distinct’ legal tests to be applied at the confirmation stage relate to those contained within Section 119(6) of the Highways act 1980.

54. The council must have regard to the effect of the coming into operation of the new route on land served by the existing right of way. The owners of the school land have objected as have other properties served by the rights of way, that is St Anne’s Cottage (though arguably they may still exercise a private right of access along their drive and access the path), Spring Cottage and School Cottage (whose residents would have a much longer walk to access the path to the chapel). In fact, the only person immediately affected who does not object is the applicant; the owners of The Priory.

55. In addition to the regard the council must take to the above matters, it must also have regard to the effect of the diversion on the enjoyment of the path as a whole. Not one representation has been received in support of the new route being a better or more enjoyable alternative yet objections have been received from Tisbury Parish Council, West Tisbury Parish Council, The Ramblers, Tisbury Footpath Group, the Open Spaces Society, affected landowners and a range of users of the path.

56. Officers are satisfied that the responses are individually generated and given and that they reflect a sense of loss that the public will feel if it loses the right to use the existing path. Officers consider that they have demonstrated that their enjoyment would be severely affected by the diversion of the whole of the path.
57. Accordingly, it is considered that Section 119(6) of the Highways Act 1980 is not met with regard to the loss of enjoyment of the path as a whole and also as a result of the adverse effect on land served by the path as identified by the Wardour Chapel Trust, owners of St Annes Cottage and Spring and School Cottage.

Proposal

58. That the Wiltshire Council Parish of Tisbury Path No. 83 Diversion Order and Definitive Map and Statement Modification Order 2017 is revoked and the application abandoned.

Tracy Carter

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 – Order

Appendix B – Decision Report to make the Order

Appendix C – Objections to the Order

Appendix D – Applicant’s comments on the objections to the Order

PUBLIC PATH DIVERSION AND DEFINITIVE MAP AND STATEMENT MODIFICATION ORDER

HIGHWAYS ACT 1980

APPENDIX A

WILDLIFE AND COUNTRYSIDE ACT 1981

WILTSHIRE COUNCIL

The Wiltshire Council Parish of Tisbury Path No. 83 Diversion Order and Definitive Map and Statement Modification Order 2017

This Order is made by Wiltshire Council (“the authority”) under section 119 of the Highways Act 1980 (“the 1980 Act”) because it appears to the authority that in the interests of the owner of the land crossed by the footpath described in paragraph 1 of this order it is expedient that the line of the path should be diverted.

This order is also made under section 53A(2) of the Wildlife and Countryside Act 1981 (“the 1981 Act”) because it appears to the authority that the Mere and Tisbury Rural District Council definitive map and statement dated 1952 as modified under the Wildlife and Countryside Act 1981 require modification in consequence of the occurrence of an event specified in section 53(3)(a)(i) of the 1981 Act, namely the diversion (as authorised by this Order) of a highway shown or required to be shown in the map and statement.

Tisbury Parish Council has been consulted as required by section 120(2) of the 1980 Act.

BY THIS ORDER

1. The public right of way over the land situated at Wardour Primary School and The Priory, Tisbury and shown by a bold continuous line on the map contained in this order and described in Part 1 of the Schedule to this order, after confirmation of the order, shall be stopped up on the date on which Wiltshire Council certify that work has been carried out to bring the site of the new highway described in Part 2 of the Schedule into a fit condition for use by the public and thereupon the Mere and Tisbury Rural District Council area definitive map dated 1952 shall be modified by deleting from it those public rights of way.
2. There shall be at the date of certification of the new highway described in Part 2 of the Schedule a footpath as described in Part 2 of the Schedule over land north and east of The Priory and the school, Tisbury and as shown by a bold broken line on the map contained in this order, and thereupon the Mere and Tisbury Rural District Council area definitive map dated 1952 shall be modified by adding this path to it.
3. The Mere and Tisbury Rural District Council area definitive statement dated 1952 shall be modified as described in part 4 of the Schedule to this Order.
4. The rights conferred on the public under this order shall be subject to the limitations and conditions set out in Part 3 of the Schedule.

SCHEDULE

PART 1

DESCRIPTION OF SITE OF EXISTING PATH OR WAY

Path as shown on the plan attached hereto by a bold black line leading from point A at OS Grid ref. ST9252 2741 leading south east, east north east and south east to point G at OS Grid ref. ST9275 2723.

Approximate length: 340 metres.

Width: 4 metres on that section from O.S. grid reference ST9263-2734 leading north-west for approximately 45 metres and then south-west for approximately 42 metres, to O.S. grid reference ST9257-2735.

PART 2

DESCRIPTION OF SITE OF NEW PATH OR WAY

Path as shown on the plan attached hereto by a bold broken line leading from point H at OS Grid ref. ST9255 2745 leading south east and south to point G at OS Grid ref. ST9275 2723

Approximate length 318 metres

Width: 2 metres

PART 3

LIMITATIONS AND CONDITIONS

Gate to BS5709:2006 at OS Grid ref. ST 9255 2745 (point H)

Gate to BS5709:2006 at OS Grid ref. ST9272 2732 (point J)

PART 4

MODIFICATION OF DEFINITIVE STATEMENT

VARIATION OF PARTICULARS OF PATH OR WAY

Parish	Number	Details	Section
Tisbury	83	<u>FOOTPATH</u> Leading from OS Grid ref. ST9275 2723 at The Priory in a north north westerly direction, across the driveway to St Annes Cottage where north west to the road approximately 50 metres north east of the entrance to the school.	53(3)(a)(i)

Limitations and Conditions:

Gate to BS5709:2006 at OS Grid ref. ST 9255 2745

Gate to BS5709:2006 at OS Grid ref. ST9272 2732

Width 2 metres

Approximate length 318 metres

THE COMMON SEAL of }
WILTSHIRE COUNCIL }
was hereunto affixed this }
9th day of May 2017 }



In the presence of : -

[Redacted signature]

Senior Solicitor
Page 25

85585

Diversion of Tisbury Footpath No. 83

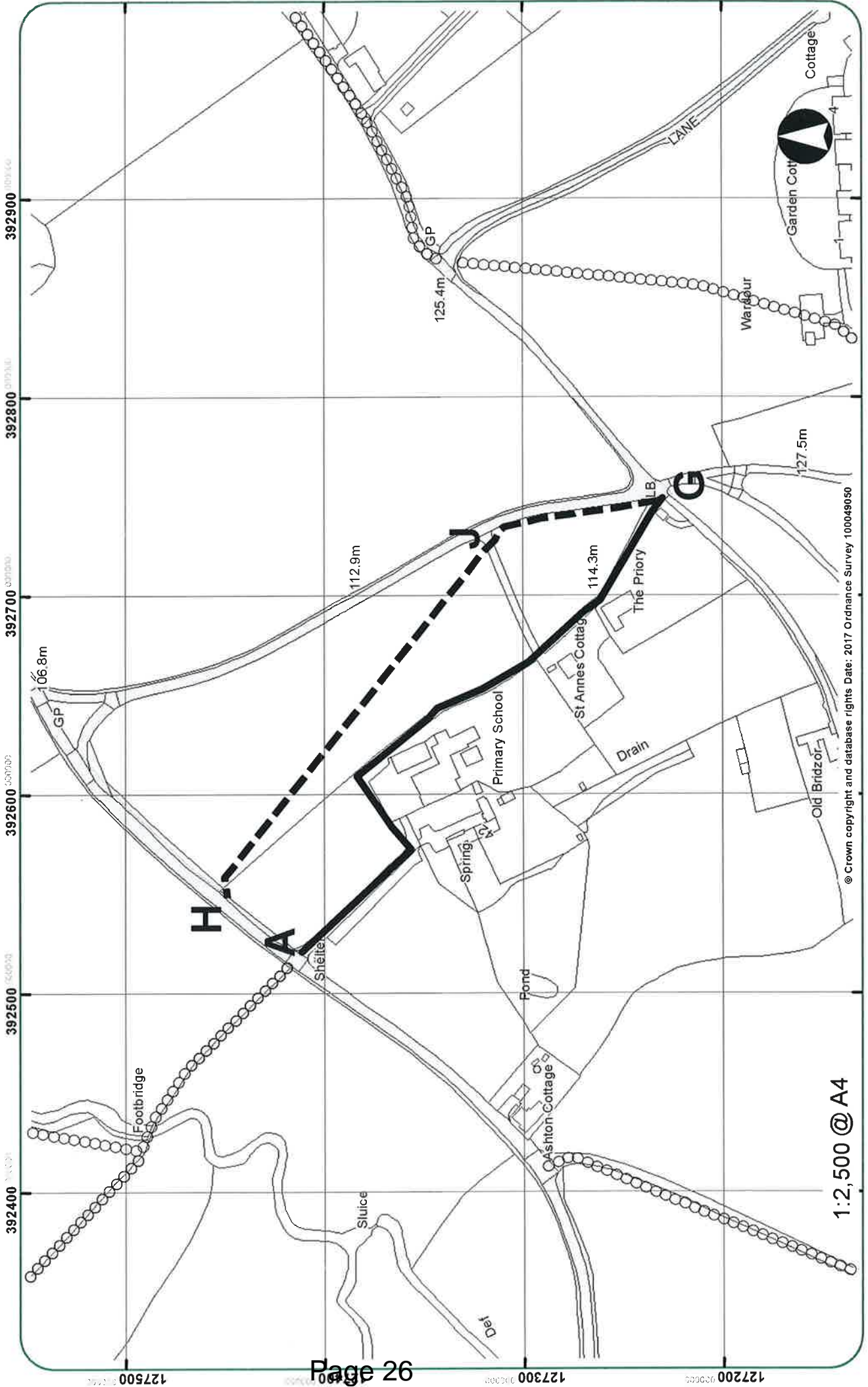
Path to be extinguished A 

Path to be created H  G 

Unaffected rights of way 

Date: 28/04/2017

Roads maintainable at public expense shaded grey



© Crown copyright and database rights Date: 2017 Ordnance Survey 100049050

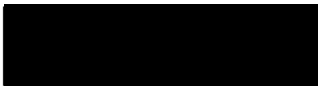
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APPENDIX B

HIGHWAYS ACT 1980 & WILDLIFE AND COUNTRYSIDE ACT 1981

DIVERSION OF TISBURY FOOTPATH No. 83

Name	Signature	Date	Approved Yes/No
Richard Broadhead Rights of Way and Countryside Manager		29/04/17	Yes
From:	Sally Madgwick Rights of Way Officer		
Date of Report:	28 April 2017		
Return to:	Sally Madgwick (Ext. 13392)		

SUMMARY:

- 1 Wiltshire Council has received an application to divert the public footpath Tisbury 83 from its course through the grounds of Wardour Primary School, past St Annes Cottage and The Priory to a route to the north east avoiding the curtilages of the aforementioned properties.
- 2 The application has been made by the owner of The Priory and is supported by the other affected property holders. The application is accompanied by a full report on a consultation carried out to assess the feasibility of the application and to seek the views of local people.
- 3 The consultation was conducted by the applicant's agent under the auspices of Wiltshire Council. Accordingly it is considered that the consultation meets the requirements of the legislation with respect to consulting other local authorities and statutory undertakers.
- 4 A full report has been submitted to the Council and is presented here. It is considered that it has fully addressed the responses that were received and that Wiltshire Council should proceed and make an Order under s.119 of the Highways Act 1980 to divert the path.
- 5 It should however be noted that the proposed diversion generated an unusual amount of correspondence and interest for a diversion and that although the applicant has worked with local people and the Senior Rights of Way Warden, Nick Cowen, to address concerns, it is possible that the Order will attract objections when made. The applicant is aware of this.
- 6 The making and confirmation of an Order under s.119 of the 1980 Act involves different and distinct legal tests to be applied. Although it is hoped that the proposal has met and satisfied all objections voiced initially (and may therefore be confirmed since it is considered that the application, where not objected to, meets the further requirements of the Act) if it does receive objections that are not withdrawn the Order must be considered by the Southern Area Planning Committee.
- 7 This Committee has the power to support the Order and to send it to the Secretary of State for determination or to abandon it. The applicant is aware of this stage in the process. In the event that the Order is abandoned the applicant will pay all actual costs relating to getting the Order to this stage. In the event the Order is forwarded to the Secretary of State the applicant will need to work closely with the Council to produce the initial submission to the Planning Inspectorate owing to the

'contracting out' of some of the Council's functions (i.e. eliciting responses from statutory undertakers, details of contact lists used etc).

8 The consultant's report that follows has been considered by officers to fully assess the impact of the diversion against the provisions of s.119. The following additional considerations are recognised and are brought to the attention of senior officers.

Risk Assessment

There are no risks to users of the path associated with the diversion.

Legal Considerations and Financial Implications

The applicant will meet costs related to the application and will meet all costs related to the confirmation of the order excluding any costs associated with sending the Order to the Secretary of State (SoS) for determination. This occurs if objections are received. The SoS may choose to determine the order by written representations (no additional cost to the Council), a local hearing (approximate cost £200-£300) or a public inquiry (approximate cost £2500). The applicant has indicated that they would like their consultant to assist with these processes. This will go some way to mitigate the cost to the Council.

As there is no statutory right of appeal for applicants, if the Council refuses to make the order the applicant would need to seek judicial review of the Council's decision. In the event this happened the cost to the Council could be high (in the region of £50000).

Equality Impact

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

These three matters are:

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

The existing route has 4 gates on it and the new route will have gates at points H and J. These will be to BS5709:2006. The reduction in gates and the specification of a British Standard for them represents a significant improvement in the accessibility of the route.

Combined Orders

Wiltshire Council may make a combined order. That is a public path order and a definitive map modification order in one order. It is the usual practice for the Council to do this as it obviates the need to make a separate definitive map modification order.

Options to Consider

- i) To make an Order under s.119 of the Highways Act 1980 and s.53 of the Wildlife and Countryside Act 1981.
- ii) To refuse the application

RECOMMENDATION

That Wiltshire Council makes an Order under s.119 of the Highways Act 1980 and s.53 of the Wildlife and Countryside Act 1981 to divert Tisbury path no. 83 and if after due advertisement no objections or representations are received the Order be confirmed and the definitive map and statement altered accordingly.

A copy of the consultant's report and the draft order is appended to this report

PUBLIC PATH DIVERSION AND DEFINITIVE MAP AND STATEMENT MODIFICATION ORDER**HIGHWAYS ACT 1980****WILDLIFE AND COUNTRYSIDE ACT 1981****WILTSHIRE COUNCIL****The Wiltshire Council Parish of Tisbury Path No. 83 Diversion Order and Definitive Map and Statement Modification Order 2017**

This Order is made by Wiltshire Council ("the authority") under section 119 of the Highways Act 1980 ("the 1980 Act") because it appears to the authority that in the interests of the owner of the land crossed by the footpath described in paragraph 1 of this order it is expedient that the line of the path should be diverted.

This order is also made under section 53A(2) of the Wildlife and Countryside Act 1981 ("the 1981 Act") because it appears to the authority that the Mere and Tisbury Rural District Council definitive map and statement dated 1952 as modified under the Wildlife and Countryside Act 1981 require modification in consequence of the occurrence of an event specified in section 53(3)(a)(i) of the 1981 Act, namely the diversion (as authorised by this Order) of a highway shown or required to be shown in the map and statement.

Tisbury Parish Council has been consulted as required by section 120(2) of the 1980 Act.

BY THIS ORDER

1. The public right of way over the land situated at Wardour Primary School and The Priory, Tisbury and shown by a bold continuous line on the map contained in this order and described in Part 1 of the Schedule to this order, after confirmation of the order, shall be stopped up on the date on which Wiltshire Council certify that work has been carried out to bring the site of the new highway described in Part 2 of the Schedule into a fit condition for use by the public and thereupon the Mere and Tisbury Rural District Council area definitive map dated 1952 shall be modified by deleting from it those public rights of way.
2. There shall be at the date of certification of the new highway described in Part 2 of the Schedule a footpath as described in Part 2 of the Schedule over land north and east of The Priory and the school, Tisbury and as shown by a bold broken line on the map contained in this order, and thereupon the Mere and Tisbury Rural District Council area definitive map dated 1952 shall be modified by adding this path to it.
3. The Mere and Tisbury Rural District Council area definitive statement dated 1952 shall be modified as described in part 4 of the Schedule to this Order.
4. The rights conferred on the public under this order shall be subject to the limitations and conditions set out in Part 3 of the Schedule.

SCHEDULE

PART 1

DESCRIPTION OF SITE OF EXISTING PATH OR WAY

Path as shown on the plan attached hereto by a bold black line leading from point A at OS Grid ref. ST9252 2741 leading south east, east north east and south east to point G at OS Grid ref. ST9275 2723.

Approximate length: 340 metres.

Width: 4 metres on that section from O.S. grid reference ST9263-2734 leading north-west for approximately 45 metres and then south-west for approximately 42 metres, to O.S. grid reference ST9257-2735.

PART 2

DESCRIPTION OF SITE OF NEW PATH OR WAY

Path as shown on the plan attached hereto by a bold broken line leading from point H at OS Grid ref. ST9255 2745 leading south east and south to point G at OS Grid ref. ST9275 2723

Approximate length 318 metres

Width: 2 metres

PART 3

LIMITATIONS AND CONDITIONS

Gate to BS5709:2006 at OS Grid ref. ST 9255 2745 (point H)

Gate to BS5709:2006 at OS Grid ref. ST9272 2732 (point J)

PART 4

MODIFICATION OF DEFINITIVE STATEMENT

VARIATION OF PARTICULARS OF PATH OR WAY

Parish	Number	Details	Section
Tisbury	83	<u>FOOTPATH</u> Leading from OS Grid ref. ST9275 2723 at The Priory in a north north westerly direction, across the driveway to St Annes Cottage where north west to the road approximately 50 metres north east of the entrance to the school.	53(3)(a)(i)

Limitations and Conditions:

Gate to BS5709:2006 at OS Grid ref. ST 9255 2745

Gate to BS5709:2006 at OS Grid ref. ST9272 2732

Width 2 metres

Approximate length 318 metres

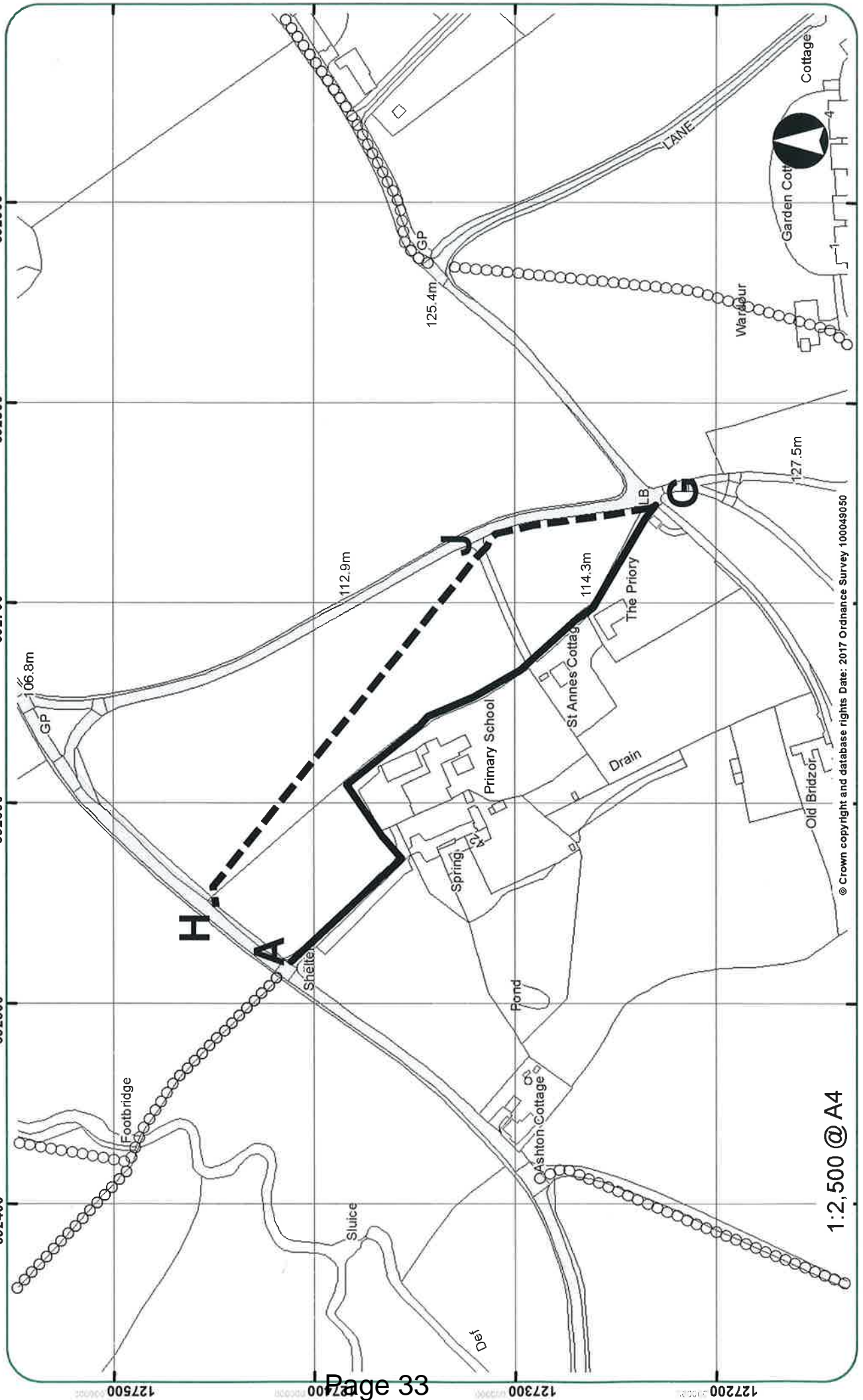
THE COMMON SEAL of }
WILTSHIRE COUNCIL }
was hereunto affixed this }
day of **2017** }

In the presence of : -

Diversion of Tisbury Footpath No. 83

Date: 28/04/2017

- G** Path to be extinguished A
- H** Path to be created
- A** Roads maintainable at public expense shaded grey
- G** Unaffected rights of way



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1:2,500 @ A4

Consultant's Report

Highways Act 1980 s119

Application for the Diversion of Footpath No 83

Land at The Priory and Wardour Catholic Primary School

Parish of Tisbury

1. Background

Mr and Mrs J Taylor of The Priory, Wardour are applying to Wiltshire Council to divert this public footpath over their land, in conjunction with Wardour Catholic Primary School from whose land the path would also be diverted.

Under the Highways Act 1980, section 119, Wiltshire Council is empowered to make a Public Path Diversion Order where it appears to be expedient in the interests of the owner, lessee or occupier of the land crossed by the path or of the public. In addition, so that any order is capable of confirmation, the Council must be satisfied that the path will not be substantially less convenient as a result of the diversion and regard must be paid to the effect of the diversion on public enjoyment of the path as a whole.

The applicants' original proposal is set out on the plan at **APPENDIX 1** and this formed the basis of an informal consultation. A number of concerns were raised which the applicants now seek to address with a revised proposal as shown on the plan at **APPENDIX 2**.

2. Reasons for the request to divert the path

The applicants' original intention was to divert the path in accordance with the plan at **APPENDIX 1**. This shows the present route of the path as a solid black line running from point A along a section of surfaced path alongside the driveway to the school. At Point B it passes through a gate into the school's playing field, crossing the playing field to Point C. It then turns and passes behind the school buildings before leaving the school site at Point D via a gate. It then runs along the edge of a pasture field to Point E where there are two gates either side of the driveway to St Anne's Cottage which the path crosses. From there the path runs immediately in front of The Priory, passing its front door, before reaching the road at Point G.

The intention was for a new route of the path to be provided as shown by a broken black line on the plan, moving the footpath out of the school's playing field, and away from the front entrance of The Priory. Starting from Point A, the alternative route for pedestrians would be to utilise existing public highway verge outside of the school fence before entering a pasture field at Point H. It would then run diagonally though the field to exit at Point J a short distance to the north of the vehicle entrance to The Priory. The new path would have a width of 2 metres.

The diversion of the path would be in the interests of the applicants, satisfying the legal requirement contained in the Highways Act 1980 by improving their security and privacy by taking it further away from the immediate frontage of the house.

In terms of the school, the presence of walkers within the site cannot be challenged and, given that the path crosses the playing field and meanders behind school buildings, a clear risk to the safety and security of the children and the safe operation of the school presents itself. This playing field is the only outdoor recreational area available to the school and is in daily use during term times and throughout the day. Diverting the path removes this risk and enables the school to secure its site, helping to satisfy its duty of care towards the safeguarding of its pupils.

The school also contends with the frequent dog-fouling of the school site, giving concern for the health and safety of young children.

The owners of The Priory have their own reasonable concerns as to their security and privacy due to the proximity of the existing footpath to the front windows and front door of their home. The diversion would alleviate this intrusion.

It was agreed with officers of Wiltshire Council that I should undertake an informal consultation exercise, mirroring a process that it would normally do itself, ahead of making a formal application to divert the path.

3. The Consultation

Using Wiltshire Council's list of consultees and Statutory Undertakers the letter at **APPENDIX 3** was issued by way of informal consultation. A large number of responses were received, including from local individuals not directly consulted but, presumably, alerted by others. These are summarised as follows: -

i. Statutory Undertakers

No objections or plant affected

ii. Supporters

There are a considerable number of letters and emails of support (in excess of 30) from path users and parents whose children attend the school together with other individuals who support the proposal, many more than would normally be the case at this stage. These are attached at **APPENDIX 4**, and include the following comments: -

- It would safeguard children at the school. The path running through the school playground is far from ideal. Security of the children is paramount. Any person can enter the school grounds under the guise that they are on a public footpath.
- It would provide a far more interesting outlook of the surrounding hills and better appreciation of the architecture of The Priory.

- Walkers would feel more comfortable in not having to walk too close to the house and provide the applicants with more security and privacy.

iii. Objectors

There were around a dozen or so letters / emails raising objection to the proposal including one from Tisbury Parish Council and a number of local people, some of whom are members of the Tisbury Footpath Club.

The objections are attached at **APPENDIX 5** and the range of objections to the proposal can be summarised as follows: -

1. It is an ancient public right of way, part of the historic and cultural landscape, added to the Definitive Map by way of Modification Order in 1997.
2. The applicants bought the house in the knowledge of the existence of the footpath running past the house and chose to go ahead with their purchase and now wish to inconvenience members of the public.
3. The security and privacy concerns of the owners of The Priory are not valid on the basis that the footpath does not run through their garden but alongside a paddock. The applicants have created a new drive across the field so that they can now use the door fronting on to the footpath and have extended their garden into the field by cutting down part of the beech hedge.
4. Walkers would be required to walk along a road which is narrow, a danger and quite busy with traffic to the New Wardour Castle, Wardour Court, the Old Wardour Castle, local and farming traffic.
5. The new route is substantially less convenient to the public. The present route has long served as both a practical and historical link between the Catholic School, the Priory where the nuns who taught at the school lived, and the chapel where the local catholic community come together to worship.
6. The risk to the safety and security to the pupils is paranoia, that the pupils are always supervised by a teacher on the playing field, the main issue being dog muck left by inconsiderate walkers.
7. Even if there were an informal agreement between the School and the present owners of The Priory this would have no legal effect and could be revoked by a subsequent owner of The Priory
8. The private ownership of The Priory does not alter its history or the importance of maintaining the link between the various sites so that the public can walk past the various buildings and appreciate their story.

4. The Wessex Ridgeway

Some that responded to the informal consultation referred to this route as forming part of this Long Distance Walk. The owners are unaware of this and there is certainly some

doubt that this is the case. If it were the case, the promoted aspect of the route could follow the changed route of the footpath. The route itself appears to be one promoted by The Long Distance Walkers Association. It has no particular status (such as a National Trail) and the LDWA's own website indicates the route of the Wessex Ridgeway as following the roads around these properties and does not follow the public footpath. Subsequent to the recent consultation, the existing path now appears to have been waymarked as The Wessex Ridgeway through the applicant's property.

Regardless, this does not impact on the ability for the public footpath to be diverted in accordance with the Highways Act 1980 section 119.

5. Commentary

Whilst there is some degree of support for the change, both in terms of the school security and in the context of being in the interests of the owners of The Priory, the applicants do wish to address, as far as they are able, the concerns that have been raised. They fully accept that a public right of way passes over their land and are not seeking to remove it, but are also understanding that the law does allow for paths to be diverted.

The applicants' responses to each of the concerns raised are as follows: -

1. **It is an ancient public right of way, part of the historic and cultural landscape, added to the Definitive Map by way of Modification Order in 1997.**

The law allows for footpaths to be diverted however longstanding they might be.

2. **The applicants bought the house in the knowledge of the existence of the footpath running past the house and chose to go ahead with their purchase and now wish to inconvenience members of the public.**

The new route would bring benefits to members of the public in that the proposed new route is more scenic and no less convenient than the existing route. It would benefit the local community in improving the security and exposure to dog excrement of children at the school.

3. **The security and privacy concerns of the owners of The Priory are not valid on the basis that the footpath does not run through their garden but alongside a paddock. The applicants have created a new drive across the field so that they can now use the door fronting on to the footpath and have extended their garden into the field by cutting down part of the beech hedge.**

The privacy concerns are founded on the distance between the existing footpath and the front windows and front door of the Priory, which is only 2 metres, and the provision of a driveway to the front of the property is not relevant to this. Nor should the applicants be required to maintain a hedge in order to achieve an acceptable level of privacy.

4. **Walkers would be required to walk along a road which is narrow, a danger and quite busy with traffic to the New Wardour Castle, Wardour Court, the Old Wardour Castle, local and farming traffic.**

In response to the concerns raised, the applicants are now proposing a new route which means that walkers would not be required to walk on the road.

5. **The new route is substantially less convenient to the public. The present route has long served as both a practical and historical link between the Catholic School, the Priory where the nuns who taught at the school lived, and the chapel where the local catholic community come together to worship.**

The Catholic School has been consulted and is supportive of the change. Letters of support have been received from parents of pupils at the school who are also supportive of the new route. The Priory is now occupied as a private residence by the applicants. The proposed footpath would be an alternative route of equivalent distance leading to the same exit point proximate to the entrance to New Wardour Castle (the location of the Catholic Chapel).

6. **The risk to the safety and security to the pupils is paranoia, that the pupils are always supervised by a teacher on the playing field, the main issue being dog muck left by inconsiderate walkers.**

This is a subjective view of the risk but certainly parents of pupils of the school have expressed their support, referring to the safety of their children. The problem of dog excrement would be entirely removed by adopting the new route.

7. **Even if there were an informal agreement between the School and the present owners of The Priory this would have no legal effect and could be revoked by a subsequent owner of The Priory.**

When the original proposal for diversion was consulted upon the applicants had offered the School an informal route to avoid the need for children to walk along the road. As the revised proposal does not require walkers to use any part of the road this is no longer necessary. However, recognising that there are benefits to the children who attend the School to be able to have a route towards Wardour Castle from the gate on the existing public right of way, it has been agreed to provide a route from the School gate to join with the diversion route to facilitate this. This route will pass between point D and point J on the plan at **APPENDIX 2**. This is not a part of the consideration under the Highways Act 1980 and is a separate matter between the school and the applicants.

8. **The private ownership of The Priory does not alter its history or the importance of maintaining the link between the various sites so that the public can walk past the various buildings and appreciate their story.**

The law allows for the diversion of a path and it is not credible that it is necessary to walk through the school grounds in order to 'appreciate the story'.

Further to this, some place significance on the contentious process that established the recording of the path on the Definitive Map in the first place and that, as a consequence, the path should not (or cannot) be diverted. Nevertheless the same process under the

Highways Act applies to changes to public rights of way no matter how they materialised on the Definitive Map and how long they have been in existence.

This revised proposal shown on the plan at **APPENDIX 2** addresses matters as follows:-

- It maintains a safe link for those walking the continuation path from the north of Point A by use of a well-maintained 2 metre wide grass verge. As a default, many new paths created by diversion orders will provide for a width of 2 metres and that is available here.
- It removes the path entirely from the grounds of the school, allowing the school freedom to take whatever measures it feels it needs in order to safeguard children without the encumbrance of a public right of way.
- It provides a route entirely off road and also works in the interests of the owners of The Priory to achieve a greater degree of privacy by relocating the path further from the immediate surrounds of the house.
- It provides a route for the private use of the School to allow movement of children fully off road between the school and Wardour Court. This is not directly relevant to the process of diverting the public footpath under the Highways Act 1980 and allows for a separate Agreement to be formed between the owners of The Priory and the school as, jointly, they think fit.

I have met with Wiltshire Council's Area Rights of Way Officer to consider the revised proposal. In principle, he is in agreement with the proposal and has made some other suggestions which the applicants are happy to provide. These are that: -

- At Point H, there is insufficient room between the school fence and the sub-station building at the roadside to provide a full 2 metre width where it leaves the highway verge and enters the field. To overcome this, the corner section of the school fence will be relocated to provide this width.
- There is an area immediately to the rear of the sub-station where access to the field can be quite wet. By moving the access to the field a few metres north-east behind the sub-station, this problem is overcome where the ground is slightly higher.

Other works will also be required to bring the new route into existence. These are: -

- At Point H (behind the sub-station) a pedestrian gate will be provided for access through the existing fence into the field.
- At Point J, where the path exits the field, a pedestrian gate will be provided.
- At Point J, where the path continues south from the drive, a gap will be made in the existing beech hedge. A similar gap will be provided in the same hedge at Point G.
- Between Points J and G the ground will be graded to provide level walking surface.

Photographs showing the existing and proposed routes of the path are at **APPENDIX 6**.

6. The Legal Tests

i. The legal test under the Highways Act 1980 for the diversion of Footpath No 83

The Authority can make an Order to divert a public footpath if it is satisfied that it is expedient to do so either in the interests of the owners or occupiers, or of the public, or both.

In this case there are strong arguments that it is expedient in the interests of the two owners that the path be diverted and for differing reasons. For the owners of The Priory, this allows them to move the path away from the front entrance to their home. As a direct consequence it allows them a greater degree of privacy and, to some extent, security, for them to enjoy their home without preventing the use of the path by the public wishing to access the countryside or surrounding amenities.

For the school, the interests are very straightforward given that the current path meanders through the school grounds and across its playing fields and, in cases such as this, most would accept that, wherever there is opportunity to do so, paths should be removed from that situation to allow for pupil safeguarding or at least reducing the opportunity for unlawful activity. The owners of The Priory are happy to assist in providing the alternative route of the path so that this aim can be achieved.

A diversion must not alter a point of termination of the path if that point is not on a highway, or otherwise than to another point which is on the same highway, or a highway connected to it, and which is substantially as convenient to the public.

In this case, a point of termination will be altered from point A to point H but that point will be on the same highway and will be substantially as convenient by virtue of there being a wide, level grass verge available for public use, for the distance of 47 metres between the two. By altering the termination point from point A it does remove any potential conflicts with vehicle movements with cars and delivery vehicles entering the school premises at the same point.

ii. The confirmation test under the Highways Act 1980 for the diversion of Footpath No 83

The confirmation tests for a diversion order are: -

That the new path should not be substantially less convenient to the public

The existing route and the new route of the path are almost identical distances so there is no inconvenience in terms of length walked. There are 4 gates to be negotiated on the existing route with only 2 on the proposed route. Walking from J toward H provides excellent views into the distance of the surrounding landscape.

That it is expedient having regard to the effect of public enjoyment of the path as a whole

It will enable traffic free use of the path by the public throughout its length, and without the concerns that many have expressed of the discomfort of walking through the grounds of a school and immediately adjacent to a residential property.

The effect on other land served by the existing way

One of the objectors, who lives next door to The Priory at St Anne's Cottage, stated that for her to use the new footpath is less convenient as it will mean walking along her drive to reach Point J before joining the path. This is not considered a major inconvenience balanced with the interests of the School and its pupils and the owners of The Priory.

No other land holding is directly affected.

The effect on land over which the way is created?

The path to be created will be entirely on the land owned by the applicants, save for a very small corner of school land where the fence will be amended to allow a full 2 metres width to access the field at Point H. The school supports the change.

7. Rights of Way Improvement Plan Considerations

There are no impacts that work contrary to the aims of Wiltshire's Countryside Access Improvement Plan 2015-2025.

8. The Equality Act 2010

In considering this application the Council's responsibilities under the provisions of the Equality Act 2010 have been taken into account. There are no impacts on those with disabilities with conditions on the ground being similar for both routes and for other paths in the immediate area. There will be a reduction in the number of gates to be negotiated from 4 to 2.

9. Other factors

Although not yet in place, and as part of a package of reforms, the Government has taken account of concerns and has drafted guidance, the effect of which would be that local authorities should be mindful to divert paths if there is a reasonable alternative route to be provided or extinguish paths where there is a reasonable alternative available, where existing routes pass through gardens, working farmyards, schools and commercial premises. This is a primary example of such a route that the proposed guidance is intended to cover and one where a satisfactory, safe and suitable alternative route is to be provided for public use.

10. Works

The works to be carried out ahead of any confirmation of a diversion order are as listed above, have been agreed in principle, and will be completed to Wiltshire Council's satisfaction.

11. Costs

The administrative fees and advertising charges associated with this process and any works to bring the new route into effect will be borne by the applicants.

12. Overall Conclusion

The applicants feel they have now taken full account of the major concerns raised by those that raised objection to the informal consultation. Other points raised about the knowledge of the existence of the path, how it came to be included on the Definitive Map and the questioning of the change being in the interests of the applicants are either not relevant to the legal tests set out in the Highways Act 1980 section 119 or they cannot be overcome.

The diverted route of the path will be an almost identical length to the existing and achieves the same start and finishing points. There will be fewer gates to negotiate.

Overwhelmingly, it resolves the problems of the path through the school site.

Wiltshire Council's Rights of Way Officer for the area has no in-principle concerns about the change and all of his suggested alterations will be accommodated.

Mike Walker
Director
April 2017



APPENDIX 1 PLAN OF ORIGINAL PROPOSAL

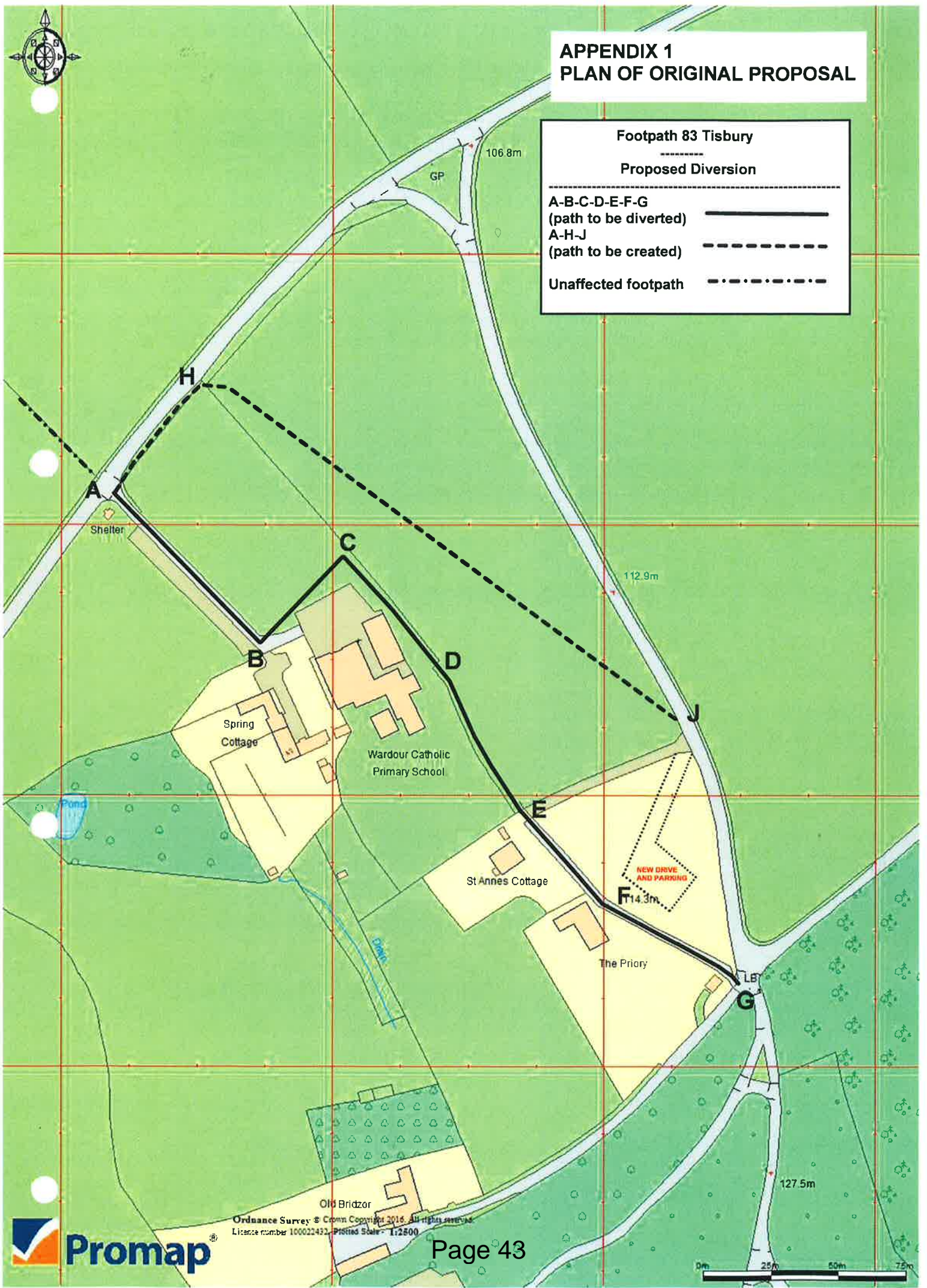
Footpath 83 Tisbury

Proposed Diversion

A-B-C-D-E-F-G
(path to be diverted) **—————**

A-H-J
(path to be created) **- - - - -**

Unaffected footpath **- · - · - · -**





APPENDIX 2 PLAN OF REVISED PROPOSAL

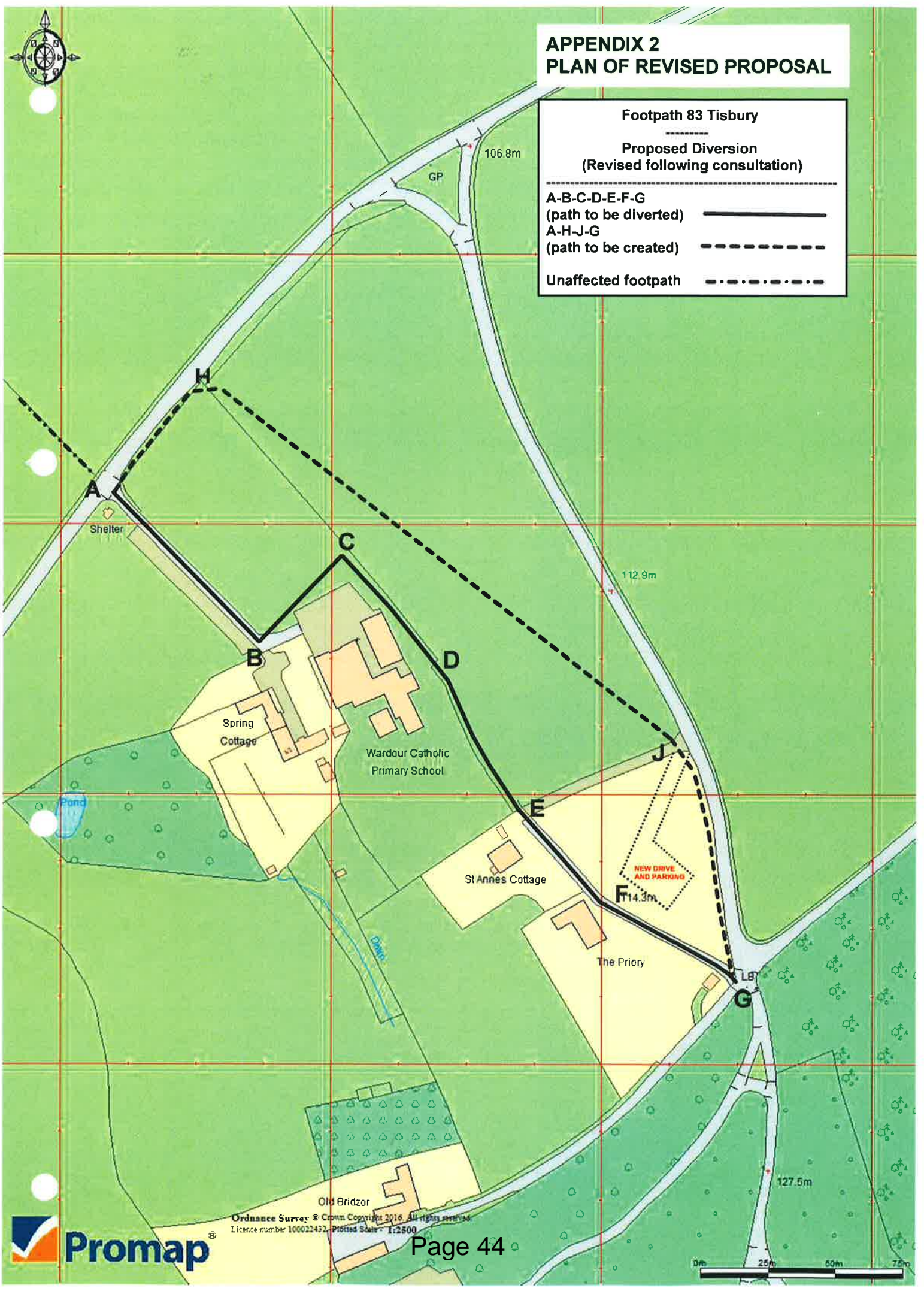
Footpath 83 Tisbury

Proposed Diversion
 (Revised following consultation)

A-B-C-D-E-F-G
 (path to be diverted) **—————**

A-H-J-G
 (path to be created) **- - - - -**

Unaffected footpath **· · · · ·**



August 2016

Dear

**HIGHWAYS ACT 1980 S119
PROPOSED DIVERSION OF PUBLIC FOOTPATH NO 83
PARISH OF TISBURY**

I am acting for Wardour Catholic Primary School and Mr and Mrs Taylor of The Priory (the applicants) who are applying to Wiltshire Council for the diversion of this public footpath.

Wiltshire Council is currently undertaking a trial, enabling consultants such as myself to carry out some of the administrative processes ahead of any decision by the council to make a Diversion Order. This is intended to make best use of the council's resources. The Council has agreed that I may write to you and I hope that you do not mind me contacting you accordingly.

Before being in a position to make a decision on a diversion, Wiltshire Council undertakes a consultation process to ascertain the views of path users and to identify any issues which can be addressed before an Order is made. I am therefore setting out the details of the proposal so that you may comment ahead of further consideration by the Council.

As you may know under the Highways Act 1980, Wiltshire Council is empowered to make a Public Path Diversion Order where it appears to be expedient in the interests of the owner, lessee or occupier of the land crossed by the paths or of the public. In addition, so that the Order is capable of confirmation, the council must be satisfied that the path will not be substantially less convenient as a result of the diversion and regard must be paid to the effect of the diversion on public enjoyment of the path as a whole.

Referring to the attached plan: -

- The full length of Footpath No 83, Tisbury would be diverted, shown as a solid black line. At present the path runs from point A along a section of surfaced path alongside the driveway to the school. At Point B it passes through a gate into the school's playing field, crossing the playing field to Point C. It then turns and passes behind the school buildings before leaving the school site at Point D. It then runs along the edge of a pasture field to Point E where there are two gates either side of the driveway to St Anne's Cottage which the path crosses. From there the path runs in the garden of The Priory passing the front door of the property before reaching the road at Point G.
- The application provides for a new route for the path, shown as a broken black line, to move the footpath out of the school's playing field, and away from the garden and front entrance of The Priory. The proposed route, starting from Point A would run on the existing grass verge outside of the school fence before entering a pasture field at Point H. The path will then run diagonally through the field to exit at Point J a short distance to the north of the vehicle entrance to The Priory. The new path will have a width of 2 metres.

The diversion of the path would be in the interests of the applicants, satisfying the legal requirement contained in the Highways Act 1980 by improving security and privacy.

In terms of the school, the presence of walkers (with or without dogs) who cannot be challenged within the school playing field presents a clear risk to the safety and security to the pupils and hence the operation of the school, this being the only outdoor recreational area available to the school. The field is in daily use during term times and throughout the day. Diverting the path removes this risk and enables the school to secure its site, thereby helping to satisfy its duty of care towards the pupils.

The owners of The Priory have reasonable concerns as to their security and privacy as the path crosses the entrance to their property, and runs very close to their front door, and through their garden. The diversion removes this intrusion and provides them with a greater degree of security and privacy.

In addition to being in the interests of the applicants, the diversion must not alter the termination points of the path, other than to another point on the same highway which is substantially as convenient to the public. The applicants believe that the proposed terminal points satisfy this requirement.

In order to avoid the school site, it will be necessary to walk adjacent to the road on the well-maintained verge to access the field by a new gate to be provided at Point H. The road itself is in a very rural area and generally free of traffic. The road at Point J is also a very minor and lightly trafficked one, and there is no immediate continuation path either from Point J or Point G on the existing path, necessitating the use of the road to connect up with other paths.

The final test requires that the diversion is not substantially less convenient to the public and that it is expedient to divert the path balancing any effect on public enjoyment with the benefit of the diversion to the applicants.

Once entering the field via a new hand gate at point H, the path will pass diagonally to a new hand gate to be provided at Point J. The surface of the new route will be grass and the walking time between point A and G is not increased. The route between H and J affords attractive and far reaching views of the surrounding landscape, not available from the existing path. In that respect it is considered that the diversion is not substantially less convenient and public enjoyment is not adversely affected, and that when balanced against the important benefits to the applicants, it would be expedient to divert the path.

All works needed to bring the new route into effect, including any that are specifically required by Wiltshire Council, will be met by the applicants.

I would be grateful if you would give this matter your consideration and let me know if you wish to make any observations by [6 weeks]. If there are any matters you wish to discuss or are unsure about do, please, let me know.

Please respond by email if that is easier. All comments will be considered by the applicants and by the Council.

Yours sincerely,

Mike Walker
Director

APPENDIX 4 - LETTERS OF SUPPORT

	Name	Address/Location	Summary of comments
1	Bradley Viljoen	23 Bushey Hill Road, London, SE5 8QF	Has used Footpath 83 for a number of years. Thinks diversion will remove safety risk to children at school and also increase privacy to residents on the current path.
2	Julia De Bretton-Gordon	Local resident	Local resident, dog walker and former teacher at Wardour School. Believes this is an opportunity to safeguard the school as well as improve the privacy of the houses. The supporter feels that she is invading their privacy by passing by.
3	Lee Sheppard	5 Winding Way, Salisbury, Wiltshire, SP2 9EA	Has worked as a decorator in and around Wardour for the past few years and thought it odd that the footpath runs so close to the School and to The Priory. Is in favour as looks good for everyone. "Getting it away from the school has got to be a good result."
4	Mark Pidgley	Downton Joinery Limited, New Court Grain Barn, Downton, Wiltshire, SP5 3JE	Feels that the proposed diversion is a much better option for both the school and the residents - giving the residents more privacy and security. He thinks that the proposed diversion will be more pleasant for the users, with a marginal increase in length having little impact on the user.
5	Mark Smith	23 Bushey Hill Road, London, SE5 8QF	Has visited Wardour many times over a number of years. The current route seems illogical to pass so close to the School and The Priory. Believes the proposed diversion would meet the needs of the school and local residents without any inconvenience to those using the current path.

6	Nick Ryan	Avalon, Cuffs Lane, Tisbury, Wiltshire, SP3 6LG	A local resident who walks extensively with his dogs, around the Wardour area. Feels that current route compromises safety of children at the School, and feels like intrusion when walking past The Priory. Cannot see why, as a user of the footpath, why it cannot be moved.
7	Robert Weems	Chapel Cross House, Parish Hill, South Cadbury, Somerset, BA22 7ET	Feels like he is intruding on private property using the current route. Would prefer the diversion route as it "avoids creating embarrassment when trampling across private lands." The new route is not an inconvenience.
8	Harry Jonas	The Stables, Woodlands, Berwick St John, Shaftesbury, Dorset, SP7 0EX	The proposed diversion seems to be more direct and will safeguard the security of the children at the school.
9	Mrs J Howell	Wardour, SP3 6QX	Diverting the footpath will give security and privacy to The Priory and will safeguard the children at the School. It is a "win win" situation.
10	Georgina Wessels		Understands that children will still be able to use gate at Point D and a path to Point J. If this shorter right of way is guaranteed then would welcome the re-routing of the public footpath.
11	Kate Clark		Understands that children will still be able to use gate at Point D and a path to Point J. If this shorter right of way is guaranteed then would welcome the re-routing of the public footpath.
12	Susie Watton-Mckay		Understands that children will still be able to use gate at Point D and a path to Point J. If this shorter right of way is guaranteed then would welcome the re-routing of the public footpath.
13	William McCarter	Lycetts, 1 Stable Court, The Parade, Marlborough, Wiltshire, SN8 1NP	Understands that children will still be able to use gate at Point D and a path to Point J. If this shorter right of way is guaranteed then would welcome the re-routing of the public footpath.

14	Sonja Dineley	Dineley Farming Company Ltd	Understands that children will still be able to use gate at Point D and a path to Point J. If this shorter right of way is guaranteed then would welcome the re-routing of the public footpath.
15	Andrew Wessels		Understands that children will still be able to use gate at Point D and a path to Point J. If this shorter right of way is guaranteed then would welcome the re-routing of the public footpath.
16	Rohaise Barrett	Clover Hill, Donhead St Mary, Shaftesbury, Dorset, SP7 9DX	Understands that children will still be able to use gate at Point D and a path to Point J. If this shorter right of way is guaranteed then would welcome the re-routing of the public footpath.
17	Chloe Luxton		Understands that children will still be able to use gate at Point D and a path to Point J. If this shorter right of way is guaranteed then would welcome the re-routing of the public footpath.
18	Liz & Michael Hartley	Wywurrie, High Street, Hindon, Salisbury, SP3 6DJ	Concerned about safeguarding the pupils with the current footpath. Their son has a powerchair which struggles on the surface of the footpath outside The Priory. The new path would enable him to be included in school activities as access would be easier. The owners of The Priory will also receive greater privacy.
19	Andrea Davies		Understands that children will still be able to use gate at Point D and a path to Point J. If this shorter right of way is guaranteed then would welcome the re-routing of the public footpath.
20	Simon Davies		Understands that children will still be able to use gate at Point D and a path to Point J. If this shorter right of way is guaranteed then would welcome the re-routing of the public footpath.

21	Chloe King		Understands that children will still be able to use gate at Point D and a path to Point J. If this shorter right of way is guaranteed then would welcome the re-routing of the public footpath.
22	Vivienne Parton		A re route of the public path would be in the best interest to all involved, especially the safety of the children.
23	Flora Harvey	Glebe Cottage, Sutton Mandeville, Wiltshire, SP3 5NA	Understands that children will still be able to use gate at Point D and a path to Point J. If this shorter right of way is guaranteed then would welcome the re-routing of the public footpath.
24	Catherine Ridge		Understands that children will still be able to use gate at Point D and a path to Point J. If this shorter right of way is guaranteed then would welcome the re-routing of the public footpath.
25	Polly Prior		Understands that children will still be able to use gate at Point D and a path to Point J. If this shorter right of way is guaranteed then would welcome the re-routing of the public footpath.
26	Emma Bell		Understands that children will still be able to use gate at Point D and a path to Point J. If this shorter right of way is guaranteed then would welcome the re-routing of the public footpath.
27	Isabella Welchman		Understands that children will still be able to use gate at Point D and a path to Point J. If this shorter right of way is guaranteed then would welcome the re-routing of the public footpath. Will improve safety for children. Doesn't see how a short detour could inconvenience walkers.
28	Claudia Aaron		Understands that children will still be able to use gate at Point D and a path to Point J. If this shorter right of way is guaranteed then would welcome the re-routing of the public footpath.

29	Marcus Deyes		Understands that children will still be able to use gate at Point D and a path to Point J. If this shorter right of way is guaranteed then would welcome the re-routing of the public footpath.
30	J-A. Cox		Always thought it was unusual that a footpath would run through a school and past the hall. The safety and security of the children is paramount. The residents of Priory House will also have better security and privacy. Walkers of the proposed diversion will have breathtaking views of the surrounding countryside. The diversion is a win-win situation.
31	Sally Chapman	14 Townlands Drive, Beccles, Suffolk, NR34 9XU	Has walked the footpaths around Wardour for several years. Hasn't felt comfortable walking through the school playground nor past The Priory, which feels like going directly through their garden. Walking through the field will give better views.
32	Bruce McClue	2 Conway Drive, Broadmayne, Dorchester, Dorset, DT2 8EF	The proposed diversion would protect children from strangers and would improve the privacy of The Priory as well walkers not feeling that they are trespassing on somebodies property.
33	Libby Gibson	Drum House, Wardour, Tisbury, Wiltshire, SP3 6RN	Is supportive of the plan to reroute the footpath from Wardour School up to New Wardour.
34	P J and R A Sidford	Bridzor Farmhouse, Wardour, SP3 6RN	Regular users who are embarrassed walking close to a private dwelling.
35	Sean Moran	4 High Street, Tisbury, SP3 6PS	A member of Tisbury Footpath Club supporting the diversion.

Bushey Hill Road

London

SE5 8

30 September 2016

Wiltshire Council

Bythesea Road

Trowbridge

Wiltshire

BA14 8JN

Dear Sir

Re: Footpath 83 running through Wardour Primary School

I have visited Wiltshire for several years both as a solitary traveller and for visiting friends, particularly in the area surrounding Tisbury and Wardour with its rural pursuits and excellent restaurants. I am well acquainted with Old Wardour Castle and its environs which are quite spectacular and which provide excellent countryside rambling where there is virtually no traffic and wonderful scenery.

In respect of the current application for the re-routing of Footpath 83, which I know well, I am in favour of the application. Part of the current path is immediately adjacent to the school and in particular its playing field which I believe is not suitable for the safety of the children. The new proposal removes this risk by taking the path slightly further away from the playing field and in to the adjoining field, where it directs walkers to Wardour Castle. In terms of distance it is no further. This re-routing will certainly benefit the school but, as there are also residents on the current path, the new path will also serve to provide them with a little more privacy.

I therefore see no reason not to approve the application since the re-routing will benefit the school by providing greater safety for children and, the path is still within the same zone but altered only slightly. I furthermore see no issues for local residents nor users and therefore would urge the Council to support this application

Yours faithfully



Bradley Viljoen

Email: 

West Hatch Tisbury SP3 6

Wiltshire Council
Bythesea Road
Trowbridge
Wiltshire
BA14 8JN

18th November 2016

Footpath 83 Wardour

Dear Sir/Madam

As a local resident, regular dog walker and former teacher at Wardour School I am writing to support the long awaited diversion of the above footpath for the following reasons:

Existing Route A-B-C

Route points A-B-C cut through Wardour school grounds. In the current climate it is not safe to have strangers walking through the school paying field. During break and lunchtimes, particularly during the summer months the entire school uses this field. This diversion presents the Council with the perfect opportunity to safeguard young children whilst in the Council's care. I would suggest that not to take up this option could be interpreted as negligent should an incident ever occur.

Many walkers using the path are accompanied by dogs. Not all dogs are friendly and again not to take up this opportunity could be seen as a failure of the Council's duty of care.

Some owners do not always clear up after their dogs and from my own personal experience this has led to dog faeces on the shoes, clothing and hands of children. Not only is this unpleasant but extremely unhygienic.

The proposed route A-H-J addresses all the above.

Existing Route E-F-G

At point E the path passes approximately 3ft from the front door of the Old Priory. Walking so close to the house makes me as a walker feel uncomfortable as I am clearly intruding on the privacy for the residents. Between points F-G the path is narrow and passes between two very high hedges where there is no view.

The overall proposed new route does not add any significant distance and between points J-G the route greatly enhances the experience for walkers in terms of views and freedom to

enjoy the space rather than 'sneaking' past the front door of the Old Priory and invading someone's privacy. This proposal offers benefits for both Wardour School, walkers and the occupants of the Old Priory and hence I strongly support this proposed amendment.

Yours faithfully



JULIA DE BRETTON-GORDON

Wiltshire Council,
Bythesea Road,
Trowbridge,
Wiltshire
BA14 8JN

21 September 2016

Footpath at Wardour Primary School

I have worked as a decorator in various houses in and around Wardour over the past few years and always thought that it was very odd that a public footpath ran straight through the school playground and so close to The Priory. I have seen the diversion plan and would be in favour of it as it looks like it can only be good for everyone,. Getting it away from the school has got to be good. result.

For these reasons I support the diversion and hope that it happens as quickly as possible.

Yours faithfully

██████████

Lee Sheppard

██████████ Winding Way SP2 9 ██████████

Mark Pidgley
Downton Joinery Limited

██████████
Downton
Wiltshire
SP5 3.██████████

Wiltshire Council
Bythesea Road,
Trowbridge,
Wiltshire
BA14 8JN

4th October 2016

Footpath 83 running through Wardour Primary School

Dear Sirs,

I understand that an application has been made to relocate the footpath detailed above. As I visit the property concerned on a regular basis I feel that the proposed diversion is a much better option for everyone concerned, the school, the children, and the residents as well as any visitors. Not only do I think the proposed diversion will be more pleasant for the users I feel it will give the residents more privacy and security, particularly because of the fairly isolated location. From what I understand, the change will only marginally increase the length of the footpath so having very little impact on the user.

Kind regards

Mark Pidgley

Bushey Hill Road

London

SE5 8

30 September 2016

Wiltshire Council

Bythesea Road

Trowbridge

Wiltshire

BA14 8JN

Dear Sirs

Re: Footpath 83 running through Wardour Primary School

I have visited Wardour many times over a number of years, staying with friends and taking weekend breaks. The countryside is magnificent and wonderful to walk in and enjoyed by residents and visitors alike.

With my knowledge of the area I am writing to support an application for a minor re-routing of Footpath 83. The route has always seemed illogical passing directly through the playground of Wardour Primary School and so close to The Priory. In the school's case this adds to child safeguarding risks, as well as being inconvenient, and for the owners of The Priory this impacts on their privacy and enjoyment of their home.

For a small re-direction of the footpath, which I believe is well within the Council's tolerance level, I believe that the interests of the school and local residents would be met without any inconvenience to those using the current path.

I would therefore hope that the Council will support this application.

Yours faithfully



Mark Smith

E: 

Wiltshire Council
Bythesea Road
Trowbridge
Wiltshire
BA14 8JN

[REDACTED]
Cuffs Lane
Tisbury
Wiltshire
SP3 6 [REDACTED]

2nd December 2016

Dear Sirs

I have been made aware of a request to change the route of a local footpath (No 83- Wardour).

As a local resident who walks extensively with my dogs, around the Wardour area, I would like to voice my opinion over this change. Presently the path goes through the grounds of Wardour School and past the front door of The Priory.

The first point I would like to make is that I do feel it is not appropriate for a footpath, that can be easily redirected, to go through the grounds of a Primary School. Whilst this may be seen as scaremongering I personally would not like my children to come into contact with any strangers using a footpath if I am not present. It does seem that an easy solution would be for the footpath to be moved. I'm sure the school would not have any objections to this since they have responsibility for keeping the children safe.

My second point is that the footpath also runs past the front door of The Priory. I often feel that I am intruding on someone's personal property everytime I walk past there even though it is a public right of way. Would it not make sense for this path to move and allow the residents of The Priory to have their privacy and for walkers, like myself, to not feel like I am not supposed to be there.

Since the proposed route starts and finishes in exactly the same places as before I cannot see why there have been objections. I am writing to you to say that, as a local person who uses this footpath, I cannot see any reason why it can't be moved.

I await your response on this matter.

Yours faithfully

[REDACTED]
Mr Nick Ryan

[REDACTED]
Parish Hill, South Cadbury
Somerset, BA22 7 [REDACTED]

Wiltshire Council
Bythesea Road
Trowbridge
Wiltshire
BA14 8JN

Footpath 83 Wardour

Dear Sirs

I am writing in connection with the proposal to alter the route of footpath 83 through Wardour.

I am a dog owner and occasionally walk in and around Wardour on routes between old Wardour castle and the newer estate.

I have walked the route as it is now, but am reluctant to walk through private property. It always strikes me as odd that I am, in effect, striding across someone's private garden. It also creates an issue for me in that I need to leash the dogs when entering these sections of the route.

Having studied the proposed route I much prefer it. It avoids running past the Old Priory and through the school grounds. The diversion is not an inconvenience and avoids creating any embarrassment when trampling across private lands. I would prefer to see the footpath re-routed.

Yours sincerely,

[REDACTED]
Robert Weems.

Harry Jonas

[REDACTED]
Milkwell
Donhead St Andrew
Shaftesbury
Dorset
SP7 [REDACTED]

10th November 2016

Re: Footpath 83 through Wardour Primary School

Wiltshire Council

Bythesea Road

Trowbridge

Wiltshire

BA14 8JN

Dear Sir/Madam

I am writing to lend support for the proposed re location of this footpath .

I think it seems to be more direct and it will safeguard security for children at Wardour school .

Yours sincerely

Harry Jonas

[REDACTED]

Wardow SP36@X

12th November 2016

Dear Sir/Madam,

Living at Wardow, I am a regular walker
of the footpaths

I have no objection to the footpath from
the Priory garden to and including Wardow
school, to be diverted. In fact as a walkway
point of view, it will give a far more
interesting outlook of the surrounding hills
a better appreciation of the architecture of
the Priory house and the landscape front
order. It will also let walkers feel more
comfortable not walking so close to the Priory
wall.

Diverting the footpath it will give the Priory
curity and privacy. But far more important,
with a footpath running through a young
children's playground is far from ideal. Security
& safety of the children is paramount.
I feel the slight diversion of the footpath
to be a win, win, situation.

Yours sincerely,

 (Mrs.)

Michael Wood

From: Georgina Wessels [REDACTED]
Sent: 05 January 2017 14:09
To: Michael Wood
Cc: marcusdeyes@hotmail.com
Subject: Public Footpath round Wardour School

Dear Michael Wood,

As a parent of children at Wardour School, I am pleased to support the re-routing of the public path around Wardour School as shown in your map of *Footpath 83 Revised Plan*. My understanding is that the school children and faculty will still be able to use the gate at point D and a path to point J, in order to access the chapel at New Wardour and for other school activities, such as school walks to old Wardour.

If this shorter right of way for the school is indeed guaranteed in the future, which I understand is possible by a simple easement to be included in the land title, then I would very much welcome the re-routing of the public footpath around the school.

Kind regards,

Georgina Wessels

[REDACTED]
Tisbury
Wiltshire
SP3 6 [REDACTED]
Tel 01747 [REDACTED]
Mob 0771 [REDACTED]

Michael Wood

From: kate clark [REDACTED]
Sent: 06 January 2017 18:34
To: Michael Wood
Subject: Re routing the footpath around Wardour school playground.

Dear Michael Wood,

As a parent of children at Wardour School, I am pleased to support the re-routing of the public path around Wardour School as shown in your map of *Footpath 83 Revised Plan*. My understanding is that the school children and faculty will still be able to use the gate at point D and a path to point J, in order to access the chapel at New Wardour and for other school activities, such as school walks to old Wardour.

If this shorter right of way for the school is indeed guaranteed in the future, which I understand is possible by a simple easement to be included in the land title, then I would very much welcome the re-routing of the public footpath around the school.

Kind regards,

Kate Clark

Michael Wood

From: Susie Watton Mckay [REDACTED]
Sent: 05 January 2017 18:17
To: Michael Wood
Cc: Marcus Deyes
Subject: Wardour School - Path going across the school field

Dear Michael Wood,

As a parent of a child at Wardour School, I am pleased to support the re-routing of the public path around Wardour School as shown in your map of *Footpath 83 Revised Plan*. My understanding is that the school children and faculty will still be able to use the gate at point D and a path to point J, in order to access the chapel at New Wardour and for other school activities, such as school walks to old Wardour.

If this shorter right of way for the school is indeed guaranteed in the future, which I understand is possible by a simple easment to be included in the land title, then I would very much welcome the re-routing of the public footpath around the school.

Kind regards,

Susie Watton-Mckay

Sent from my iPhone

Michael Wood

From: William McCarter [REDACTED]
Sent: 05 January 2017 15:54
To: Michael Wood
Subject: Public Path - Wardour School

Dear Mr Wood,

As a parent of children at Wardour School, I am pleased to support the re-routing of the public path around Wardour School as shown in your map of *Footpath 83 Revised Plan*. My understanding is that the school children and faculty will still be able to use the gate at point D and a path to point J, in order to access the chapel at New Wardour and for other school activities, such as school walks to old Wardour.

If this shorter right of way for the school is indeed guaranteed in the future, which I understand is possible by a simple easement to be included in the land title, then I would very much welcome the re-routing of the public footpath around the school.

Best regards,

William

William McCarter
Divisional Director

[REDACTED] 3 Mobile: [REDACTED]
[REDACTED] Fax: 01672 [REDACTED]
[REDACTED] The Parade, Marlborough, Wiltshire [REDACTED]
[REDACTED] www.lycetts.co.uk

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From: Sonja Dineley [REDACTED]
Sent: 05 January 2017 15:00
To: Michael Wood [REDACTED]
Subject: Fw: Path

Dear Michael Wood,

As a parent of children at Wardour School, I am pleased to support the re-routing of the public path around Wardour School as shown in your map of *Footpath 83 Revised Plan*. My understanding is that the school children and faculty will still be able to use the gate at point D and a path to point J, in order to access the chapel at New Wardour and for other school activities, such as school walks to old Wardour.

If this shorter right of way for the school is indeed guaranteed in the future, which I understand is possible by a simple easement to be included in the land title, then I would very much welcome the re-routing of the public footpath around the school.

Kind regards,

Sonja Dineley

Dineley Farming Company Ltd

Michael Wood

From: Andrew Wessels (Personal) [REDACTED]
Sent: 05 January 2017 14:14
To: Michael Wood
Cc: [REDACTED]
Subject: Public Footpath round Wardour School

Dear Michael Wood,

As a parent of children at Wardour School, I am pleased to support the re-routing of the public path around Wardour School as shown in your map of *Footpath 83 Revised Plan*. My understanding is that the school children and faculty will still be able to use the gate at point D and a path to point J, in order to access the chapel at New Wardour and for other school activities, such as school walks to old Wardour.

If this shorter right of way for the school is indeed guaranteed in the future, which I understand is possible by a simple easement to be included in the land title, then I would very much welcome the re-routing of the public footpath around the school.

Kind regards,

Andrew Wessels

Michael Wood

From: Rohaise V Barrett [REDACTED]
Sent: 05 January 2017 13:32
To: Michael Wood
Subject: Please re route the foot path at Wardour School

Dear Michael Wood,

As a parent of children at Wardour School, I am pleased to support the re-routing of the public path around Wardour School as shown in your map of *Footpath 83 Revised Plan*. My understanding is that the school children and faculty will still be able to use the gate at point D and a path to point J, in order to access the chapel at New Wardour and for other school activities, such as school walks to old Wardour.

If this shorter right of way for the school is indeed guaranteed in the future, which I understand is possible by a simple easment to be included in the land title, then I would very much welcome the re-routing of the public footpath around the school.

Kind regards,

Rohaise Barrett
[REDACTED]

Donhead St Mary
Shaftesbury
Dorset
SP79 [REDACTED]

Sent from my iPhone

Michael Wood

From: Chloe [REDACTED]
Sent: 05 January 2017 13:23
To: Michael Wood
Cc: 'Marcus Deyes'
Subject: Proposed Footpath Re-Route

Dear Michael Wood,

As a parent of children at Wardour School, I am pleased to support the re-routing of the public path around Wardour School as shown in your map of *Footpath 83 Revised Plan*. My understanding is that the school children and faculty will still be able to use the gate at point D and a path to point J, in order to access the chapel at New Wardour and for other school activities, such as school walks to old Wardour.

If this shorter right of way for the school is indeed guaranteed in the future, which I understand is possible by a simple easement to be included in the land title, then I would very much welcome the re-routing of the public footpath around the school.

Kind regards,

Chloe

Chloe Luxton

Founder & Creative Director
Bramley Products Ltd
www.bramleyproducts.co.uk

01747 [REDACTED]
07968 [REDACTED]

Michael Wood

From: michael [REDACTED]
Sent: 05 January 2017 11:34
To: Michael Wood
Subject: Re-routing of footpath at Wardour
Attachments: Wardour path.docx

Dear Mr Wood,,

Please find attached a letter in support of the re-routing of the footpath requested by your clients at the Priory.

Could you briefly confirm that you have received this?

Many thanks.

Liz and Michael Hartley
(Parents)

Michael Wood

From: Simon Davies [REDACTED]
Sent: 04 January 2017 13:22
To: Michael Wood
Cc: [REDACTED]
Subject: Supporting the rerouting of the Wardour school path.

Dear Michael Wood,

As parents of 2 children at Wardour School, I am pleased to support the re-routing of the public path around Wardour School as shown in your map of *Footpath 83 Revised Plan*. My understanding is that the school children and faculty will still be able to use the gate at point D and a path to point J, in order to access the chapel at New Wardour and for other school activities, such as school walks to old Wardour.

If this shorter right of way for the school is indeed guaranteed in the future, which I understand is possible by a simple easement to be included in the land title, then I would very much welcome the re-routing of the public footpath around the school.

Kind regards,

Simon and Andrea Davies

Michael Wood

From: Chloe Fox [REDACTED]
Sent: 03 January 2017 14:07
To: Michael Wood
Subject: Path going across the school field

Dear Michael Wood,

As a parent of children at Wardour School, I am pleased to support the re-routing of the public path around Wardour School as shown in your map of *Footpath 83 Revised Plan*. My understanding is that the school children and faculty will still be able to use the gate at point D and a path to point J, in order to access the chapel at New Wardour and for other school activities, such as school walks to old Wardour.

If this shorter right of way for the school is indeed guaranteed in the future, which I understand is possible by a simple easement to be included in the land title, then I would very much welcome the re-routing of the public footpath around the school.

Kind regards,

Chloe (King)

[REDACTED]

Michael Wood

From: Vivienne Parton [REDACTED]
Sent: 03 January 2017 14:48
To: Michael Wood
Subject: School Path

Dear Micheal Wood

As a parent at Wardour school I think a reroute of public path would be in the best interest to all involved especially the safety of our children.

Many thanks

Vivienne Parton

Sent from my iPhone

Michael Wood

From: Flora Ross [REDACTED]
Sent: 03 January 2017 12:07
To: Michael Wood
Subject: Footpath 83 Revised Plan

Dear Michael Wood,

As a parent of children at Wardour School, I am pleased to support the re-routing of the public path around Wardour School as shown in your map of *Footpath 83 Revised Plan*. My understanding is that the school children and faculty will still be able to use the gate at point D and a path to point J, in order to access the chapel at New Wardour and for other school activities, such as school walks to old Wardour.

If this shorter right of way for the school is indeed guaranteed in the future, which I understand is possible by a simple easment to be included in the land title, then I would very much welcome the re-routing of the public footpath around the school.

Kind regards,

Flora Harvey
[REDACTED]

Sutton Mandeville
Wiltshire SP3 5 [REDACTED]

Home: 01722 [REDACTED]
Mobile: 0788 [REDACTED]
Email: james@ [REDACTED]

[REDACTED]
High Street
Hindon
Salisbury
SP3 6 [REDACTED]

5/1/2017

Dear Mr Wood,

Re: Re-routing of public footpath around Wardour school

I am writing as a parent of a child at Wardour Catholic Primary school, and also as a primary teacher myself, to fully support the re-routing of the public footpath as shown in your map of Footpath 83 Revised plan for two reasons.

- It has long been a concern of ours with regards to the safeguarding of pupils at the school, that any person should be able to enter the school grounds under the guise that they are on a public footpath. Whilst it is unlikely anything untoward would ever happen, schools these days have to take the consideration of safety for their children extremely seriously, and so should anyone who makes decisions affecting them.
- Re-routing the path, if done, could also benefit our son who uses a powerchair, as it would provide an alternative access to the grounds at Wardour without having to go on the road. He is currently challenged by the footpath that exists as it goes up from the school as there are a lot of tree roots and mud, but he can cope with grass and flatter surfaces. If he is able to reach point J easily, then access becomes much easier for his full inclusion in school activities. On a personal level, we would really welcome that.

We fully understand the reason for the owners of the Priory making this suggestion, and want to show our support for the re-routing of the path around the school as it does seem that it will benefit everyone; the school will still be able to use New Wardour, and ramblers will still have a path. To maintain the existing path when a re-routing has been offered, would seem to be irresponsible when considering the safeguarding of children. Obviously the owners of the Priory will also enjoy greater privacy too.

Yours sincerely,

Liz and Michael Hartley

Michael Wood

From: [REDACTED]
Sent: 05 January 2017 09:27
To: Michael Wood
Cc: Marcus Deyes; Kate Lavan; Simon Davies
Subject: Wardour Public Footpath

Dear Michael Wood,

As a parent of two children at Wardour School, I am pleased to support the re-routing of the public path around Wardour School as shown in your map of *Footpath 83 Revised Plan*. My understanding is that the school children and faculty will still be able to use the gate at point D and a path to point J, in order to access the chapel at New Wardour and for other school activities, such as school walks to old Wardour.

If this shorter right of way for the school is indeed guaranteed in the future, which I understand is possible by a simple easement to be included in the land title, then I would very much welcome the re-routing of the public footpath around the school rather than walking directly through it, as is currently the situation.

Kind regards,

Andrea Davies

Michael Wood

From: Cathy Ridge [REDACTED]
Sent: 24 December 2016 09:32
To: Michael Wood
Cc: [REDACTED]
Subject: Re: Path going across the school field

Sent from my iPad

Dear Michael Wood,

As a parent of children at Wardour School, I am pleased to support the re-routing of the public path around Wardour School as shown in your map of *Footpath 83 Revised Plan*. My understanding is that the school children and faculty will still be able to use the gate at point D and a path to point J, in order to access the chapel at New Wardour and for other school activities, such as school walks to old Wardour.

If this shorter right of way for the school is indeed guaranteed in the future, which I understand is possible by a simple easment to be included in the land title, then I would very much welcome the re-routing of the public footpath around the school.

Kind regards,

Catherine Ridge

Michael Wood

From: Polly Prior [REDACTED]
Sent: 21 December 2016 13:57
To: Michael Wood
Subject: Proposed re-routing of footpath at Wardour School

Dear Michael Wood,

As a parent of a child at Wardour School, I am pleased to support the re-routing of the public path around Wardour School as shown in your map of *Footpath 83 Revised Plan*. My understanding is that the school children and faculty will still be able to use the gate at point D and a path to point J, in order to access the chapel at New Wardour and for other school activities, such as school walks to old Wardour.

If this shorter right of way for the school is indeed guaranteed in the future, which I understand is possible by a simple easement to be included in the land title, then I would very much welcome the re-routing of the public footpath around the school.

Kind regards,

Polly Prior

Polly Prior
[REDACTED]

Michael Wood

From: Emma Bell [REDACTED]
Sent: 21 December 2016 13:27
To: Michael Wood
Subject: Re-routing of Footpath at Wardour

Dear Mr Wood,

As a parent of children at Wardour School, I am pleased to support the re-routing of the public path around Wardour School as shown in your map of *Footpath 83 Revised Plan*. My understanding is that the school children and faculty will still be able to use the gate at point D and a path to point J, in order to access the chapel at New Wardour and for other school activities, such as school walks to old Wardour.

If this shorter right of way for the school is indeed guaranteed in the future, which I understand is possible by a simple easement to be included in the land title, then I would very much welcome the re-routing of the public footpath around the school.

Kind regards,

Emma Bell
Parent at Wardour Catholic Primary School

Sent from my iPhone

Michael Wood

From: Welchman Isabella [REDACTED]
Sent: 21 December 2016 13:03
To: Michael Wood
Subject: Footpath

Dear Michael Wood,

I am a parent of children at Wardour School and I am in full support of the re-routing of the public path around Wardour School as shown in your map of *Footpath 83 Revised Plan*. My understanding is that the school children and faculty will still be able to use the gate at point D and a path to point J, in order to access the chapel at New Wardour and for other school activities, such as school walks to old Wardour.

This re-routing seems an entirely sensible option and would benefit the school by not having walkers coming through the playing fields making it safer for the children. I also can't see how this short detour could inconvenience any walkers.

If this shorter right of way for the school is indeed guaranteed in the future, which I understand is possible by a simple easement to be included in the land title, then I would very much welcome the re-routing of the public footpath around the school.

Kind regards,

Isabella Welchman

Michael Wood

From: Claudia Aaron [REDACTED]
Sent: 21 December 2016 12:55
To: Michael Wood
Subject: re-routing of the public path around Wardour School

Dear Michael Wood,

As a parent of children at Wardour School, I am pleased to support the re-routing of the public path around Wardour School as shown in your map of *Footpath 83 Revised Plan*. My understanding is that the school children and faculty will still be able to use the gate at point D and a path to point J, in order to access the chapel at New Wardour and for other school activities, such as school walks to old Wardour.

If this shorter right of way for the school is indeed guaranteed in the future, which I understand is possible by a simple easement to be included in the land title, then I would very much welcome the re-routing of the public footpath around the school.

Kind regards,

Claudia Aaron
(parent of Otto Aaron Bukur, pupil at Wardour Catholic Primary School)

Michael Wood

From: Marcus Deyes [REDACTED]
Sent: 21 December 2016 12:43
To: Michael Wood
Subject: In support of the proposed new path around Wardour school

Dear Michael Wood,

As a parent of children at Wardour School, I am pleased to support the re-routing of the public path around Wardour School as shown in your map of *Footpath 83 Revised Plan*. My understanding is that the school children and faculty will still be able to use the gate at point D and a path to point J, in order to access the chapel at New Wardour and for other school activities, such as school walks to old Wardour.

If this shorter right of way for the school is indeed guaranteed in the future, which I understand is possible by a simple easement to be included in the land title, then I would very much welcome the re-routing of the public footpath around the school.

Kind regards,

Marcus Deyes

Michael Wood

From: J Howell [REDACTED]
Sent: 15 February 2017 16:06
To: Michael Wood
Subject: ref. footpath from Wardour school .

To whom it may concern.

I am resident of Wardour and a regular walker of the foot paths.

I understand that there is a wish to make a slight diversion of the foot path leading from Wardour School.

I have no objection to this .I have always felt it unusual that a foot path should run straight through a school playing ground, passing large windows of a hall where the children have their gym lessons. Surely the safety and security of the children is paramount.

The residents of Priory House will also have better security and privacy.

Walkers of the proposed diversion will have breathtaking vista of the surrounding country side.

The slight diversion is a win -win situation for all concerned.

J.-A.Cox

██████████ Townlands Drive
Beccles
Suffolk NR34 9██████████

Wiltshire Council
Bythesea Road
Trowbridge
Wiltshire
BA14 8JN

14 February 2017

To whom it may concern

Footpath at Wardour School

I have spent time in and around Wardour over several years visiting longstanding friends and have enjoyed lovely walks, but I've never been comfortable walking through the school playground especially when I have my dog with me and feel that it's very inappropriate in the current age.

If you are walking to Wardour Castle you must walk very close to The Priory, which feels like you are going directly through their garden. My friend told me that a diversion has been proposed and I'm sure the school are greatly relieved by that. Walking through the field will give a much better view rather than the corridor beside the school.

I've no doubt that this has the full support of the community, but I would like to add mine to that.

Yours faithfully,

██████████

Sally Chapman

Wiltshire Council
Bythesea Road
Trowbridge
Wiltshire
BA14 8JN

Mr Bruce McClue

[REDACTED]
Broadmayne
Dorchester
Dorset DT2 8 [REDACTED]

16 February 2017

Dear Sirs

RE: FOOTPATH 83

As a builder who has worked on properties in this area, I feel compelled to write to express my support for the moving of the above footpath.

In my opinion this would be a good idea for two reasons:

The original footpath takes the route through a school yard. In this day and age, when we are conscious of protecting children from strangers, to invite people to walk through the play ground seems dangerous. I feel sure that the school would approve of this footpath being moved.

The current footpath runs right past the front of the Priory. This not only means that dogs have to be kept on leads, but gives the feeling of being overlooked by people walking by. It would seem a good idea to move the path so that the owners of the Priory would have their privacy, whilst walkers would not feel that they are trespassing on somebody's property.

Bearing in mind that the new path will begin and finish where it always has, it does not seem that this change will affect anybody for the worse, in fact, if anything, this seems to be a change which would only be good for everyone concerned.

I hope that you will take my views into consideration when making your decision.

Yours faithfully

Mr Bruce McClue

Michael Wood

From: Libby Gibson [REDACTED]
Sent: 12 March 2017 12:27
To: Michael Wood
Cc: Alison Margaret Jordan
Subject: Fwd: Wardour footpath

Sent from my iPad

Begin forwarded message:

From: [REDACTED]
Date: 12 March 2017 at 12:26:04 GMT
To: [REDACTED]
Cc: Alison Margaret Jordan [REDACTED]
Subject: Wardour footpath

Dear Michael
This is to confirm that we are fully supportive of the plan to reroute the footpath from Wardour School up, to New Wardour.
Kind regards
Libby Gibson

[REDACTED]
Wardour
Tisbury
Wilts SP3 6 [REDACTED]

Sent from my iPad

P J and R A Sidford

**[REDACTED]
Wardour
Salisbury
Wiltshire. SP3 6 [REDACTED]**

21st March 2017

Wiltshire Council
County Hall
Bythesa Road
Trowbridge
Wiltshire
BA14 8JN

Dear Sirs,

Re: Footpath 83, Wardour

We write in support of the application to reroute the footpath near The Priory/Roman Catholic Primary School, Wardour.

Currently the path goes past the front door of The Priory and through the grounds of Wardour school. As regular users of this path we feel embarrassed walking so close to someone's private dwelling, it is awkward and necessitates the aversion of our gaze. It is also extraordinary, in this day and age, to have a public footpath traversing a primary school.

As the proposed route starts and finishes in the exact same place as the original, we really cannot see why anyone would object to this application.

Yours faithfully,

[REDACTED]

P J Sidford

R A Sidford (Mrs)

Michael Wood

From: sean moran [REDACTED]
Sent: 20 August 2016 08:23
To: [REDACTED]
Subject: Footpath 83 Proposal

I write as a member of Tisbury Footpath Club.

The proposed change is sensible and has my support

Sean Moran
[REDACTED] High Street
Tisbury
SP3 6 [REDACTED]

Sent from iPhone

Wardour Court
Tisbury
Wiltshire SP3 6

Tel: 01747 871716

Email: scarletleatham@hotmail.com

Mike Walker

Townhope
Herefordshire HR1 4

September 12th 2016

Dear Mr Walker

Re: Proposed Diversion of Public Footpath No 83 - Parish of Tisbury

I have been forwarded a copy of your letter regarding the proposed diversion above and as an interested party I have several points to make regarding the proposals. I live at Wardour Court and use the existing footpath on a very regular basis and would strongly object to its diversion on the following points:

1. The proposed diversion from point A to H would run the footpath alongside a busy stretch of road, which is not generally free of traffic as you suggest, where cars travel at speed and is therefore not a pleasant quiet walk as currently is the case.
2. Part of the stretch adjacent to the driveway to the school is also used extensively for parking by parents and others attending the school and as such the footpath is at times regularly likely to be blocked by car doors opening etc.
3. The proposed use of the road from point J to point G is also not on a lightly used stretch of road as you suggest. It is the only access point into the driveway of Wardour Castle and Wardour Court having some 26 dwellings between them and, with no public transport on offer, this means a significant number of cars using this road from these properties alone. In addition there are the dwellings further up the road and significant traffic from visitors to Old Wardour Castle and the wider landscape which is used by walkers and the Tisbury Angling club on a daily basis and is particularly busy at weekends generally, but even more so when events are scheduled by English Heritage at the castle.
4. The road has a slight curve in it which means that traffic even travelling at a low speed (which is often not the case) cannot see those on foot until they are almost upon them, especially at certain times of year when the hedgerows green up and are growing.

5. There is no verge for those on foot to step onto to avoid traffic on this narrow lane.

6. There is no lighting on this road so anyone requiring to use the footpath at night is at risk from cars on this narrow lane.

7. The new termination point of the footpath onto the highway, whilst meeting the criteria of being on the same highway, is not at a point which is substantially convenient to the public given that it is on a busy narrow road with no verges available to step onto for safety.

8. Public enjoyment would be adversely affected as the new footpath would at two points, A to H and J to G run either alongside or on roads which are widely used and as such be completely different to the quiet walk currently able to be enjoyed by walkers as the footpath currently runs.

On these points I would like to raise my strong objections to the diversion of the footpath. I would also further add that when your clients purchased the property they must have been aware of the footpath and its path in relation to their property. They chose to go ahead with their purchase and now wish to inconvenience long time users of the path/members of the public and make them use an alternative route which is substantially less pleasant and requires transfer from a quiet rural walk to the road with its attendant noise and dangers.

Yours sincerely

Scarlet Leatham

cc: Mr N Martin
Wiltshire Council

Mike Walker

From: [REDACTED]
Sent: 16 September 2016 14:06
To: [REDACTED]
Subject: Fw: Wardour footpath

----- Original Message -----

From: [REDACTED]
To: Mike Walker
ReplyTo: [REDACTED]
Subject: Wardour footpath
Sent: 14 Sep 2016 13:30

Dear Mr Walker,

In response to your letter re the proposed moving of the Wardour footpath.

The people who bought the Priory knew when they bought it that the footpath (part of the Wessex Way) was there. They immediately cut down part of the beech hedge and the hedge that was either side of the front door so that it was no longer private, and also put paving slabs over the footpath and made a drive across the field. I took photos of it at the time which were given to Tisbury Parish Council who did nothing about it. This was July 2014, so they knew exactly what they were doing, all without permission. To say that the road, which the walkers and school children would have to use is quiet, is not exactly right. This is the main road to Wardour Castle which belongs to English Heritage and is therefore well used, and is also used by people who live at Wardour Court and the Farm Contractor who lives close by. I do think that the footpath through the school could be moved to the other side of the hedge and this would mean that they would be able to walk safely to church if the next part of the footpath is left where it is i.e. past The Priory. The Priory was completely private before and the people who lived there had absolutely no trouble from walkers. If it hadn't been opened up it would still be private. I am very strongly against this proposal from a safety point of view and also because these people seem to think they can do what they like. Yours sincerely, Georgina Matthews Sent from my BlackBerry® smartphone on 02

Mike Walker

From: Rod Farrell [REDACTED]
Sent: 25 August 2016 18:57
To: [REDACTED]
Cc: [REDACTED]
Subject: FW: Proposed Diversion of Public Footpath No 83, Tisbury

Dear Mr Walker,

I entirely agree with Roger Walker. It seems that the present owners of The Priory, having removed a perfectly serviceable beech hedge which screened the cottage from the existing footpath, now want to move the footpath to prevent walkers from peering into their cottage. This is not the way the country works and is not a proper reason for moving an ancient footpath. As Roger says if the new owners of The Priory don't like the fact that they have an ancient path running past their front door, they shouldn't have bought the property.

It is probably worth pointing out that with numerous new estates being built around the country many ancient footpaths are under threat. It seems that mostly the developers accede to the law that says that old pathways and footpaths can only be moved in exceptional circumstances. There are no exceptional circumstances in this case.

Yours sincerely,
Rod Farrell



This email has been checked for viruses by Avast antivirus software

Mike Walker

From: Barbara Farrell [REDACTED]
Sent: 25 August 2016 19:14
To: [REDACTED]
Subject: Proposed Diversion of Public Footpath No 83, Tisbury

Dear Mr Walker,

I have lived in the Tisbury area for 35 years, my daughter went to Wardour School and I'm a keen walker. I strongly object to the route of Footpath No 83 being altered. If my daughter was still a pupil at the school I would not be happy for her to walk along the lane as proposed. In the summer many of the drivers visiting Old Wardour Castle are not used to the local lanes with farm traffic etc and have problems negotiating them. Why should an ancient path be altered for the sake of one property owner? Many local people feel the same way.

Yours sincerely,
Barbara Farrell



This email has been checked for viruses by Avast antivirus software.

[REDACTED]
School Cottage
St. Annes Cottage
Wardour.

Dear Sir

RE: The proposed diversion of public footpath 83, Parish of Tisbury.

We are the three separate households that live alongside this section of the footpath and we are coming together to strongly object to the changing of its route. Below are our reasons.

This application breaks down into two parts:
The diverting of the path away from the school field.
The diverting of the path away from the Priory.

Referring to your map:
The school section of the footpath could be diverted around their playing field from A to C then onto D. Most people would find this reasonable and acceptable.

The diverting of the section from D to G is not acceptable.

'The final test requires that the diversion is not substantially less convenient to the public and that it is expedient to divert the path balancing any effect on public enjoyment with the benefit of the diversion to the applicants.

It fails this test: It is substantially less convenient to the public and what are the benefits to the applicants?

The primary 'benefit' appears to be:
The owners of The Priory have reasonable concerns as to their security and privacy as the path crosses the entrance to their property, and runs very close to their front door, and through their garden.

These concerns are not valid.

The footpath does not run through their garden. It runs alongside a paddock. It is true that the paddock is starting to look like a garden (with a large car park) but the planning authorities have it recorded as a paddock.

There is already a drive, garage and path serving the house on the south side of the property (as used by the previous occupants). If the current occupants feel threatened then they can use this entrance. This means there is no need to move the footpath.

Despite this other point of access the new occupants have created a new drive across the field with a car park so that they can now use the door fronting on to the footpath. This means the insecurity of getting out of a car at night is self inflicted.

In terms of privacy the Applicants have pulled down a hedge that separated them from the path. They have in effect pushed their garden beyond the footpath. Now they are saying the footpath runs through their garden.

There is a more general point: Most people have a path running past their house – it's called a pavement. Are they all at risk?

The final test requires that the diversion is not substantially less convenient to the public and that it is expedient to divert the path balancing any effect on public enjoyment with the benefit of the diversion to the applicants.

The diversion IS substantially less convenient to the public and in fact positively dangerous. This is because the statement:

The road at Point J is also a very minor and lightly trafficked.
Is not true!

The footpath will be diverted on to a road that is narrow and frequently used. It is the main route to the English Heritage site of Old Wardour Castle. It is also used by Sidford's farm which hires out heavy plant.

Apart from the safety issue there is the simple fact that this footpath is part of the historic and cultural landscape of Wardour connecting the school with the chapel. Local people feel very strongly about this.

To re-iterate:

***If the final test requires that the diversion is not substantially less convenient to the public and...
any effect on public enjoyment has to be balanced with the benefit of the diversion to the applicants.***

Then the test is failed and this application should be refused.

In addition to these main arguments we would like to point out some inaccuracies in Mr. Walker's letter:

Mr. Walker is not acting for Wardour School. He is acting for the Taylors. He has only talked to Wardour school.

There is no immediate continuation path either from Point J or Point G on the existing path, necessitating the use of the road to connect up with other paths.

The footpath is part of the Wessex Way and carries on through the New Castle. This is not ambiguous as implied in Mr Walker's document.

'A clear risk to the safety and security to the pupils and hence the operation of the school'
This is paranoia. The pupils are always supervised by a teacher on the playing field.
The main issue is dog muck left by inconsiderate walkers.

It is clear that the school children cannot walk out on the road at point J but Mr Walker has suggested they will be offered a special arrangement where they will be able to use the current path. However this will be reversible in the future.

This 'special deal' may also be offered to the occupants of Spring and School cottages although they have not been notified. It should be noted that the occupants of School cottage go to the chapel frequently. The diversion is 'substantially less convenient' for them.

Finally there is this point which may in fact outweigh all other arguments: There was a previous attempt to modify this footpath. This resulted in a full public inquiry in 1998. The result of this was the establishment of the current route of the footpath. The allowing of this application would negate the findings of this public inquiry. Are the applicants saying this inquiry got it wrong?

We would be very grateful for an acknowledgement of our letter.

Yours Sincerely

Sarah Russell
Gilly Hooper
Jeremy Hooper
Simon Davison
Mary Myers

[REDACTED]
Wardour

Tisbury

SP3 6 [REDACTED]

September 27th 2016

Dear Mr. Walker,

HIGHWAYS ACT 1980 S119
PROPOSED DIVERSION OF PUBLIC FOOTPATH NO 83
PARISH OF TISBURY

Firstly, I am surprised that you claim to be acting for Wardour Catholic Primary School and indeed the chair of governors has stated unequivocally to me that this is not the case.

I also thought this matter had been definitively decided in 1998 when as a result of a local public enquiry the Inspector confirmed the modification to the footpath as it exists today. I refer you to:

WILDLIFE AND COUNTRYSIDE ACT 1981 - SECTION 53 AND SCHEDULE 15
THE WILTSHIRE COUNTY COUNCIL (ST02NW) (TISBURY 83)
RIGHTS OF WAY MODIFICATION ORDER NO 7, 1997

The footpath has documented use dating back to 1911 and possibly beyond and when the matter was raised in 1997 it caused a huge local response. The resulting local enquiry was very well attended and I have no doubt that any newly proposed changes will cause equally vociferous objections.

Describing the proposed changes you state 'The road at point J is also a very minor and lightly trafficked one'. This is simply untrue. I assume you know that this route is the principal approach to the English Heritage sight at Old Wardour Castle and that this site enjoys annual visitor numbers in excess of 30,000?

I have access to a considerable archive which chronicles the use of this historic footpath and should the Council be minded to give favourable consideration to your application I will object.

I trust that my views will be fully communicated to Wiltshire Council

Yours Sincerely

[REDACTED]
Anthony Connolly

Mike Walker

From: Hugh and Clare Bainger [REDACTED]
Sent: 09 September 2016 13:59 [REDACTED]
To: [REDACTED]
Subject: Fwd: Footpath TISB83 proposed diversion

Sent from Hugh's iPad
[REDACTED] Pastoral Company
Avenue Range 5273 South Australia.

Begin forwarded message:

From: Hugh and Clare Bainger [REDACTED]
Date: 8 September 2016 18:45:11 BST
To: Hugh and Clare Bainger [REDACTED]
Subject: Footpath TISB83 proposed diversion

Dear Mike,

After attending the Tisbury Parish Council meeting on Tuesday evening and reading Tisbury Footpath correspondence, Clare and I feel we need to make expression of our concern to you as owners and residents at Wardour Court.

Vehicle parking within The Court is limited and restricted, as is any parking on Wardour Estate including the 'Chapel Car Park', and infringements are noted and refused immediately by a staff of the Estate. This requires any visitors who do not have approved parking at the Court to park outside the Estate and so the nearest safe parking is along the roadside adjacent to the Wardour School. Visitors then use the TISB83 footpath.

We believe the proposed diversion as suggested where visitors are required to walk along the road from point J to G to be extremely dangerous. This road is quite busy with traffic to the New Wardour Castle, Wardour Court, the Old Wardour Castle, local traffic, and seasonal tractors and farming equipment. The road is very narrow and allows no room for a safe foot path.

We do not agree that this proposed diversion should be approved.

We look forward to a continuing communication,

Yours sincerely,

Hugh and Clare Bainger
[REDACTED] Wardour Court
Tisbury SP36 [REDACTED]
Phone 01747 [REDACTED]

Sent from Hugh's iPad
[REDACTED] Pastoral Company
Avenue Range 5273 South Australia.

Mike Walker

From: Sarah Vigors [REDACTED]
Sent: 05 September 2016 17:10
To: [REDACTED]
Cc: [REDACTED]
Subject: Proposed Diversion of Public Footpath No 83 in the Parish of Tisbury

Dear Mr Walker

As part of the Tisbury Footpath Club, I have seen your correspondence with regard to the above proposed diversion of a footpath and I would be grateful for more clarification regarding the authority you say you have from Wiltshire Council for your consultation process for a Diversion Order of the above Footpath 83 and to carry out some of the administrative processes for Wiltshire Council. It would have been simpler and more transparent for the Applicants to contact the local relevant neighbours, parish council and footpath club.

I would like to suggest that where you say the road, between Points A and H of the Proposed Diversion, is generally free of traffic, I would disagree. This is one of the main routes to Shaftesbury from Tisbury and the surrounding villages and also has a lot of farm traffic from the many farms up the valley to Semley, Hatch and the Donheads. Where the Proposed Diversion joins at J, this is again a busy rural road to New Wardour Castle which consists of apartments, a walled garden and there is also a mews development; the road also takes a lot of the farm traffic from Sidford's Contracting Services at Bridzor Farm.

I understand that the owners of the Priory have removed a hedge from in front of their house and consequently now feel more exposed to the Footpath passing their property between F to G but that was their choice to do. From the Plan attached to your letter dated 19th August, I can see marked on it a new drive and parking area shown in the field opposite the Priory for which a change of use for agricultural land would have to be submitted.

I think that it is very right with regard to the safety and security of the pupils that the path should be diverted to outside Wardour School's playing field and run from A to H to C but then it should continue along the existing footpath from C to G.

Kind regards

Sarah Vigors

From: John McDonald
Sent: 06 September 2016 09:14
To: [REDACTED]
Subject: Footpath 83: For meeting on 6.9.16

Hillside-in-Wardour, Tisbury, SP3 6RN

To the Secretary, Tisbury Parish Council

Dear Secretary,

We have been passed a copy of a letter dated 19th August 2016 from a Mr. Mike Walker to "the Ramblers" about the proposed diversion of what is apparently called "Footpath No. 83", ie the footpath leading from Wardour Primary School towards the gates of New Wardour Castle.

As full-time residents of Wardour for almost 23 years, who live only a couple of hundred yards away and often use the footpath, we were very surprised not to have been consulted about this, and would invite you to ask Mr. Walker why he did not consider us and other nearby residents worthy of consideration. Indeed, it seems rather strange that the Parish Council is being invited to consider a proposal before any local opinion has been sought.

We were sorry to learn that the contentious and divisive proposal to divert this footpath has been revived. Those of us who lived here then remember only too well the previous proposal (less than 20 years ago), which culminated in a public inquiry in which parties were legally represented, the issues fully canvassed and a clear decision in favour of the status quo was reached. We are surprised that Mr. Walker makes no mention of this matter in his letter: if he was aware of the previous application, he should have referred to it; and if he was not aware of it, this suggests he has not done his homework properly. The existence of the footpath across their land (and the previous regrettable litigation about it) must have been known to the present owners of The Priory when they recently bought the property.

On the substance of the application, we do not think it is a good idea for school children from Wardour School who use the footpath to go to a service at Wardour Chapel each Tuesday to be required to walk on two public roads for part of their journey. Under the proposal, they would have to walk down the school drive from letter B to letter A on Mr. Walker's plan, and thence from letters A to H on Mr. Walker's plan on the Tisbury to Shaftesbury road, across the middle of a paddock, and thence from letters J to G on the road leading to Old and New Wardour Castles: both these roads are busy these days, with a lot of traffic going to New Wardour Castle and Wardour Court, to say nothing of farm traffic and tourists visiting Old Wardour Castle. All three of our children were at Wardour School, and we would not have been at all happy with the proposed route. It is certainly not "substantially as convenient to the public" within the meaning of section 119(2)(b) of the Highways Act 1980, which is the test which must be satisfied if a diversion is to be allowed, since it would be far longer for the school children, staff and accompanying parents to have to walk, and considerably more dangerous for them.

Even if there were (as we understand to be the suggestion) an informal agreement between the School and the present owners of The Priory that it could continue to use the existing footpath on Tuesdays, this would have no legal effect and could be revoked by a successive owner of The Priory, thereby requiring the children to walk a much longer and more dangerous route. We wonder whether Wardour School has really understood the implications of the

proposal, which appears to be more for the benefit of the residents of The Priory than anyone else.

Could we suggest that if the footpath is to be diverted at all – it goes from letter A to H on Mr. Walker's plan, and then to letter C' (and then on to G): this would route the footpath off the School grounds, but children and others from the School could continue to access the path at letter D, and thereby avoid having to walk on either of the roads. But really we can see no need for the footpath to be diverted at all.

Yours faithfully,

Jack & Katharine McDonald

Mike Walker

From: Mary Myers [REDACTED]
Sent: 07 September 2016 15:26
To: [REDACTED]
Subject: Footpath 83 Wardour

Dear Mr Walker,

I understand that you are a consultant ascertaining the views of path users and local people about the possible diversion of the above footpath. I am writing to strongly object to the proposed changes and want to make the following points:

- Yesterday evening I attended a meeting of Tisbury Parish Council at which your letter was brought up by members of the Ramblers Association. I was heartened to see and hear that the Parish Council intends to strongly object to any changes. Indeed, one of the councillors expressed the opinion that the proposed change was 'outrageous'.

- I live at St Anne's Cottage, next door to the Priory and use the footpath daily, as do our children. It is a beautiful and historic path, used by walkers and our community every day.

- Having lived here permanently for 14 years we do not have any issues of privacy or security, despite the fact that the footpath runs pretty close to our main entrance. So we don't see that the Taylors have any grounds for saying that their privacy and security are especially compromised. Furthermore I noticed that when they moved in, the Taylors removed the beech hedges that would have shielded their front door from the users of the footpath, which rather makes a nonsense about their professed concerns about privacy and security.

- The proposal to divert part of the footpath onto the road at point J is positively dangerous, since it's a sharp corner, narrow, and used all the time by farm vehicles and by cars and coaches on their way to English Heritage's Old Wardour Castle.

- The proposed diversion would put myself, husband and children in the ridiculous position of having to walk from E to J, then diagonally down the bullock field (the Taylor's lower paddock) from J to H and then A, to reach the school and the bus-stop on the road.

- Any private 'deal' to allow the school-children from Wardour Primary to use the existing route on their way up to mass at New Wardour Chapel would not solve the issue because if/when the Taylors move house the deal would not necessarily stand and the school would have to start all over again with negotiations in order to use it.

- As far as I am aware, the top field outside the Priory is not a 'garden' but is still classed as a 'paddock'. I understand that it was because it is classed as a paddock that the Taylors were able to make a car-park on the land without needing to apply for planning permission, even though they have, in effect, made it into their garden. I may be wrong about this but the Parish Council expressed some concern about it last night and are looking into it.

I am more sympathetic to the school wanting the northerly section diverted away from the school field, since they are sometimes bothered by dogs and occasional pic-nickers. I hope that the school will put in a separate request for a slight diversion of sections A to D, but that is as far as any changes should go.

Yours sincerely,

Mike Walker

From: roger.jinkinson [REDACTED]
Sent: 06 September 2016 15:57
To: [REDACTED]
Cc: Roger & Judith
Subject: proposed footpath diversion

I wish to register my opposition to the proposed diversion of Public Footpath 83, Tisbury. It seems to me you are taking away much of the footpath and replacing it with roadside walks. J to G is not an easy road to share with traffic.

The existing path is fine and I cannot imagine it causes problems.

Roger Jinkinson

Mike Walker

From: Renato George Gordon [REDACTED]
Sent: 19 September 2016 12:13
To: [REDACTED]
Subject: The Priory

Dear Mr Walker,

I understand that you are dealing with the issues around the application to divert the footpath past the Wardour Catholic Primary School and the house know as the Priory.

I live near the Wardour school and often use the footpath to walk up to the New Wardour Castle as I have some responsibilities up there. My family, friends and guests also use the footpath regularly.

I would like to lodge objections to the proposed diversion for the following reasons;

- 1) The present route is the shortest from my house and the proposed diversion will make the path longer for me to walk up to New Wardour Castle to perform my duties.
- 2) The existing path has long served as both a practical and historical link between the Catholic School, the Priory, where the nuns who taught at the school lived, and the chapel where the local catholic community come together to worship. The private ownership of the Priory does not alter the history of the building nor the importance of maintaining the physical link between the various sites so that the public can walk past the various buildings and appreciate their story.
- 3) The new owners of the Priory bought the house in the full knowledge of the existence of the public footpath running up past the house. It is only now that they have extended their garden into the field that they claim that the path passes through their garden. This claim is due to their action and was not the case when they bought the house as the path went up a route outside of their garden.
- 4) I understand that no application for change of use from an agricultural field to domestic garden has been applied for or granted so any claim related to the path passing through a garden should not be recognised.
- 5) The proposal that the footpath should join the road at point J and travel along the tarred road to point G is dangerous. The road along this stretch is narrow and on a blind bend and is frequently used by large heavy farm tractors and machinery.
- 6) The use of the tarred road (J-G) to walk up to the New Wardour Castle gate is un-esthetic and detracts from the pleasure of approaching the entry to the castle up an old traditional footpath as has been done for over two centuries.

I would appreciate your confirming the receipt of this email and request that you add these objections to those put forward by my neighbours and assist us to ensure that this application is refused.

Yours faithfully

Mr Renato G Gordon
[REDACTED] Cottage
Wardour

Mike Walker

From: STEPHEN MOODY [REDACTED]
Sent: 05 September 2016 21:05
To: [REDACTED]
Subject: Tisbury Public Footpath no 83

Dear Mr Walker

I am a committee member of the Tisbury Footpath Club and author of the Nadder Valley Walks books, which promote the preservation and walking the public rights of way in the local area. I have become aware of your client's proposal to divert the Tisbury Public Footpath no 83 at Wardour. I wish to register my objection to this proposed diversion. This is an ancient right of way which has been used by local people since time memorial; by generations of children going to school and also worshipers attending the chapel at New Wardour Castle.

On the last occasion that I walked this path, I recall that after passing the school it led to a defined hedged path leading to the road by the entrance drive to New Wardour Castle. I understand that your clients at the Priory have since extended their garden to include this public right of way, but this is not a valid reason why it should be diverted from its present course. In any case, the proposed alternative route would be totally unacceptable, as it appears to lead from a point further along the road, then across an open field where its line could soon become obscured, then further road walking on a narrow road that is in fact quite busy with traffic visiting the English Heritage tourist attraction at Old Wardour Castle and also by residents of the Wardour Court development.

I am somewhat confused by your position in this process and question your legitimacy as far as Wiltshire Council is concerned. I do not see how, if you are representing your clients who have instigated this proposed diversion, that you are able to act in an unbiased manner with regard to conveying objections to the Council. I would suggest that there is an obvious conflict of interest on your part. Surely, even in these days of cut backs, there still has to be a due and proper process in which a fair hearing can be given to opposing views.

Tisbury Footpath Club members cherish their long held public rights of way and will strongly object to this unnecessary proposed diversion, which is also a waste of public money, when the only reason for it appears to be that your clients at the Priory see it as an inconvenience to them. May I respectfully suggest that this should have been considered before they moved into the property.

Regards,

Stephen Moody.

Moody.

Mike Walker

From: Tisbury Parish Council [REDACTED]
Sent: 08 September 2016 13:43
To: [REDACTED]
Cc: Alison Hill; Wardour School
Subject: Footpath B3 Diversion

from Mrs S. Harry - Clerk to Tisbury Parish Council

Dear Mr Walker,

Just letting you know that the PC discussed this diversion on Tuesday last. There was a lot of public representation made, but P.C.nllrs only discussed the proposed diversion and not the process itself.

Although there was some sympathy with the school's position, there was a general feeling that the privacy issue at The Priory was, in part at least, due to the removal of the beech hedges. The proposal to allow the school children the continued use of the existing footpath route was welcomed however.

There were also concerns about the increased distance of the proposed path and the proposed use of a road that forms the main access to the very popular Wardour Castle that is regularly trafficked, not only by tourists, but by a great deal of agricultural traffic; so increasing the risk to the footpath users.

Following a discussion of the above points therefore, Parish Councillors resolved not to support the proposed diversion.

regards,
Sandra

We are only staff but Parish Clerk works part time and there may be a delay in responding to your message.

This e-mail and any files transmitted with it are confidential. If you are not the intended recipient, please do not disclose, copy or disseminate it. If you are not the intended recipient, please do not disclose, copy or disseminate it.

Photographs

A Existing Route

(i) Walking from Point G towards the house



(ii) Passing the house at Point F



(iii) Point F towards Point E



(iv) Double pedestrian gates where the path crosses driveway at Point E



(v) Gate at entrance to school at Point D



(vi) Path passes behind school buildings between Points D and C



(vii) Enters playing field approaching Point C



(viii) Crosses school playing field between Points C and B



(ix) Passes along school drive between Points B and A



B Proposed Route

(i) Passing along 2m wide grass verge between Points A and H



(ii) Crossing open field with views between Points J and H



(iii) Entrance to field at Point J



(iv) New path to be levelled and pass alongside hedge between Points G and J



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APPENDIX C

Highways Act 1980 s.119
The Wiltshire Council Parish of Tisbury Path No. 83 Diversion Order and Definitive
Map and Statement Modification Order 2017

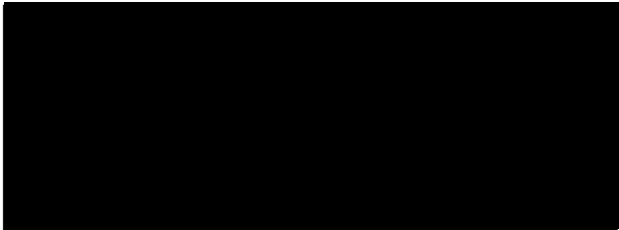
LIST OF DULY MADE OBJECTIONS TO THE ABOVE ORDER

NB Objections numbers 1 to 30 were forwarded to the applicant for comment on 30 June 2017. Owing to a filing mistake an additional 3 duly made objections were omitted. These have been included in this list as 31, 32 and 33 but it is noted that their date of receipt precedes the others in the list.

No	Date received	Name
1	02 June 2017	Bill Riley
2	08 June 2017	West Tisbury Parish Council
3	07 June 2017	Roger Walker
4	10 June 2017	Janet Amos
5	11 June 2017	Joanna Harrisson
6	11 June 2017	Dr Mary Myers
7	12 June 2017	J A Murphy
8	12 June 2017	K Ashbrook Open Spaces Society
9	12 June 2017	Wardour Chapel Trust
10	12 June 2017	Honoria Connolly
11	13 June 2017	Anthony Connolly
12	15 June 2017	Bea Corlett
13	15 June 2017	Norman Martin
14	14 June 2017	James Ryan
15	14 June 2017	Mrs A Rowe
16	14 June 2017	Barbara Farrell
17	15 June 2017	Gillian Hooper
18	15 June 2017	Mrs Alex Ward
19	16 June 2017	Pamela Chave
20	17 June 2017	Tisbury Parish Council
21	16 June 2017	Tisbury Footpath Club
22	19 June 2017	Tim Martin
23	19 June 2017	J and K MacDonald
24	19 June 2017	Mercy Sword
25	19 June 2017	Ambrose Connolly
26	16 June 2017	Alan MacDermot
27	18 June 2017	Emily Toynton
31	22 May 2017	Denise Lindley
32	22 May 2017	Jeremy Hooper
33	26 May 2017	David Lacey

Received after the deadline i.e. not duly made

28	21 June 2017	Christopher Riisager 6PE
29	20 June 2017	Sarah Russell
30	20 June 2017	Luke Hughes



①



OBJ (B)
Recd & Ack.
26 May 2017

Sally Madgwick

25th May 2017

TUCKINGMILL TISBURY SP3 6

Rights of Way Officer

Wiltshire Council

Dear Sally

Re Proposed Diversion of Tisbury Footpath 83

I am writing to object to the proposed diversion of this path though I would support moving the northerly start to point H as shown on the application .

I also welcome removing any diversion from the road. It would seem that a satisfactory compromise would be to follow the course H-C-D-E-F-G. (plan enclosed)

Justification on grounds of a better view and better privacy/security in requesting a diversion really has no validity. Living in a rural area better security is enhanced by good relations with your immediate neighbours rather than moving a path.

What is particularly worrying is somebody constructing a new garden across a footpath and then complaining that the path invades their private space .

Apart from my comments on Equality Impact the remainder of my response needs to be read alongside Mike Walkers report

If you have any queries please give me a call

Yours sincerely

David Lacey

②

Re The Proposed diversion of Tisbury Footpath 83

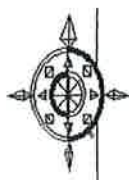
Before moving on to Mike Walkers report I should just like to comment on the summary section 8 "Equality Impact"

The proposed diversion initially crosses a paddock from H to J on the plan. Anybody in an electric buggy or scooter would find it difficult to negotiate the paddock as would a parent with a child in a pushchair. Talking last weekend to a mother with a son who is wheelchair bound she informed me that livestock tend to be fascinated and can surround a buggy which can be quite intimidating.

If the Council is going to pay more than lip service towards equal opportunity between people that have a disability and people who do not then they need to make a start somewhere and I would suggest when a new path is created would be a good place to start.

If the path was graded with a fence on both sides it would be a possible but not very satisfactory solution. Altering the route from H to follow the hedge line along C-D-E (plan enclosed) and finally the original path to point G. would seem a more practical route and a temporary stock fence could be installed if required.

Mentioning the gates on the original route as 4 and the new route as only 2 does seem a little disingenuous. Assuming the hedgerow is retained and the proposed new path runs on the property side of the hedge the Taylors are probably going to require gates at J on both sides of the driveway and G for security and to keep out wayward dogs. It should be noted that on the existing route one of the gates can easily be pushed open by a toddler

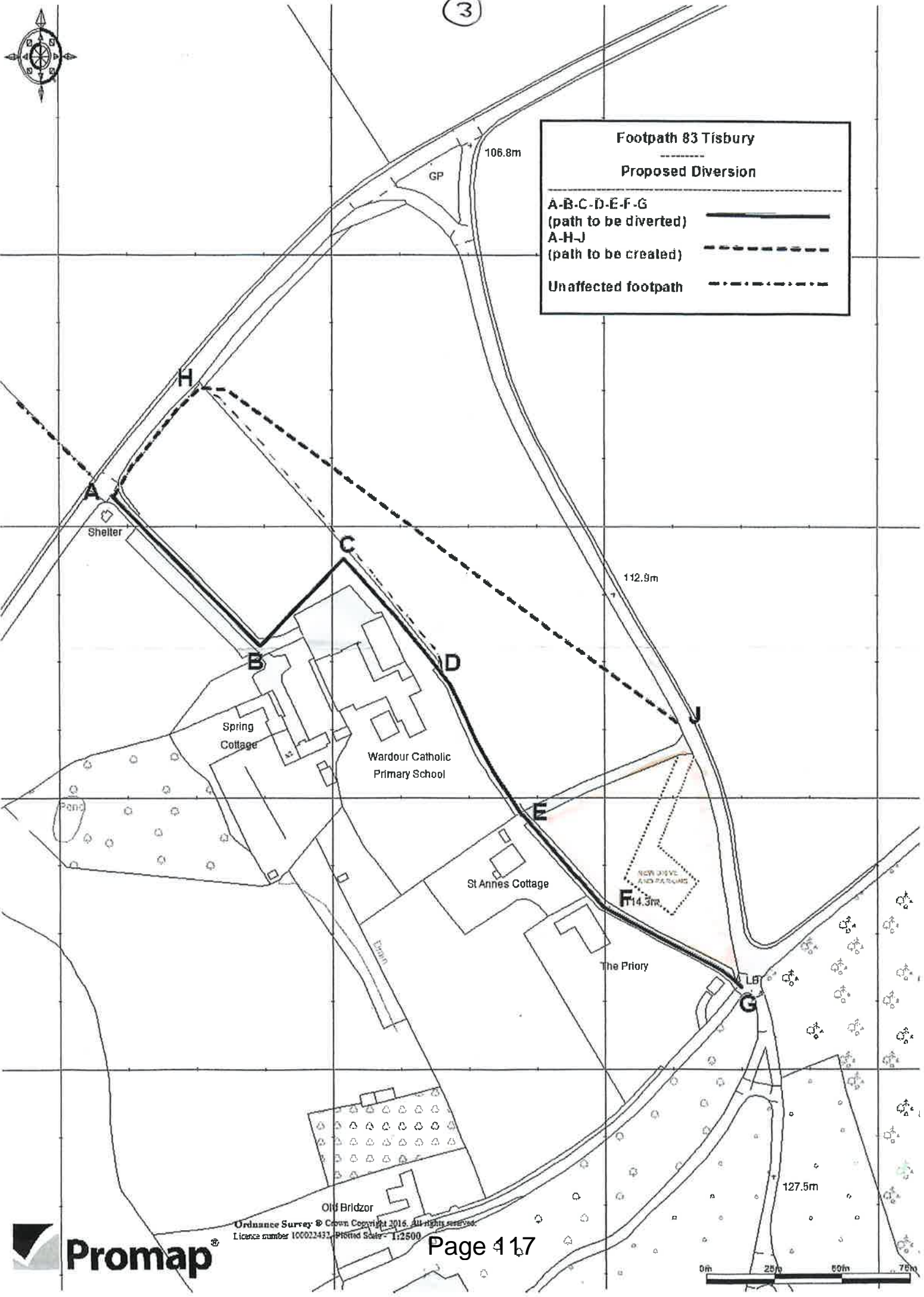


3

Footpath 83 Tisbury

Proposed Diversion

A-B-C-D-E-F-G (path to be diverted)	
A-H-J (path to be created)	
Unaffected footpath	



Shelter

Spring Cottage

Wardour Catholic Primary School

St Annes Cottage

The Priory

Old Bridzor

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Licence number 100022432. Printed Scale - 1:2500

Mike Walkers Report

1/ I think that there is widespread support for starting the path at point H. However, a more acceptable route from point H is to follow the hedgerow on the right passing points C-D to E and then continue the existing line of the path to point G.

The Consultation

3 ii Supporters This whole area is attractive and the "far more interesting outlook and better appreciation" is pure bunkum.

Non local walkers could well feel uncomfortable crossing in front of the house and I have to concede that the Taylors have carried out their transformation of a paddock to a parking area and garden, for which I assume they obtained planning permission, both skilfully and tastefully.

Local walkers are not uncomfortable just annoyed that an intimate hedge lined path has been opened up in such a manner.

4 The Wessex Ridgeway

The route of this long distance path was being researched in 1986 by Stan Marriott of The Ramblers Association and he noted that the section A-B-G was a well used path. Because the status at that time was not clear officially the authors decided to route the path along the road route. The uncertainty regarding the status of the path was resolved in 1997 when the present route was confirmed.

I have used the path regularly since 1972 and it is my opinion that any confusion concerning the path was an administrative muddle and not of actual usage.

5 Commentary

2 I just don't buy that the proposed new route is more scenic when the whole area is lovely and of course this is all very subjective.

3 Hedges are a fundamental method in the countryside of ensuring security and privacy. If in a small hamlet owners choose to remove a hedge then obviously their privacy could well be jeopardised.

Regarding maintenance this is, of course,

something that all hedges require and further along the path the Taylor household clearly make an excellent job of it.

5 The School is in a difficult position as it is keen to have the path diverted away from the playground. However I gather the school would still prefer to take the traditional route up to the Chapel if possible.

6 Sadly dog problems would not be entirely removed just moved away from the school which is certainly worthwhile.

6 The Legal Tests

ii The new route would inconvenience householders in the two residences adjacent to the school who wish to attend services at Wardour Chapel.

I have already questioned the number of gates in these notes

8 The Equality Act

See my previous notes

9 The original path did not pass through a garden it is the way that the new owners have developed a former paddock ,I assume with planning permission, that gives this impression now. Surely this is a dangerous precedent which could allow people to do almost anything and then get retrospective approval.

OBS 32
Add recd 26
May 2017

To: Rights of Way Officer
Wiltshire Council
Trowbridge BA14 8JN

[REDACTED]
42 Wardour
Tisbury
Salisbury SP3 6 [REDACTED]

ref: 2017/06 TISB83

25th May 2017

FAO Sally Madgwick

Dear Madam,

Re: Application for Diversion of Tisbury Footpath No: 83

I object to the Proposed Diversion of the historic route. It is unacceptable, as it contradicts the Order made following the report to the WCC ROW & Commons Sub-Committee of 17th April 1996. This was based on the then recent Public Inquiry by Her Majesty's Inspector, which approved the definitive route.

Yours Truly,

[REDACTED]

Jeremy Hooper

Denise Lindley
■ Churchill Estate
Tisbury
Salisbury SP3 6■

OBJ (31)

Recd
25 MAY
2017

S Madgwick
Rights of Way Office
Wiltshire Council
Bythessa Road
Trowbridge
BA14 8JN

Tisbury Path 83 Objection

22 May 2017

Dear Ms Madgwick

I would like to object to the notice to divert Tisbury Path 83.

It is not acceptable that this ancient footpath is rerouted because the footpath passes the Priory, which is basically what this is about.

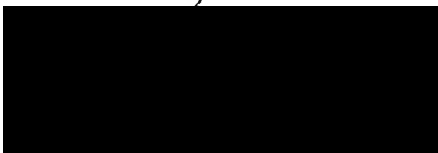
I would just like to say that there has been no public consultation on this matter and it appears that it is just being pushed in through the back door with the hope that no body will object.

Well I'm objecting and Tisbury Footpath objects too.

I am not going to sit by so that the owners of the Priory can try to get their own way when the footpath was there well before they arrived.

You must listen to what the local people want.

Yours sincerely
Denise Lindley



29
LATE

Roberts, Ali

From: Sarah Russell [REDACTED]
Sent: 20 June 2017 09:01
To: Madgwick, Sally
Cc: Roberts, Ali
Subject: Ref: 2017/06 TISB83

I am writing as a long time resident of Wardour, to oppose the application to modify the footpath which goes from Wardour Catholic Primary School , up past the Priory , and on to Wardour Chapel .

I live beside the School and use this footpath everyday (sometimes twice) and have done so for the past 31 years . The present owners of the Priory, who have instructed Mr Walker to negotiate to change it, must have known that this was a footpath when they bought the property.

There was a full public enquiry in 1998 when someone previously tried to change it, surely it would be a terrible waste of public money, and make a nonsense of the whole procedure, to go through this again, just because a consultant has been employed to change things.

The present owners of the Priory removed the hedges from the footpath, and made an access across what was a field, from the road to their front door , so have made themselves more insecure (if security is an issue with them) it has nothing to do with the route of the footpath , which has been there for hundreds of years .

It would be a shame to our Country if we allow our old traditions to be altered by people, just because they have the money to manipulate things.

Regards ,
Sarah Russell (Mrs)

Sent from my iPhone

Received - 21/06/17

To Sally Madgwick

R.O.W. officer,

Wilts. County Council.

Bythe Sea Rd.

Trowbridge BA14 8JN

28

LATE

Ref 2017/06 T15B83

I am writing to object to the proposed change to the footpath at Wardour on the same grounds raised at the previous enquiry 15 or so years ago, when the inspectors found in favour of its present position as an established R.O.W.

Also on the grounds that the owners of the convent or 'Priory' knew of the rightful existence of the footpath when they purchased the property.

yours faithfully Christopher Riisager

West Hatch, Tisbury WILTS SP30

Received 20/06/17.
Ascot Court.
18/6/17 Country Hall

For the Attention of: Sally Madgwick

OBJ
27

[Redacted]
ourne Road
Bromley
Kent BR3 9 [Redacted]

15th June 2017

Ref: 2017/06 TISB83

Dear Sally,

I wish to submit my objection to a request to change the route of the footpath, Ref: 2017/06 TISB83

This is a footpath that I have used for 50 years.

It allows a safe route, avoiding an increasingly busy road with poor visibility, for all the local community. The proposed route would take the path onto the road. This is particularly worrying, when considering the safety of children and elderly people, who may be vulnerable if having to negotiate a stretch of road, that can be busy with heavy farm machinery, and traffic travelling to both New Wardour Castle, and Old Wardour Castle.

My objection is on the grounds that it creates a potentially unsafe route for residents of Wardour and other people walking the footpaths for pleasure as well as access, due to the dangers posed by cars and farm machinery on the proposed route.

Best Wishes,

Emily Toynton

[Redacted Signature]

Roberts, Ali

OB 3
26

To: Alan MacDermot
Cc: Madgwick, Sally
Subject: RE: PPO enquiry re 2017/06

Dear Mr MacDermot,

s.119 Highways Act 1980 and s.53 Wildlife and Countryside Act 1981 – The Wiltshire Council Parish of Tisbury path no.83 Diversion Order and Definitive Map and Statement Modification Order 2017

Thank you for your email in objection to the above mentioned public path diversion order. Just to confirm the safe receipt within the formal objection period.

This matter is being dealt with by my colleague, Sally Madgwick, who is now on leave until Tuesday 27 June. On her return to the office Sally will be giving full consideration to all responses received within the formal objection period in a report to the Southern Area Planning Committee, details of which will follow in due course.

Kind regards,

Ali Roberts

From: Alan MacDermot [mailto: [REDACTED]]
Sent: 16 June 2017 23:06
To: rightsofway
Subject: PPO enquiry re 2017/06

PPO enquiry re 2017/06 in RoW PPO <http://www.wiltshire.gov.uk/row/ppo/getppo.php?id=6195>

Since the proposed change of path is no longer shown on the website it is not clear whether this application has been withdrawn. If not then I wish to object to it most strongly.

The diversion that has been talked about would force a public footpath onto two busy roads. The path is a component of the Wessex Ridgeway

2 The existence of the footpath was established earlier this century in a public enquiry that showed that the path had been used as a footpath for decades. The enquiry was triggered when a local resident found the path blocked for the pram carrying her twins. They would have been forced to travel on the road.

3 The applicants have involved the local primary school (of which I was once vice chair of governors) by offering them a permissive right to cross their land. This of course would lapse if their house changed ownership. The school is in effect being blackmailed by OFSTED because the existing path runs along their sports field; but the children are supervised and I have not heard of any incident in the nearly two hundred years that the school and footpath have coexisted

4 The applicants bought their house recently in the full knowledge that a footpath ran past their front door.

5 It is always wrong to change or extinguish a footpath frivolously. Walkers depend on the maps to use the countryside. Other local residents depend on the footpaths for access and communication

Alan MacDermot

West Hatch

Salisbury SP3 6

OBJ
25

From: Connolly, Ambrose [REDACTED]
Sent: 19 June 2017 19:11
To: rightsofway
Subject: PPO enquiry re 2017/06

PPO enquiry re 2017/06 in RoW PPO <http://www.wiltshire.gov.uk/row/ppo/getppo.php?id=6195>

2017/06 TISB83

Dear Sally Madgwick,

I wish to object to the proposed diversion and highlight the following points.

1.

The proposed changes would inconvenience the residents of St. Anne's Cottage as well as those at Old Bridzor. The diversion would be substantially less convenient to the public but more importantly much less safe.

2.

The Inspector established this footpath in 1997 following a local enquiry when Wiltshire Council referred the matter to the Secretary of State

[Wildlife and Countryside act 1981 section 53 Wiltshire county council (ST92NW) (TISBURY 83) RIGHTS OF WAY MODIFICATION ORDER NO 7 1997]

The establishment of this footpath was supported by;

Salisbury District Council, The Council for the protection of Rural England, The open Spaces Society and The Ramblers Association.

The evidence of 96 individuals confirmed the footpath had been used openly and without challenge for access to the school, for pleasure and recreation, for gaining access to the chapel situated in new Wardour Castle, for visiting the former shop, now a private residence, and for access to the bus stop on the main road. Such use was documented from 1911.

A path along this route has been in place on maps (including O.S.) since 1834.

It is therefore astonishing this that proposal is being considered by the Council once again. The proposed diversion of this historic path differs only in detail from the proposals made in 1994-1997.

3.

I feel it is important also to draw attention to this point of law:

“Factors such as property security, suitability, necessity or property value should not be considered as the 1981 Wildlife and Countryside Act does not allow for such opinion to be taken into account.”

Wiltshire County Council Rights of Way & Commons Sub-Committee - 17th April 1996 Agenda item no 14. Points of Law 25.

In conclusion, I fully believe the proposal of this footpath threatens the culture of community in Wardour, dating back as far as 1834 and no doubt before. Safety appears to me to be the main issue at stake here. For residents, ramblers, Castle visitors and most importantly School children the proposed changes pose a safety issue.

Short-term considerations should not threaten the right of school children to the use of the path in perpetuity. Any safety concerns the school might have regarding the lower stretch of the footpath should undergo further consideration in order find a safe longer lasting arrangement that does not put members of the public (including school children) in unnecessary danger. As a former pupil of the school, I benefited from the footpath that provided me and my brothers and sisters with safe passage to and from Wardour Catholic Primary School over a period spanning 24 years.

Finally, the proposal shows a lack of regard for the general public in favour of a private entity. This marks yet another small contribution no doubt to the privatisation that is fast becoming a hallmark of life in Britain.

Thank you for your time and consideration.

Yours Sincerely,

Ambrose Connolly

Received 19/06/17.

083
24

Sally Madgwick
Rights Of Way Officer
Wiltshire County Council
Bythesea Road
Trowbridge BA14 8JN

Mercy Sword

██████████ anby Street

London SE15 4██████████

15 June 2017

Dear Sally,

Ref 2017/6 TISB83

I am writing to object to the order to divert the footpath Tisbury no 83.

My objections are as follows:

1. The proposed new path will add a much greater distance to the path between Spring Cottage, where I visit my parents regularly, to the gates of New Wardour Castle (point G on the Order plan).
2. The new proposed path between points A and H on the Order plan involves walking on the verge of a road, where it is difficult to see oncoming traffic ~~is~~ and this will be dangerous, particularly for my young children.
3. It is discriminatory to allow an agreement whereby children from Wardour Primary school will be able to continue to use the old route past The Priory, but not for children who do not attend the school; and not children who are walking outside of term time from family at Spring Cottage (next door to the primary school) to Wardour Castle

I hope these objections will be taken into account and look forward to hearing the outcome.

Yours sincerely,

████████████████████

Mercy Sword

Madgwick, Sally

OBS
23

From: John McDonald [REDACTED]
Sent: 19 June 2017 13:31
To: Madgwick, Sally
Cc: Roberts, Ali
Subject: Wardour Footpath No. 83 - Ref: 2017/06 TISB83
Attachments: Wardour footpath 5.9.16.docx

Dear Madam,

Please would you register our objection to the revised proposal for the diversion of the public footpath at The Priory, Wardour.

My wife and I sent a letter to Tisbury Parish Council objecting to the diversion proposed last year: I attach a copy of that letter. I regret to say that the concerns that we expressed in that earlier letter have not been adequately addressed in the revised proposal.

In particular, the revised proposal only provides for a *permissive* right of way for Wardour School across the land. That would allow the present or any subsequent owners of The Priory at any time to revoke that permissive right of way, without any need for planning permission, without the agreement of Wardour School, and without any local consultation. That would leave the children, staff and parents from the School to have to make a much longer journey, partly on the busy public road, when walking up to the Chapel at New Wardour Castle. It seems that those presently responsible for the School do not realise these potential consequences. In any event, the Council has a responsibility – as education authority – to ensure the safety of children attending publicly funded schools in its area, and it would be inconsistent with that duty to permit a state of affairs which could expose children and others to danger in the future.

In addition, many local people, ourselves included, use the footpath in its present route. We would not even be allowed to use the proposed “permissive” route across the land, which would leave us having to make a longer journey than previously.

The present owners of The Priory must have known, when they recently bought the property, of the contention caused by its proposed diversion about 20 years ago, which culminated in a planning enquiry at which all the issues were aired, and the then application to divert the footpath rejected. Nothing has changed, and so the present proposal should be rejected.

Yours faithfully,

John & Katharine McDonald

John McDonald MA FRSA FCI Arb
Barrister & Arbitrator

[REDACTED] Temple Gardens, Temple, London, EC4Y 9 [REDACTED]

Tel: +44 (0) 20 [REDACTED]
LDE: Chancery Lane 134

DD: [REDACTED]
Fax: +44 (0) 20 [REDACTED]



[REDACTED]
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Wardour, Tisbury, SP3 6

To the Secretary, Tisbury Parish Council

Dear Secretary,

We have been passed a copy of a letter dated 19th August 2016 from a Mr. Mike Walker to “the Ramblers” about the proposed diversion of what is apparently called “Footpath No. 83”, ie the footpath leading from Wardour Primary School towards the gates of New Wardour Castle.

As full-time residents of Wardour for almost 23 years, who live only a couple of hundred yards away and often use the footpath, we were very surprised not to have been consulted about this, and would invite you to ask Mr. Walker why he did not consider us and other nearby residents worthy of consideration. Indeed, it seems rather strange that the Parish Council is being invited to consider a proposal before any local opinion has been sought.

We were sorry to learn that the contentious and divisive proposal to divert this footpath has been revived. Those of us who lived here then remember only too well the previous proposal (less than 20 years ago), which culminated in a public inquiry in which parties were legally represented, the issues fully canvassed and a clear decision in favour of the status quo was reached. We are surprised that Mr. Walker makes no mention of this matter in his letter: if he was aware of the previous application, he should have referred to it; and if he was not aware of it, this suggests he has not done his homework properly. The existence of the footpath across their land (and the previous regrettable litigation about it) must have been known to the present owners of The Priory when they recently bought the property.

On the substance of the application, we do not think it is a good idea for school children from Wardour School – who use the footpath to go to a service at Wardour Chapel each Tuesday – to be required to walk on two public roads for part of their journey. They would have to walk down the school drive from letter B to letter A on Mr. Walker’s plan, and thence from letters A to H on Mr. Walker’s plan on the Tisbury to Shaftesbury road, across the middle of a paddock, and thence from letters J to G on the road leading to Old and New Wardour Castles: both these roads are busy these days, with a lot of traffic going to New Wardour Castle and Wardour Court, to say nothing of farm traffic and tourists visiting Old Wardour Castle. All three of our children were at Wardour School, and we would not have been at all happy with the proposed route. It is certainly not “substantially as convenient to the public” within the meaning of section 119(2)(b) of the Highways Act 1980, which is the test which must be satisfied if a diversion is to be allowed, since it would be far longer for the school children, staff and accompanying parents to have to walk, and considerably more dangerous for them.

Even if there were (as we understand to be the suggestion) an informal agreement between the School and the present owners of The Priory that it could continue to use the existing footpath on Tuesdays, this would have no legal effect and could be revoked by a successive owner of The Priory, thereby requiring the children to walk a much longer and more dangerous route. We wonder whether Wardour School has really understood the implications of the proposal, which appears to be more for the benefit of the residents of The Priory than anyone else.

Could we suggest that – if the footpath is to be diverted at all – it goes from letter A to H on Mr. Walker’s plan, and then to letter C (and then on to G): this would route the footpath off the School grounds, but children and others from the School could continue to access the path at letter D, and thereby avoid having to walk on either of the roads. But really we can see no need for the footpath to be diverted at all.

Yours faithfully,

Madgwick, Sally

OBS
22

From: Anne & Tim Martin [REDACTED]
Sent: 19 June 2017 09:24
To: Madgwick, Sally
Subject: Diversion of Tisbury Footpath 83 - Ref 2017/06 TISB 83

Dear Ms Madgwick

I wish to register my own objection to the proposed diversion of Tisbury Footpath 83. My objections are aligned with the points set out in the letter of objection to you from Tisbury Footpath Club dated 16 June 2017, which has already been lodged with you. I shall not repeat the points!

Many thanks

Regards

Tim Martin

[REDACTED]
High St

Ansty

SP3 5 [REDACTED]

Tisbury Footpath Club

Sally Madgwick
Rights of Way Officer
Wiltshire Council
Bythesea Road
Trowbridge
BA14 8JN

[REDACTED]
High Street
Ansty
Wiltshire
SP3 5[REDACTED]

16 June 2017

Ref 2017/06 TISB83

Dear Ms Madgwick

Tisbury Footpath 83 Diversion Order

I write to you on behalf of Tisbury Footpath Club, having consulted our membership on this footpath diversion. Our current membership this year is 65 paid members.

There was a clear response from members that whilst they would support a scheme that separates the footpath from Wardour Primary School, they are vehemently against the currently proposed diversion. No member expressed support for the proposed diversion and where support was expressed during the initial consultation, this is no longer the case.

The proposed diversion was discussed at Tisbury Parish Council on Tuesday 6 June 2017. At the meeting, just one person spoke in favour of the proposed diversion and that was on behalf of Wardour Primary School with the aim of not having the path passing through the school's grounds. It was noted by the Councillors present, that although the diversion supporter explained the potential risks with the current arrangement, the School had not thought it sufficiently serious to take any action themselves to separate the path from the school. The main reason given for not taking action previously was that they did not want to upset their neighbours.

The Footpath Club suggested at the meeting that there were other options to separate the footpath from the School, which would not attract the current objections and the Footpath Club would support. As a result of these representations at this Council meeting, it was resolved that there should be discussion between the School and the Footpath Club to see how this could be achieved.

Turning now to the content of the Order, we submit our comments as follows:

The first test provided by the legislation is the requirement to demonstrate that in the interests of the owner, (The Priory) it is expedient that the line of the path is diverted. We would suggest that IF it has become expedient it is only because of their own actions of removing the hedges and also building out into the path. This is self inflicted expediency.

The second test requires that the proposal must not be substantially less convenient to the public. Taking this contrived route diagonally across the field and then around the field perimeter is substantially less convenient.

In addition, starting from the road by the substation you cannot see the path destination. In these situations the path is undefined, because walkers will take slightly different alignments and a worn path is not established. This will also substantially reduce disabled access.

Tisbury Footpath Club

Walkers will not want to take this route if the field is full of cattle or horses. In this situation most walkers will want to take a route along a boundary. They feel and are more secure.

For these reasons the proposed alignment is substantially less convenient and substantially less desirable.

The third test is in relation to the enjoyment of the re-routed path. This we feel is substantially diminished for the following reasons:-

Firstly, there is the loss of the historical context of the School, Priory and Chapel, which is a well documented issue. The path served these communities and remains relevant today to many people.

Secondly, walking is not just about big views. We are very fortunate that there is no shortage of these in Wardour and Hatch. But you need variety of settings, changes in environments, different habitats to see different species of birds, different wild flowers and butterflies. The existing path provides part of that variation. Taking out the hedge was dumbing down the experience, diverting the path across the field is further diminution and, walking amongst cattle and horses for most people takes away the enjoyment.

In conclusion, our analysis shows the proposed routing of the path fails all these tests. Furthermore, we feel that if the path was in the proposed position, it would be expedient to re-route it back to its current position.

Our review of the papers relating to this Order has identified a process which is dubious, lacks rigour, contains incorrect facts, contains false assumptions and therefore has unfounded conclusions. It would be wrong to proceed with a decision on this flawed basis. We have not checked the documents for every error, but we have found sufficient to demonstrate our conclusions as follows:-

- 1) The Covering page for Decision Report produced by Wiltshire Council states in point 2) "The application is made by the Priory and is supported by the other affected property holders." This is factually incorrect and misleading as the immediate neighbours to the Priory at St Anne's cottage next door are absolutely against this application and made their case publicly at the above Parish Council meeting on 6 June 2017. The next neighbour Jeremy Hooper of School Cottage also spoke strongly against the application at the above Parish Council meeting. The fact that the Council's summary can be factually so incorrect on such a fundamental point is of serious concern. Whether this is due to incorrect information being fed from the applicant's consultant or an error by the Council, is unclear.
- 2) The Covering page for Decision Report produced by Wiltshire Council states in point 3) "The consultation was conducted by the applicant's agent under the auspices of Wiltshire Council." We are concerned about the oversight of the applicant's consultant's independent consultation. Responses were only to be sent to the applicant's consultant and not as you would expect, to the council also, to ensure some integrity of procedure. We can advise that some of the objections raised and submitted by our members are omitted from the consultant's submission.
- 3) The Covering page for Decision Report produced by Wiltshire Council states in point 4) "A full report has been submitted to the Council and is presented here. It is considered that it has fully addressed the responses that were received." Whilst it may have addressed all the

Tisbury Footpath Club

responses received by Wiltshire Council, it has not addressed all the responses submitted to the consultant, as some of these appear to have been lost on the way.

- 4) The Covering page for Decision Report produced by Wiltshire Council states in point 5) "It should however be noted that the proposed diversion generated an unusual amount of correspondence and interest for a diversion." This suggests that Wiltshire Council do not appreciate the significance of this footpath and pre-judged incorrectly its significance to local people.
- 5) Paragraph 3.ii of the applicant's consultant's report by Mike Walker advises that there is a considerable number of letters and emails in support of the application, in excess of 30. If you look at these in the Appendix you find that 20 of these are a standard paragraph provided on behalf of the school for parents to request a short cut arrangement for them, if they pledge their support to the application. Others are from people some distance from Tisbury and whilst they have a view, it is not the view of local and regular path users. The support for the proposal should not be judged on the headline numbers, which are misleading.
- 6) If you then consider the loss of some objection letters, you begin to appreciate that the balance of responses is not being fairly represented by the applicant's consultant.

I believe we have made sufficient points to substantiate our position, firstly in relation to the routing of the path and secondly in relation to the flawed consultation and decision process. We feel that this is more than sufficient to demonstrate that the Council should not proceed with this Order.

Yours sincerely


Tim Martin
Chairman – Tisbury Footpath Club

TISBURY PARISH COUNCIL

Clerk to Council: Mrs Sandra Harry
The Reading Room, High Street
Tisbury, SP3 6LD
email tisburyipc@gmail.com

OBJ
20

17th June 2017

Fao Sally Madgwick
Rights of Way Officer
Wiltshire Council
(by email: sally.madgwick@wiltshire.gov.uk)

Dear Ms Madgwick,

Highways Act 1980 s.119


The Wiltshire Council Parish of Tisbury Path No. 83 Diversion Order and
Definitive Map and Statement Modification Order 2017

Thank you for the opportunity to comment on the above.
Parish Councillors discussed the revised proposals at some length having heard a number of views from members of the public; both for and against.
Eventually however, Parish Councillors voted unanimously to object to the Order as although the school had valid grounds (especially following Ofsted comments relating to safeguarding and health protection) in wanting the diversion, there was a substantial body of opinion that the section of the route running past The Priory was not warranted for any valid reason.

Two points in particular made supported this assertion:

- a. The beech hedging, formerly in place along the footpath, had been removed by the current owners thereby creating the lack of privacy.
- b. Statements made in the report were inaccurate, for example:
 - i. the support of other affected property owners - this appeared not to be true for the two adjacent property owners attending the meeting in order to object,
 - ii. references to a garden that is designated agricultural land.

Yours sincerely,



Mrs Sandra Harry - Clerk to Tisbury PC

Received 16/06/17.

OBJ
19

[REDACTED] Weaveland Road,
TISBURY
Salisbury,
SP3 6[REDACTED]

[REDACTED]

14th June, 2017

WILTSHIRE COUNCIL
County Hall,
Bythesea Road,
TROWBRIDGE.

For the attention of Sally Madgewick, Rights of Way Officer.

Re: Footpath No.83 situated at Wardour.

I wish to protest strongly against the proposed diversion of the above mentioned footpath which has been used for many years by the children of Wardour School to worship at the Chapel at Wardour Castle. Also people used to walk to the Chapel from Newtown in the past – unfortunately they are no longer with us – but were able to give evidence in the 2005 enquiry when the path in question was finally acknowledged as a public right of way and given the No.83.

When people buy a property they know from the deeds that a path exists, so why try to change it?

I have been secretary of the Tisbury Footpath Club since 1979 and we have regularly used this path.

Yours faithfully,

[REDACTED]

Pamela Chave

Received 15/06/17 - JG.

Sally Madgwick
ROW Officer
Wiltshire Council
By the Sea Road
Trowbridge
BA14 8JN

■ River's Edge
Charlton Marshall
Blandford
DT11 9 ■

OBJ
18

13 June 2017

Ref: 2017/06TISB83

Although I do not live in Wardour, my sister and her husband do and have done so for many years and I am a frequent visitor to their house.

The objections I have for this diversion request are as follows:

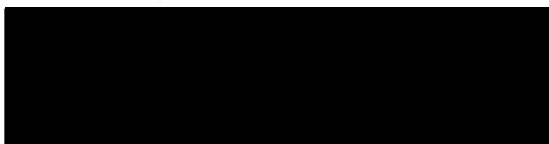
This diversion request was ruled against in 1997 after an extensive enquiry and hearing. It is an ancient public right of way added to the Definitive Map by Modification in 1997 and has been used for years as a link between the catholic school, local catholic residents and the chapel.

The applicants were fully aware when they bought the property of the existence of the footpath and are now choosing to overturn the 1997 ruling for their own interests not those of the local community.

Security to the pupils in using the footpath is totally unfounded as they are always accompanied by an adult.

The proposed route is longer and less convenient for users.

Yours sincerely



(Mrs) Alex Ward

Received - 15/06/17 - JG.

Wiltshire Council
Trowbridge
BA14 8JN

████████████████████
Wardour
Tisbury
Salisbury SP3 6████████

OBJ
17

14th June 2017

Ref. 2017/06 TISB83

PROPOSED DIVERSION OF TISBURY FP 83

Dear Sally Madgwick,

I wish to object to the proposed diversion of this Footpath on the following grounds:

1. The current path is an historic route, as the applicants, Mr and Mrs Taylor and their Consultant know. It is shown on old maps and OS maps since 1834. There are also unrecorded paths linked to it shown on OS maps from 1886,1900,1923,1958 and1959. There are cobblestones on the surface of the path by the school, north of St. Annes cottage.

2. Our family have lived in Wardour since 1968, our house is adjacent to the school. We used the path almost daily with 6 children at Wardour School, and later, when they caught the bus at point A on your map, to get to school in Shaftesbury. We use it to walk to the Chapel in New Wardour Castle, to the Old Castle, to the post box- point G, and for general walking.
I dispute the claim that the proposed new route is being defined as no longer than the old one. It is considerably longer for us and our neighbour in Spring Cottage. We would have to go down the school drive to point A, instead of our present route across the school field, past St. Annes and the Priory to point G.

3. There are no strong arguments that it is expedient (and expedient does not mean essential) for the Taylors to divert the path in front of their house. None of the former owners have sought to divert it. Even the "contentious issues" mentioned, regarding the path's status in 1998, were not over the diversion of the route, but over the route being Permissive, rather than a Public ROW and the ROW Status was confirmed by HM Planning Inspector after a public Inquiry.
The privacy and security the Taylors seek is a luxury, not a right. There must be thousands of houses with less than 2 metres between their front doors and windows and a public path. They have in effect created their own perceived lack of privacy.

4. It is claimed that the proposed route would be more pleasant and scenic for footpath walkers. This is subjective. People cannot be ordered to prefer one view to another.

5. Wardour School has a large playground behind it, as well as the field in front where the footpath currently runs. As with the path past the Priory, I would like to know whether there has ever been an incident whereby a pupil was in danger or threatened in any way by a footpath user? Dog excrement is not going to be eliminated totally from school grounds by changing the route of the footpath. As any dog owner will know, dogs can roam. It is not only footpath walker's dogs who foul the ground. I note that Wardour School held a Dog Show on the front field one Sunday..... I think that the greatest danger to the school children, parents and walkers would be on the proposed route between points A and H. This is a narrow verge where parents park their not inconsiderable number of cars to drop and pick up children. In term time this can be very hazardous. The road is not wide there and is used by a lot of large farm traffic and fast driving commuters etc. the proposed site is hidden from drivers coming from the Tisbury direction by a corner on a hill. This is not obvious on the map, but locals are anxious about a potential accident there. Has the Highway Authority been consulted about the Proposed Diversion?

I look forward to hearing from you,

Yours truly,

A large black rectangular redaction box covering the signature of Gillian Hooper.

Gillian Hooper

Received 14/06/17 - J.G.

OBJ
16

Rights of Way Office,
Wiltshire Council,
Bythesea Road,
Trowbridge, BA14 8JN

10 June 2017

Attention: Sally Madgwick

Your ref: 2017/06 TISB83

Dear Ms.Madgwick

S. 119 HIGHWAYS ACT 1980 AND A. 53 WILDLIFE AND COUNTRYSIDE ACT 1981

Tisbury Path 83 Diversion Order – Objection

I am a local person who is concerned about the precedent that approval of the above Diversion would set. The house was bought with the knowledge that an historic footpath crossed their land in front of the house, separated from it by a thick hedge, which they then cut down. The owners now seek to have the Footpath diverted, claiming a lack of privacy.

To me this is an arrogant disregard for the ways of the countryside and the Council seems to be supporting the owners' approach. I object to this proposal.

Yours faithfully,

[Redacted signature]

Barbara Farrell

■ Castle View
Newtown, Tisbury
SP3 6[Redacted]

[Redacted address line]

Received 14/06/17-JG

████████████████████ Bridzor farm

wardour

Tisbury

WILTS

SP36



OBJ
15

Dear Ms Madgwick,

Re 2017 TISB83

public path diversion, wardour

I am writing to object to the above proposal. The reasons are as such;

- a. The path has been in situ for many years and ~~many~~ of the current owners purchased the property aware of the path.
- b. This is the important issue; As a resident of wardour I walk the paths/lanes at least twice a day. As the primary school is on the main road, the parents park their cars on the road, thus causing poor visibility to both pedestrians & road users alike. Therefore it appears to me, that the proposed

path diversion would mean exiting the field at a point in the road, where vision of the highway is at best obscured, particularly when the road is partially blocked by a vast number of 4x4 vehicles.

The potential for accidents involving children at that point is high during the peak school dropoff/ collection periods. Therefore to divert a path that provides a safe view point & access, directly into the field opposite via an established gate, to further up the road on a blind bend, with no direct access to the field, meaning pedestrians will have to walk along a busy lane with obscured vision appears at best flawed.

I therefore register my objection to this proposal on the grounds of road safety & the potential for injury to road user highway users. ~~to include~~

Yours Sincerely

Paul

Received 14/06/17. J/S

OB3
14

Sally Madgwick
The Rights of Way Officer
Wiltshire Council
Trowbridge
Wilts
BA14 8JN

[Redacted]
East Knoyle
Salisbury
Wilts
SP3 6 [Redacted]

11 June 2017
Your Reference:
2017/06 TISB83

APPLICATION FOR DIVERSION OF TISBURY FOOTPATH NUMBER 83

Dear Sally Madgwick,

- References: A. 2017/06 TISB 83
B. FPS/K3930/7/5 dated 4 Dec 1998

I am writing to object to the application to divert this particular path (see Ref A).

As you will be aware, there was a determination by Mr Coyne of the Planning Inspectorate in December 1998, that use by the public was sufficient to establish the implied dedication, for the purposes of Section 31 of the Highways Act (1980), & that the path is a public right of way. This notwithstanding the use of the path by those accessing adjacent properties (see Ref B, para 47).

This decision was reached following a public local inquiry at the Village Hall in Swallowcliffe, held over four days in September 1998. This included an on site investigation of the proposed footpath, and the surrounding area, on 17 September 1998 (see Ref B, para 1).

The reasons for the diversion given at Ref A, have not been, as far as I am aware, cited by previous occupiers of The Priory as concerns, either when the nuns were in residence, until 1964, or subsequently.

I feel that there is no justification for moving the footpath from its historic line adjacent to The Priory. I wonder on how many occasions anyone has reported that they have had their security threatened or violated as a consequence of finding that they live next to this footpath?

The Council will know that here in south Wiltshire we are fortunate to live in an area that has a low crime rate.

I would argue that the current owners of The Priory already enjoy far more privacy, and have greater security, than the vast majority of the population that live in towns and cities or, indeed, than many homes elsewhere in the Wiltshire countryside.

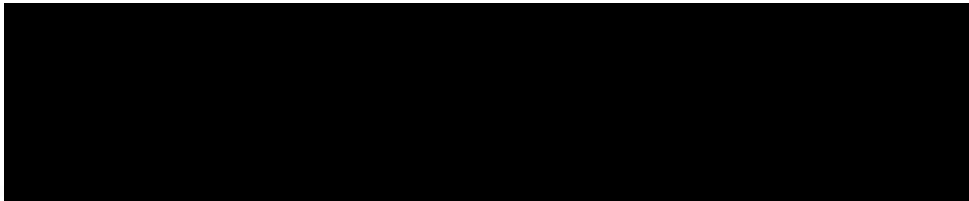
- The Inspector's report observes that the current footpath alignment has been shown on maps, including the Ordnance Survey, since 1834 (see Ref B, para 10). To allow this diversion would cause a break in this association with the landscape.

The proposed diversion would bring any footpath users in greater proximity with road traffic on what is a busy, & at times a congested thoroughfare. The road adjacent to Access Point H of the proposed diversion, above the bus shelter, has traffic, very often, moving at speed.

This is particularly so for those coming from the direction of Tisbury, where the topography of the road is not immediately apparent as vehicles pass Cemetery Lodge before meeting a drop in the road. This comes just after the triangle, below the Convent Hill, as road users approach Ashton Cottage.

I look forward to hearing from you.

Yours sincerely,



James Ryan

Roberts, Ali

OBS
13

To: Jane and Norman Martin
Cc: Madgwick, Sally
Subject: RE: Tisbury Path No 83 Diversion Order

Dear Mr Norman,

s.119 Highways Act 1980 and s.53 Wildlife and Countryside Act 1981 – The Wiltshire Council Parish of Tisbury path no.83 Diversion Order and Definitive Map and Statement Modification Order 2017

Thank you for your email in objection on behalf of the South Wiltshire Ramblers Group to the above mentioned public path diversion order. Just to confirm the safe receipt within the formal objection period.

As you know this matter is being dealt with by Sally, who is now on leave until Tuesday 27 June. On her return to the office Sally will be giving full consideration to all responses received within the formal objection period in a report to the Southern Area Planning Committee, details of which will follow in due course.

Kind regards,

Ali

From: Jane and Norman Martin [mailto: [REDACTED]]
Sent: 15 June 2017 12:57
To: Roberts, Ali
Subject: Tisbury Path No 83 Diversion Order

Ali

This is a copy of the objection that I emailed to Sally for your attention. Thank You.

On behalf of the South Wiltshire Ramblers Group I would like to object to the Diversion Order for Tisbury Path 83.

his path was claimed and confirmed in 1997 and since then has been very well used and has become part of the Wessex Ridgeway long distance footpath. The present proposal to divert the path means that walkers would be expected to walk on a public road between points H and A on the map of the new route. It is claimed that there is a wide verge for people to walk on but whatever is available it still makes this route more inconvenient for walkers. The present route does not require any walking along a public road with its attendant dangers. The Ramblers Association usually object to a diversion of a right of way that involves more walking on the highway, as a rule cars and walkers should be avoided on health and safety grounds. This is especially the case here with a narrow road, on which parents bring their children to school. Does anyone know how many car movements a day take place on this road?

The proposed route also does not meet up with the adjoining footpath, again making this route less convenient for walkers.

It is stated that the width of the new path will be 2 metres which is half the width of the present one again making it more inconvenient. The danger is that in future the landowners may attempt to fence the path in making it much more vulnerable to overgrowth as it would be very difficult to mow due to its width.

For all the above reasons we as a group of regular walkers in area object to this proposal.

Norman Martin

Joint Footpath Secretary
South Wiltshire Ramblers

Tel: [REDACTED]

0B3
12

Roberts, Ali

To: Bea Corlett
Cc: Madgwick, Sally
Subject: RE: TISB83 2017/06

Dear Ms Corlett,

s.119 Highways Act 1980 and s.53 Wildlife and Countryside Act 1981 – The Wiltshire Council Parish of Tisbury path no.83 Diversion Order and Definitive Map and Statement Modification Order 2017

Thank you for your email in objection to the above mentioned public path diversion order. Just to confirm the safe receipt within the formal objection period.

This matter is being dealt with by my colleague, Sally Madgwick, who is now on leave until Tuesday 27 June. On her return to the office Sally will be giving full consideration to all responses received within the formal objection period in a report to the Southern Area Planning Committee, details of which will follow in due course.

Kind regards,

Ali Roberts

From: Bea Corlett [mailto: [REDACTED]]
Sent: 15 June 2017 11:30
To: rightsofway
Subject: TISB83 2017/06

PPO enquiry re 2017/06 in RoW PPO <http://www.wiltshire.gov.uk/row/ppo/getppo.php?id=6195>

2017/06 TISB83

I would like to object to the proposed diversion of the footpath for the following reasons:

1.

When the applicant or the agent for the applicant, Mike Walker, initially contacted the community regarding this application he stated that he was acting on behalf of Wardour Primary School. This was, I am assured by the chair of governors of the school, not true. The evidence which he has collated and presented in support of this application must therefore be regarded as being premised on misinformation.

2.

This footpath was finally and definitively established by the Inspector in 1997 following a local enquiry when Wiltshire Council referred the matter to the Secretary of State

[Wildlife and Countryside act 1981 section 53 Wiltshire county council (ST92NW) (TISBURY 83) RIGHTS OF WAY MODIFICATION ORDER NO 7 1997]

The establishment of this footpath was supported by;

'Salisbury District Council, The Council for the protection of Rural England, The open Spaces Society and The Ramblers Association.

The evidence of 96 individuals confirmed the footpath had been used openly and without challenge for access to the school, for pleasure and recreation, for gaining access to the chapel situated in new Wardour Castle, for visiting the former shop, now a private residence, and for access to the bus stop on the main road. Such use was documented from 1911

A path along this route has been shown on maps (including O.S.) since 1834

I am consequently astonished that the community and the council is being asked to consider this matter again. The proposed diversion of this historic path differs only in detail from the proposals made in 1994-1997.

3.

The proposed changes would be a considerable inconvenience to the residents of St. Anne's Cottage which is currently served by the existing footpath and to residents here at Old Bridzor. The diversion would be substantially less convenient to the public.

4.

I would also like to draw attention to the following point of law:

"Factors such as property security, suitability, necessity or property value should not be considered as the 1981 Wildlife and Countryside Act does not allow for such opinion to be taken into account."

Wiltshire County Council Rights of Way & Commons Sub-Committee - 17th April 1996 Agenda item no 14. Points of Law 25.

This is a right of way that I and all of my siblings walked safely down to school on for many years. My children now use the same path to walk to the playing fields in the school holidays whilst visiting their grandparents and there is absolutely no way I would consider allowing them to walk down along the path in its proposed new form. This is an historic right of way established since at least 1834 and hasn't posed a problem before so I can only conclude that the suggested path would only benefit one house in the community and I therefore refer you again to point 4.

Sincerely

Beatrice Corlett

██████████ *ibilee Cottages*

Hemington

BA3 5 ██████████

OBJ
11

Roberts, Ali

To: mail
Subject: RE: PPO enquiry re 2017/06

Dear Mr Connolly,

s.119 Highways Act 1980 and s.53 Wildlife and Countryside Act 1981 – The Wiltshire Council Parish of Tisbury path no.83 Diversion Order and Definitive Map and Statement Modification Order 2017

Thank you for your email in objection to the above mentioned public path diversion order. Just to confirm the safe receipt within the formal objection period.

This matter is being dealt with by my colleague, Sally Madgwick, who is now on leave until Tuesday 27 June. On her return to the office Sally will be giving full consideration to all responses received within the formal objection period in a report to the Southern Area Planning Committee, details of which will follow in due course.

Kind regards,

Ali Roberts

From: mail [mailto: [REDACTED]]
Sent: 13 June 2017 23:17
To: rightsofway
Subject: PPO enquiry re 2017/06

PPO enquiry re 2017/06 in RoW PPO <http://www.wiltshire.gov.uk/row/ppo/getppo.php?id=6195>

2017/06 TISB83

Dear Sally Madgwick, I would like to object to the proposed diversion and wish to draw your attention to the following points;

1.
When the applicant or the agent for the applicant, Mike Walker, initially contacted us regarding this application he stated that he was acting on behalf of Wardour Primary School. This was, I am assured by the chair of governors of the school, not true. The evidence which he has collated and presented in support of this application must therefore be regarded as being premised on misinformation.

2.
This footpath was finally and definitively established by the Inspector in 1997 following a local enquiry when Wiltshire Council referred the matter to the Secretary of State.
[Wildlife and Countryside act 1981 section 53 Wiltshire county council (ST92NW) (TISBURY 83) RIGHTS OF WAY MODIFICATION ORDER NO 7 1997]

This Rights of Way Modification Order was supported by;
Salisbury District Council, The Council for the protection of Rural England, The Open Spaces Society and The Ramblers Association.

The evidence of 96 individuals confirmed the footpath had been used openly and without challenge for access to the school, for pleasure and recreation, for gaining access to the chapel situated in New Wardour

Castle, for visiting the former shop, now a private residence, and for access to the bus stop on the main road. Such use was documented from 1911.

A path along this route has been shown on maps (including O.S.) since 1834.

I am consequently astonished that the community and the council are being asked to consider this matter again. The proposed diversion of this historic path differs only in detail from the objections and putative compromises made between 1994 and 1997.

3.

The proposed changes would be a considerable inconvenience to the residents of St. Anne's Cottage which is currently served by the existing footpath. Residents of St. Anne's would no longer be able to turn either right or left outside their own front gate! Residents here at Old Bridzor would also be significantly inconvenienced by the diversion, as would the general public.

4.

I would also like to draw attention to the following point of law:

"Factors such as property security, suitability, necessity or property value should not be considered as the 1981 Wildlife and Countryside Act does not allow for such opinion to be taken into account."

Wiltshire County Council Rights of Way & Commons Sub-Committee - 17th April 1996 Agenda item no 14. Points of Law 25.

In conclusion I would like to reinforce the fact that this is an historic right of way established since at least 1834 and probably from a long time before that. It is the connection from Wardour Roman Catholic School to its chapel in Wardour New Castle. My own ten children used that path daily for 24 years, going to and from school, without any hindrance. The right of the school children to use that path in perpetuity should not be compromised or gifted away by any short term considerations. If the school has concerns about the lower stretch of footpath crossing the playing fields it should be encouraged to explore alternative arrangements which do not involve gifting away historic rights and denying the same to the general public.

Sincerely

Anthony Connolly

██████████ Bridzor

Wardour

SP3 6 ██████████

Roberts, Ali

To: nonie
Cc: Madgwick, Sally
Subject: RE: PPO enquiry re 2017/06

Dear Ms Connolly,

s.119 Highways Act 1980 and s.53 Wildlife and Countryside Act 1981 – The Wiltshire Council Parish of Tisbury path no.83 Diversion Order and Definitive Map and Statement Modification Order 2017

Thank you for your email in objection to the above mentioned public path diversion order. Just to confirm the safe receipt within the formal objection period.

This matter is being dealt with by my colleague, Sally Madgwick, who is now on leave until Tuesday 27 June. On her return to the office Sally will be giving full consideration to all responses received within the formal objection period in a report to the Southern Area Planning Committee, details of which will follow in due course.

Kind regards,

Ali Roberts

From: nonie [mailto:████████████████████]
Sent: 12 June 2017 19:54
To: rightsofway
Subject: PPO enquiry re 2017/06

Dear Sally Madgwick,

I would like to object to the proposed diversion and wish to draw your attention to the following points;

1. This footpath was finally and definitively established by the Inspector in 1997 following a local enquiry when Wiltshire Council referred the matter to the Secretary of State [Wildlife and Countryside act 1981 section 53 Wiltshire county council (ST92NW) (TISBURY 83) RIGHTS OF WAY MODIFICATION ORDER NO 7 1997].The establishment of this footpath was supported by;Salisbury District Council, The Council for the protection of Rural England, The open Spaces Society and The Ramblers Association.

The evidence of 96 individuals confirmed the footpath had been used openly and without challenge for access to the school, for pleasure and recreation, for gaining access to the chapel situated in new Wardour Castle, for visiting the former shop, now a private residence, and for access to the bus stop on the main road. Such use was documented from 1911

A path along this route has been shown on maps (including O.S.) since 1834

It seems somewhat bizarre that the matter, which was settled quite some time ago, should have been brought up again. The proposed diversion of this historic path differs only in detail from the proposals made in 1994-1997.

2. The proposed changes would be a considerable inconvenience to the residents of St. Anne's Cottage which is currently served by the existing footpath and to residents here at Old Bridzor. The diversion would be substantially less convenient to the public.

3. I would also like to draw attention to the following point of law: "Factors such as property security, suitability, necessity or property value should not be considered as the 1981 Wildlife and Countryside Act does not allow for such opinion to be taken into account." Wiltshire County Council Rights of Way & Commons Sub-Committee - 17 th April 1996 Agenda item no 14. Points of Law 25.

On a personal note, I used the footpath myself throughout my primary school years, to get from my home to school, every day. I still take it frequently, as it is the safest and most pleasant way to access walks towards the River Nadder and surrounding areas.

Wardour is a beautiful part of the world, it has happily remained largely unspoiled by developments. It offers residents and visitors truly lovely places to walk and ramble, and it seems very important that it should remain somewhere that people feel able to roam through freely, using the public footpaths and byways that have existed for so long. Wardour is a community, and as such, it should not be bisected or divided to the detriment of the majority of Wardour residents and visitors.

I was born and raised in Wardour, it is very much my home, and as a place that I love, I would hate to see its heritage traded away for no good reason, and against the findings of the 1997 enquiry.

Sincerely,

Honoria Connolly

██████████ Bridzor

Wardour

SP3 6 ██████████

Received - 12/06/17 (JG)

THE WARDOUR CHAPEL TRUST

HOOK MANOR
DONHEAD ST ANDREW
SHAFTESBURY
DORSET SP7 9EU

OBS
9

2017/06. TISB83.

Telephone: 01747 [REDACTED]
Email: info@wardourchapel.co.uk

8th June 2017.

Dear Mrs. Madgwick,

The Wardour Chapel
Trust own Wardour School, adjoining
land and Wardour Castle Chapel.
The trust objects to the proposed
diversion of the footpath. for the following
reasons: (1) The footpath provides a sensible
route for people travelling between the
school and the church - the diversion
would make the route less straightforward
and unnecessary.

(2) The footpath was originally

Created for local people who needed access to the church; This has not changed and a diversion would take away that simple route which is steeped in historical usage.

③ The school children who use this path every week would be denied their easy straightforward walk to church with a longer diversion.

④ A diversion which is subject to a landowners permission is subject to the opinion of the landowner at the time. It is therefore safer to maintain the current footpath rather than change it.

Yours sincerely,

(Chairman of Trustees)

OBJ
8

Madgwick, Sally

From: Kate Ashbrook [REDACTED]
Sent: 12 June 2017 [REDACTED]
To: Madgwick, Sally
Subject: Tisbury footpath 83 diversion order

Dear Sally

The Open Spaces Society objects to this order on the grounds that the proposed diversion is substantially less convenient to the public and will have an adverse effect on public enjoyment of the path as a whole. It therefore does not meet the criteria of section 119 of the Highways Act 1980.

The diversion would require walkers to use the road between A and H, which is a narrow verge next to a road used for parking by those delivering children to the school and fetching them at the end of the day, as well as by farm vehicles and as a commuter rat-run. We consider this puts walkers at risk and is unpleasant, unlike the present route.

We urge you to reject the diversion.

Yours sincerely

Kate Ashbrook
General Secretary
The Open Spaces Society
25a Bell Street
Henley-on-Thames RG9 2BA

[REDACTED]
email: [REDACTED]
website www.oss.org.uk

The Open Spaces Society is a registered charity (no 1144840) and a company limited by guarantee, registered in England & Wales (no 7846516).

Good causes, green causes -
support us in our fight for them
throughout England & Wales



Read my blog at <http://campaignerkate.wordpress.com/>

The Open Spaces Society has staff with exhaustive experience in handling matters related to our charitable purposes. While every endeavour has been made to give our considered opinion, the law in these matters is complex and subject to differing interpretations. Such opinion is offered to help members, but does not constitute formal legal advice.

Consider the environment: do you really need to print this e mail?

This e-mail has been scanned for all viruses by Star. The service is powered by MessageLabs. For more information on a proactive anti-virus service working around the clock, around the globe, visit: <http://www.star.net.uk>

Roberts, Ali

OBJ
7

To: Julie Ann Murphy; Madgwick, Sally
Subject: RE: Ref 2017/06 TISB83 Wardour footpath

s.119 Highways Act 1980 and s.53 Wildlife and Countryside Act 1981 – The Wiltshire Council Parish of Tisbury path no.83 Diversion Order and Definitive Map and Statement Modification Order 2017

Dear Mrs Murphy,

Thank you for your email in objection to the above mentioned public path diversion order. Just to confirm the safe receipt within the formal objection period.

This matter is being dealt with by my colleague, Sally Madgwick, who is now on leave until Tuesday 27 June. On her return to the office Sally will be giving full consideration to all responses received within the formal objection period in a report to the Southern Area Planning Committee, details of which will follow in due course.

Kind regards,

Ali Roberts

From: Julie Ann Murphy [mailto: [REDACTED]]
Sent: 12 June 2017 10:54
To: Madgwick, Sally
Cc: Roberts, Ali
Subject: Ref 2017/06 TISB83 Wardour footpath

Dear Ms Madgwick

I am writing to voice my opposition to the proposed moving of the footpath that runs from Wardour Catholic Primary School up to the New Castle in Wardour.

As a full time local resident and a regular user of the path for the last twenty years since my children attended Wardour School, I am appalled that anyone would consider moving a historic footpath that generations of children have used to walk safely from what is believed to be the oldest state Catholic Primary school in England to the chapel in Wardour New Castle.

That this path runs past what was the convent is part of the unique history of the area. When the new owners purchased the house known as the 'Priory' they would have been fully aware they had a right of way past the front of their house, just like anyone else that lives on an urban street for instance. To then start a battle to have the path moved is disingenuous of them, and especially in light of all the local opposition to their proposal.

The school's disquiet at the right of way passing through their playing field is a legitimate concern and one I can fully understand, but for that then to be used as an excuse for the path to be completely diverted from its current course past the Priory, is ludicrous. The owners may well feel their privacy, when they are in residence, is impinged upon, but they had very effective privacy from passers-by when a hedge alongside the path existed, but they chose to tear it down leaving them more exposed.

It is very hard not to feel the current owners' real motive might be financial in that having the right of way probably lowers the value of their house. Is that a good enough reason to change something that has existed for hundreds of years and a previous public inquiry dismissed in 1998?

The way the system works with a private consultant paid for by the Priory owners pushing through the process also seems terribly unfair and fully biased towards the owners winning their case. It is all very disappointing and I hope someone, somewhere will consider the feelings and wishes of the long term fully resident local people that care deeply about their surroundings and their historical importance.

Yours sincerely


Tisbury, Wiltshire

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OBJ
6

Madgwick, Sally

From: Mary Myers [REDACTED]
Sent: 11 June 2017, 10:11 AM
To: Madgwick, Sally; Roberts, Ali
Subject: Objection to Wardour footpath proposed diversion: 2017/06 TISB83

Attn: Sally Madgwick, Rights of Way officer, Wiltshire Council, Bythesea Rd, Trowbridge, BA14 8JN.

Ref: 2017/06 TISB83

Dear Ms Madgwick and Ms Roberts,

My name is Mary Myers. I have owned and lived at St Anne's Cottage, a property on the proposed diverted route, for the last 15 years. I wish to object to the application/diversion order and point out the following:

1. Firstly that it is NOT 'supported by the other affected property holders' as stated, erroneously, in Wiltshire Council's Covering Page for Decision Report.

Re. the modified report:

2. Mr Walker (the consultant hired by the owners of the Priory) makes light of the inconvenience and disruption that will be caused to me and my family. If this is approved, we will lose a footpath that goes past our doorway. A footpath we love, use daily, and which we don't in anyway feel threatened by. We may lose this because the primary 'benefit' of moving the footpath is, apparently:

The owners of The Priory have reasonable concerns as to their security and privacy as the path crosses the entrance to their property, and runs very close to their front door, and through their garden. As was pointed out before: it is not their garden. It is designated agricultural land.

3. Similarly Mr Walker makes light of the Wardour community's objection to this change dismissed as 'a dozen or so letters'. That represents practically everyone in the vicinity.

Also it is noted by Wiltshire Council that the proposed diversion generated an unusual amount of correspondence and interest. This is indicative of how unpopular this diversion is.

It is clear that most and probably all of the support for the diversion comes from the school because the school asked parents to write letters in support.

4. This brings me to the main point. There are really two separate applications here:

'One to get the footpath off the school playing field, i.e. starting it at point H instead of A

The other to get the footpath away from the Priory, i.e. diverting it to go via J to G

Diverting the path away from the school field has many valid arguments.

Diverting the path away from the Priory has no valid arguments.

The problem is that these two separate parts have been deliberately lumped together by the owners of the Priory and their agent, Mr. Walker, which makes it difficult to refuse the bad part of the application. It has been modified to withdraw the outrageous proposal of making people walk on the road – but as we all know this was really an opening position so that this second proposal will seem to generously take into account public concerns. It cannot be right that public consultation is privatised in this way: effectively a consultant is paid by the owners of the Priory to manage the process and, in seeming to consult, is in fact using tactics which are not strictly above board. This is apparently justified by Wiltshire Council's procedures for saving themselves time and money but it is a procedure biased in favour of the applicants since the consultant is in their pay and will obviously do all he can to secure a win.

Despite Mr Walker's report and his attempts to address all the issues, all the other problems are still there – a quick recap:

i) The arguments for privacy and security are not valid: There is already a drive, garage and path serving the Priory on the south side of the property (as used by the previous occupants). If the current occupants feel threatened then they can use this entrance. In terms of privacy the applicants have pulled down a hedge that separated them from the path. In any case most people have a path running past their house – it's called a pavement. Are they all at risk? In all our 15 years of living here, my family and I have never suffered any intrusions on our privacy or any security problems – in fact we welcome the occasional walker going past our house and we love seeing the school children go up the chapel along the path (indeed our own children did this for years when they attended Wardour school).

ii) There is the fundamental fact that this footpath is part of the historic and cultural landscape of Wardour connecting the school with the chapel. Local people feel very strongly about this.

Despite Mr Walker's statement to the contrary the footpath is quite clearly part of the Wessex Ridgeway and carries on through to the New Castle.

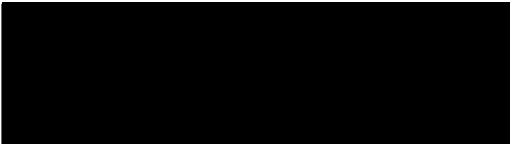
iii) Also, importantly, there was a previous attempt to modify this footpath. This resulted in a full public inquiry in 1998. The result of this was the establishment of the current route of the footpath which was put on the statute books. The allowing of this application would negate the findings of this time-consuming and expensive public inquiry.

For all these reasons I wish to object to the proposed diversion,

Yours sincerely

Mary

Dr. Mary Myers
Development Communications Consultant / iMedia Associates
St Anne's Cottage,
Wardour, Tisbury
Wiltshire SP3 6RG
UK



085
5

Roberts, Ali

From: Joanna Harrisson [REDACTED]
Sent: 11 June 2017 20:5 [REDACTED]
To: Madgwick, Sally
Cc: Roberts, Ali
Subject: Ref: 2017/06 TISB83

Rights of Way officer, Wiltshire Council, Bythesea Rd, Trowbridge, BA14 8JN.

Dear Sally

I am writing as a long term local of the area with special interest in Wardour, to make an objection to the proposed re routing of the footpath referenced above.

There are many good arguments against the plan but perhaps the most persuasive in my view is the historic nature of the route which if changed for reasons which appear to be entirely selfish, will be lost to future generations.

I believe it is important to preserve the cultural and historic features of this very special landscape in all its detail. This route has been used over many years by Wardour primary school children and local people to walk directly to Wardour Chapel, passing by the Priory which was a former nunnery, and to Wardour Castle. It is an integral connecting link for the community of Wardour and deserves to be conserved in its original state.

Eroding such historic features diminishes our cultural history and heritage. Those who have lived here for many years rightly feel strongly protective.

The views of long term inhabitants of the area naturally have a longer perspective on the matter than those new to the locality and their views should be respected.

Please consider the matter carefully on our behalf.

Regards

Joanna Harrisson



Application to divert the footpath TISB 83 at The Priory / Wardour School

I write to object to the application/proposed diversion order.

1. This ancient path forms part of the Wessex Ridgeway. It has been an important route for generations of worshippers attending Wardour Chapel and for workers and visitors to both the old and new Wardour Castles, quite apart from those walking the long distance path.
2. It would seem that the only reason for the application to divert the path is for the convenience of the new owners of The Priory, whose recent purchase of the property would have been in full knowledge that there is an ancient right of way crossing their property. The path can be no more inconvenient than any pavement would be going past a house in a city.
3. The applicants' arguments for privacy and security are not reasonable. They state that the path goes through their garden. (NB without the benefit of planning permission, they would appear to be attempting to change the use of their field, which is agricultural land, now calling it 'garden'.) However, it is most bizarre to note that they removed the boundary hedge, which previously provided the level of security and privacy which now they crave. It would appear that any lack of privacy is self-inflicted.
4. The proposed diversion will significantly inconvenience adjacent residents who, contrary to the report, clearly do not support the proposal to divert the footpath. They would lose the benefit of a most useful footpath which runs past their door.
5. The proposed 'permissive path' for Wardour School does not provide the school with any rights, or reassurance, for their continued use in the future. A permissive path may be withdrawn at any time and then the school would lose the benefit of ease of access to the path for attendance at the chapel for their weekly services. The result would be a requirement for the whole school to be escorted out on to the main road, before being able to access the diverted path. That is wholly unacceptable and should not be permitted.
6. Generations of pupils have used the ancient footpath. Potentially, it may be beneficial for the school to move the public path away from the playground, but that could be achieved by diverting or fencing the path at the edge of the school playing field. However, for improved security at the school, it is not necessary to take the path away from its ancient direct route to the chapel.

7. The path is well loved by locals and walkers of the Wessex Way. It has a certain charm and iconic aspect which would be lost by diverting it through the adjacent field, which is 'just another field.' The applicants' argument for 'distant views' is no particular benefit in this location as there are views all along the way. It is the historic charm which makes this section of the path unique.
8. It should also be noted that there has been a previous application to divert this path. In 1998, the ensuing full public inquiry resulted in the confirmation of the current route of the footpath. To permit this diversion would negate the findings of the previous enquiry. It should surely have been a decision to preclude further debate.
9. I note that respondents writing in favour of the diversion of the path are not local residents. Surely the views of those who live in the area should be given more credence. Tisbury Parish Council has voted to object to the application.

Mrs Janet Amos



Received 01/06/17 - J.G.

[REDACTED]
Tisbury SP3 6NR
Wilts
[REDACTED]

O B J
3

20 May 2017

Rights of Way Office,
Wiltshire Council,
Bythesea Road,
Trowbridge, BA14 8JN

Attention: Sally Madgwick

Your ref: 2017/06 TISB83

Dear Ms. Madgwick

S. 119 HIGHWAYS ACT 1980 AND A. 53 WILDLIFE AND COUNTRYSIDE ACT 1981

Tisbury Path 83 Diversion Order - Objection

I refer to the above named Order dated 9th May 2017. The Order invites any representations about or objections to the Order to be sent in writing to yourself not later than 1700 on 19 June 2017. I wish to register my objection to the said Order.

The sealed order states that "This Order is made by Wiltshire Council because it appears to the authority that in the interests of the owner of the land crossed by the footpath .. it is expedient that the line of the path should be diverted". I object that the sole criteria for diverting this footpath should be because it is expedient for the owner of the land. Under the Highways Act 1980, Wiltshire Council is empowered to make a Public Path Diversion Order where it appears to be expedient in the interests of the owner, lessee or occupier of the land crossed by the paths **or of the public**. In addition, so that the Order is capable of confirmation, the council must be satisfied that the path will not be substantially less convenient as a result of the diversion and regard must be paid to the effect of the diversion on public enjoyment of the path as a whole. The path will be less convenient to members of the public as a result of the diversion and less enjoyable.

I have read the Consultant's Report on which the Council based its decision. It would be natural and expected that a report prepared at the expense of and for the benefit of the Applicants would be biased in favour of the Applicants. It would therefore also be natural that the Council would study the report critically before accepting it. This has not been the case. The Report is indeed biased in favour of the Applicants. I will return to this issue later. When the Consultant was carrying out his unofficial consultation process in August 2016, I expressed my concern that the Public would not be given the opportunity to express their views to Council before an Order were issued and this has indeed been the case..

The Report claims that the diversion of the path would be in the interests of the Applicants, satisfying the legal requirement contained in the Highways Act 1980 by improving their privacy and security by taking it further from the immediate frontage of the house. It should be noted that any current lack of privacy and security has been self-inflicted by the Applicants. When they moved into The Priory in 2014, there was a substantial beech hedge between the footpath and their front door which had been grown there by the previous owners to provide privacy and security. The Applicants uprooted this hedge and then claimed that they lacked privacy and security. They then, without due process of application to divert a footpath, diverted the footpath a short distance from their front door and built a patio across the line of the path thus partially obstructing the footpath.

Wiltshire Council took no enforcement action over this infringement. In order to strengthen their argument for a diversion, the Applicants then changed the use of the agricultural land to the east of the footpath into a domestic garden. I have searched the Wiltshire Council Planning applications and can find no record that such a change of use was applied for or granted. During the Consultants consultation process, he claimed that the footpath "runs through their (the Applicants) garden". The Applicants could easily restore their security and privacy by constructing a 2 metre high fence along the western side of the footpath and re-planting the beech hedge. They would of course have to demolish part of their patio which obstructs the original line of the footpath.

Looking now at the proposal to divert the footpath, I find the proposal to divert the path around the outside of the School playing field sensible. I did discuss informally with members of the School Trustees possible routes for such a diversion. To divert the path along the verge and along the eastern side of the school boundary hedge is perfectly acceptable. However the path should run parallel to and immediately adjacent to the boundary hedge as shown on the attached diagram. The diverted path would re-join the existing path at point J¹

It is not acceptable to divert the path from H to J. Such an alignment runs through a meadow, not infrequently occupied by young and frisky cattle. From point H it is not possible to see point J due to the convex contouring of the field. It is not a pleasant experience to walk blindly over a hill not knowing exactly where the exit is and not knowing whether there is a herd of cattle between you and the exit. The same negative experience would be felt walking from J to H for the same reason. Walking along a fence line as per my alternative proposal gives an improved sense of security since one cannot be approached from all sides at the same time. I would propose that the path on this new proposed alignment should in fact be fenced from the field to provide walkers with a more secure and pleasant experience.

The Consultant refers to the Wessex Ridgeway. The description of the route of the Wessex Ridgeway was changed in 1997 to follow the route of the newly defined TISB83. The fact that Wiltshire Council failed to request the Ordnance Survey to change the route on the map does not alter the fact the Wessex Ridgeway follow TISB83.

I would like to follow up my suggestion earlier that the Consultant's Report is biased in favour of the Applicants and should not have been taken as unquestioned justification for issuing a Diversion Order. The Consultant claims that there were "more than 30 supporters" of the original scheme and "about a dozen or so" objectors. Surely he should be able to add up the number of supporters and objectors and give an accurate report. In the case of the objectors whom he recorded in his report, everyone was identifiable either by their address or their email address and can be confirmed as real people. All of them live in Tisbury or West Tisbury and many in Wardour itself. However there are a number of local people expressed their objections to the Consultant when he was carrying out his consultation process whom he has failed to record as objectors. I myself exchanged many emails with the Consultant. I know the following people communicated objections to the Consultant because their emails were copied to me in my then capacity as Chairman of the Tisbury Footpath Club. The Consultant has made no mention of them in his report

- Rod Farrell Newtown
- Janet Amos, West Tisbury
- Jill Sutton, Newtown
- Tim Martin, Ansty
- David Lacey, West Tisbury
- Norman Martin, Salisbury

I am naturally concerned that if the Consultant chose to ignore objections from those about whom I am aware, how many more did he omit about whom I do not know.

If you now consider Appendix 4, a list of those who supported the original proposal, there are 35 people on this list. Of the seventeen supporters for whom he gave physical addresses, seven cannot be considered as local, living as they do in Bushey Herts, Beccles Suffolk, Dorchester Dorset. The Consultant makes the point in his Report that he circulated his original letter of unofficial consultation to

the list of consultees and statutory undertakings given to him by Wiltshire Council. He makes the rather cryptic comment that "A large number of responses were received including from local individuals not directly consulted but presumably alerted by others" He does not explain how people living as far away as Bushey in Hertfordshire and Beccles in Suffolk could have known about the consultation unless presumably alerted by others. It is less surprising that those living locally with a close affinity to the footpath in question would be aware of the consultation than those living many miles away and with no specific knowledge of the path. It has to be supposed that most of the supporters are friends of the Applicants and/or the Consultant and were alerted by those two parties to increase the number of supporters.

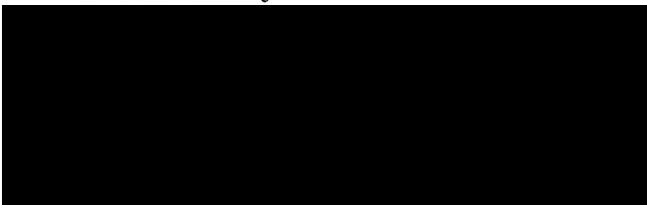
When the Consultant claims that 35 people support the proposed diversion, it should be noted that the following 20 of them only specifically supported the diversion away from the school.

- Georgina Wessels
- Kate Clark
- Marcus Deyes
- Susie Watton McKay
- William McCarter
- Sonja Dineley
- Andrew Wessels
- Rohaise Barrett
- Chloe Luxton
- Liz & Michael Hartley
- Andrea Davies
- Simon Davies
- Chloe King
- Vivienne Parton
- Flora Harvey
- Catherine Ridge
- Polly Prior
- Emma Bell
- Isabella Welchman
- Claudia Aaron

Even so, these people do not want the children to have to walk down the drive to point A then along the road verge to point H and then across the field. They want the school children to be able to exit the school grounds through the existing gateway at the south end of the school ground and follow the existing path as far as the point J¹ on my proposed alternative alignment. All these twenty people may well be happy for the children to be able to continue to the chapel at Wardour along the existing path south of point J¹. They were not presented with this option. The Consultant reported that their form of approval was

"I understand that children will still be able to use gate at point D (on the original proposal) and a path to point J. If this shorter right of way is guaranteed then I welcome the re-routing of the public footpath." Note that these approvals were conditional. All the supporting communications were sent to Wiltshire Council or to Michael Wood not to the Consultant. The status of Michael Wood is not given.

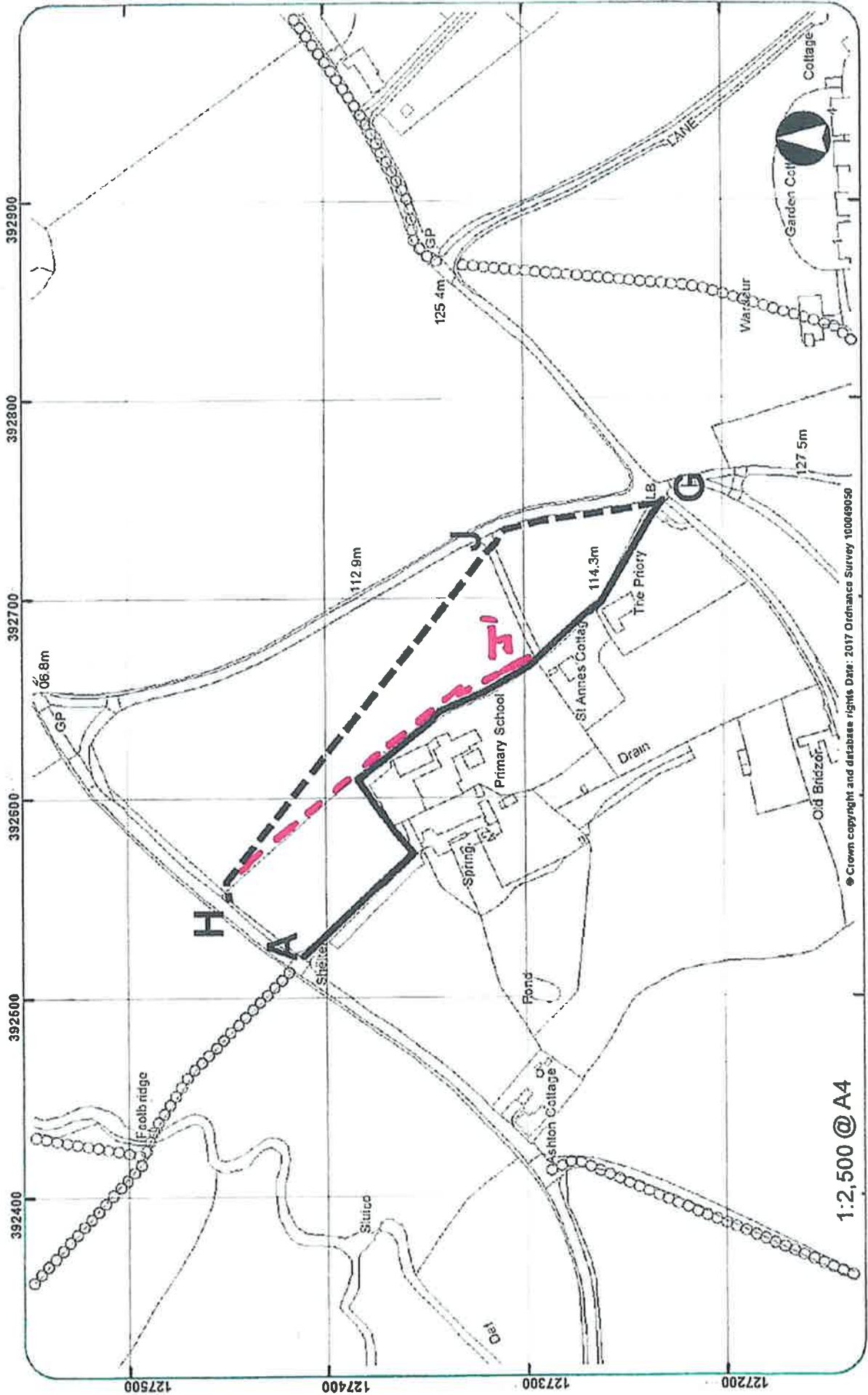
Yours sincerely



Diversion of Tisbury Footpath No. 83

Date: 28/04/2017

- Path to be extinguished A** ————
- Path to be created H** - - - - -
- Unaffected rights of way** ○○○○○○
- G** ————
- G** - - - - -
- Roads maintainable at public expense shaded grey**



Received - 08/06/17 - JG

OBJ
2



West Tisbury Parish Council

Chairman: Cllr George Flower

Correspondence address:
11 Heathfields Way, Shaftesbury, Dorset, SP7 9JZ

Email: westtisburypc@aol.com

7th June 2017

Sally Madgwick
Rights of Way Officer
Wiltshire Council
Bythesea Road
Trowbridge
BA14 8JN

Path no:83 Diversion Order – 9th May 2017

West Tisbury Parish Council have formally debated this diversion order at its June meeting and have resolved to object to it.

The footpath follows a historical route that generation after generation has used to get to school and access the countryside.

The residents of the properties would have understood the right of way existed when they came into ownership of their homes and it is the Council opinion that the footpath should not be moved just for their convenience.

Yours sincerely

Simon Pritchard
Parish Clerk
For and on the behalf of
West Tisbury Parish Council

Bill Riley, [REDACTED] Bath Road, Bradford on Avon, Wiltshire, BA15 1SS

OBJ
1

Sally Madgwick
Rights of Way Section
Wiltshire Council
Unit 9, Ascot Court
Aintree Avenue
White Horse Business Park
Trowbridge BA14 0XA

Your ref: 2017/06 TISB83

2nd June 2017

Dear Ms. Madgwick,

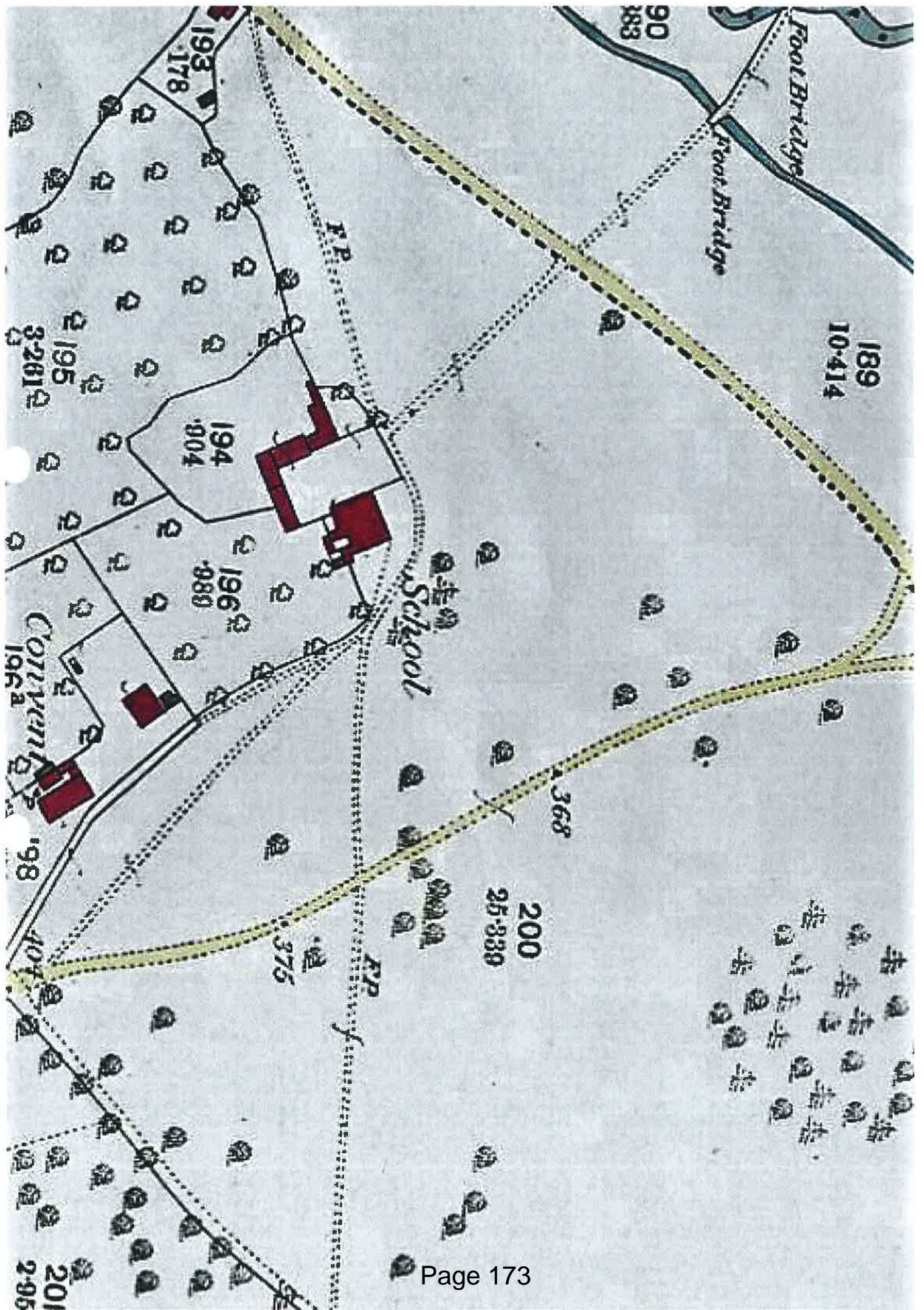
Proposed Diversion of Footpath 83, Tisbury

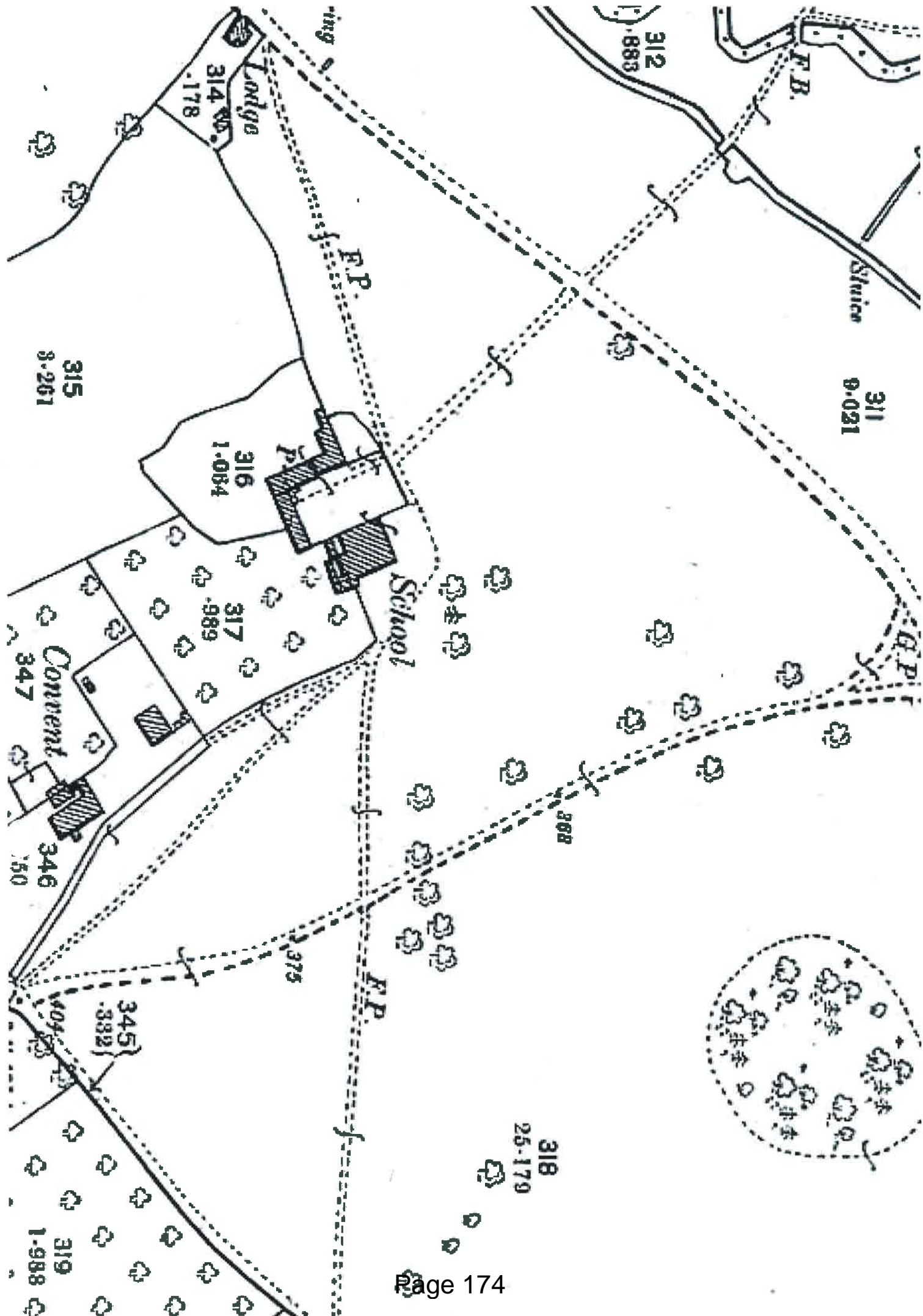
During the initial consultation, I drew the attention of the applicant's agent to the existence of certain unrecorded footpaths crossing the site (and beyond). These are shown on the attached O.S. Map extracts dated 1886, 1900 and 1923.

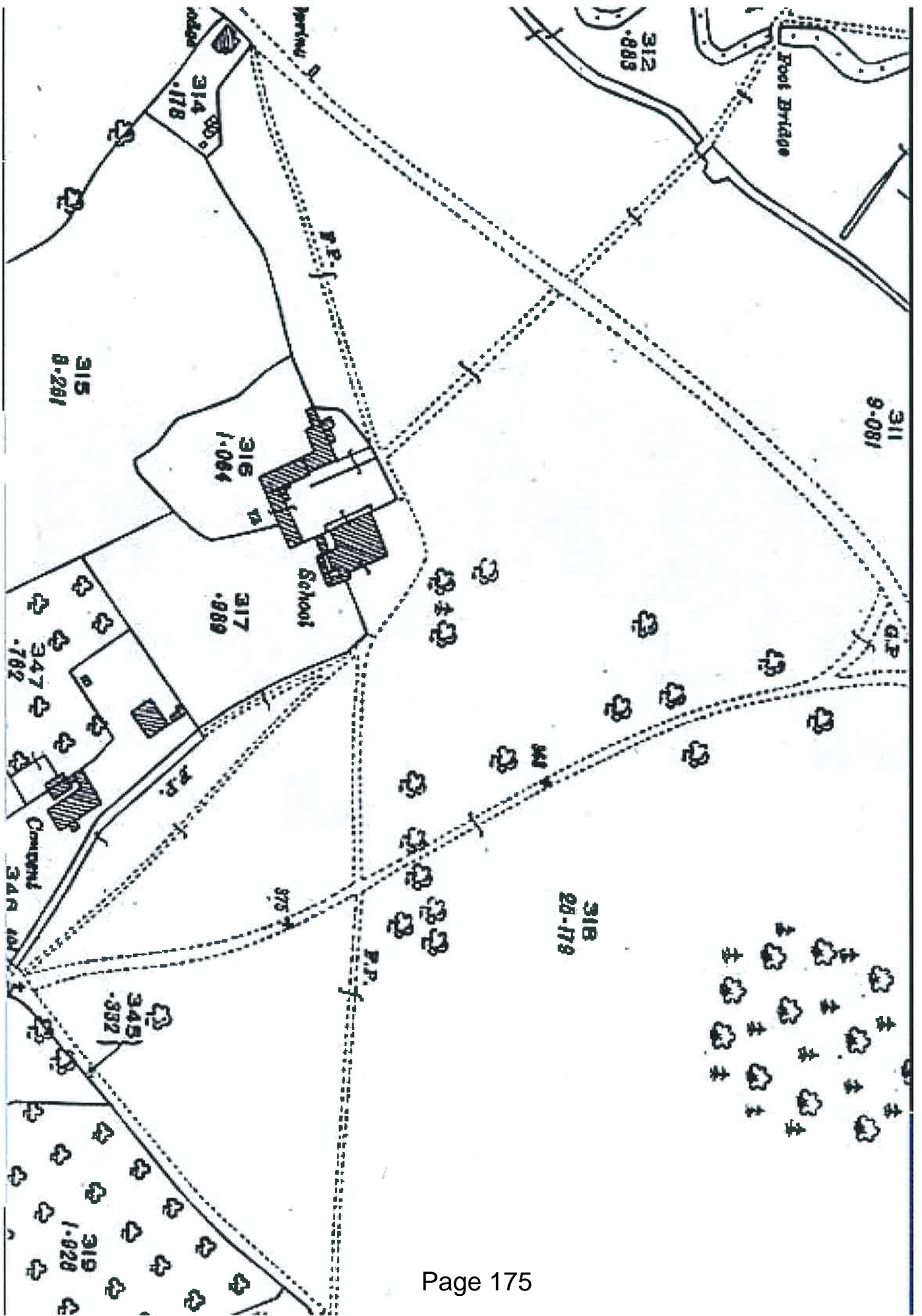
Unfortunately, the revised proposals take no account of this fact. The effect of the proposed diversion would be that the relevant unrecorded paths would no longer connect with a highway at points **B**, **C** and **E** as marked on my plan, thereby creating culs-de-sac. In my view, this cannot be in the interests of the public.

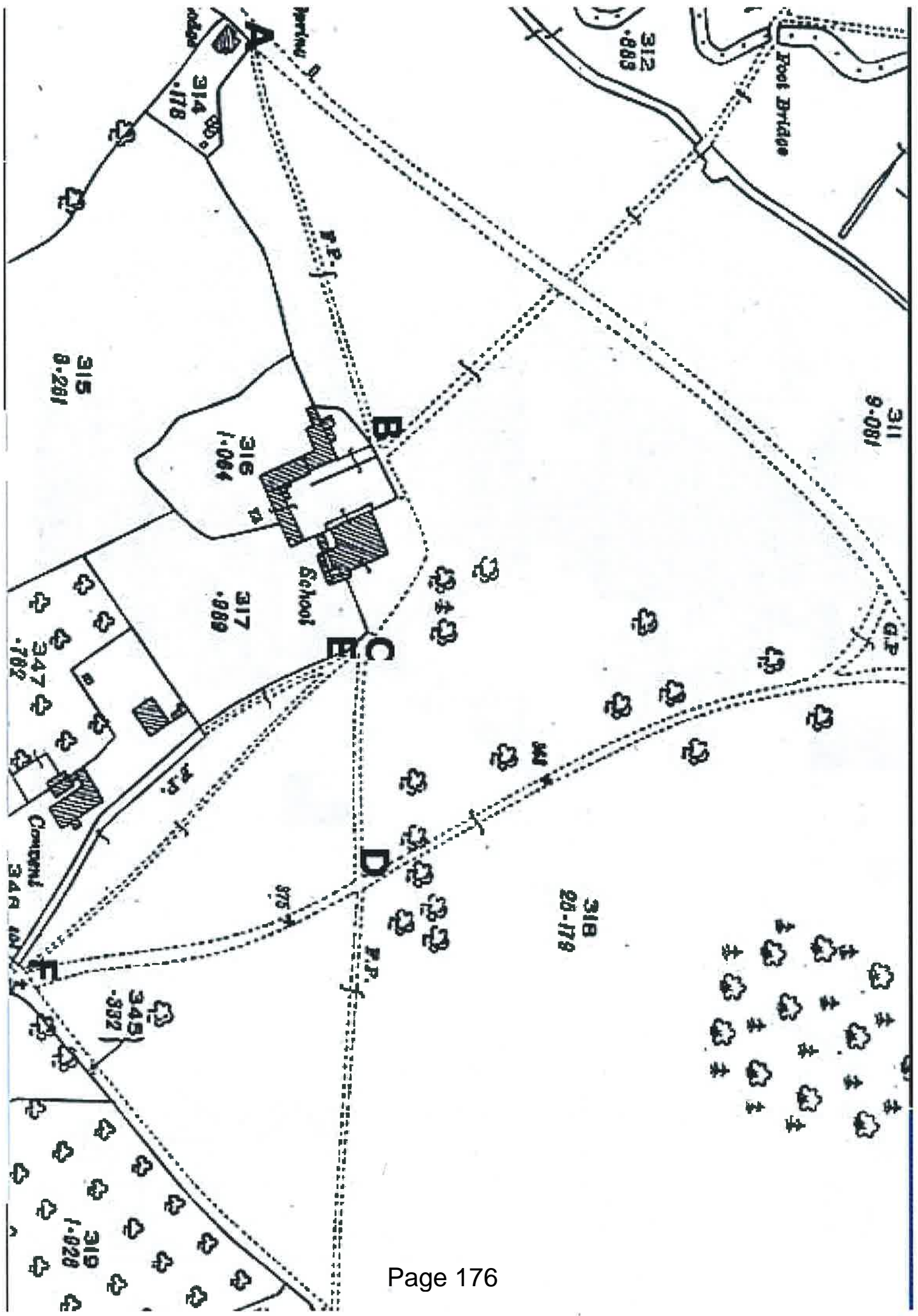
Yours sincerely,

[REDACTED]











APPENDIX D

Acknowledged by e-mail
31/07/17

ET LANDNET LIMITED

THE QUARRY OFFICE, PEN Y GARN,
CEFNEITHIN, LLANELLI, SA14 7EU

T: 0203 086 7657

E: mw@etlandnet.co.uk

Ms Sally Madgwick
Rights of Way Officer
Wiltshire Council
County Hall
Bythesea Road
Trowbridge BA14 8JN

Date: 27 July 2017

Our ref: MW/TAY.001.23

Your ref: SM/TISB 83

Dear Ms Madgwick

Highways Act 1980 S119

The Wiltshire Council Parish of Tisbury Path No 83 Diversion Order and Definitive Map and Statement Modification Order 2017

Thank you for forwarding the objections received to the diversion order and for providing the opportunity to comment upon these.

I have attached a spreadsheet on which I have summarised the objection and commented in detail on the points made. In order to bring matters together, the following seeks to address the key issues raised by the objectors and confirm the Applicants' view upon these.

It appears that the objections raised are as follows:

1. The Applicants were aware of the footpath when purchasing the property and should not therefore be entitled to divert it.
2. The Applicants do not have a privacy or security issue and/or created the problem as they removed the hedges that previously provided seclusion.
3. The School may have an issue but it could be addressed in another manner.
4. The verge between points A and H is dangerous.
5. The diversion is substantially less convenient because it is longer.
6. The diversion is substantially less convenient because it is too narrow.
7. The diversion is substantially less convenient because it is undefined.
8. The diversion is not safe because of stock and traffic.
9. The route is historic.

Several objectors refer to the Definitive Map Modification Order which recorded the route and which was made 20 years ago. It is not in dispute that the footpath is recorded on the Definitive Map. However, as you will appreciate, the issues for that Order are different to

those relating to the current diversion order and therefore I have not responded on the basis that they are not relevant points.

Turning to the numbered points above:

1 The Applicants were aware of the footpath when purchasing the property and should not therefore be entitled to divert it.

The issue was settled in *Ramblers' Association v (1) the Secretary of State for Environment, Food and Rural Affairs, (2) Oxfordshire County Council, (3) Susan Weston, (4) Michael Weston*, [2012] EWHC 3333 (Admin) which established that prior knowledge of the existence of a public right of way across land at the time of purchase was not a bar to seeking to divert the public right of way. A number of responses stated that the Applicants were aware of the footpath when they purchased the property, however the disclosure made to the Applicants by the previous owners in pre-contract enquiries stated that the footpath was '*rarely used*' which has not been their experience whilst living there.

2 The Applicants do not have a privacy or security issue and/or created the problem as they removed the hedges that previously provided seclusion.

I have made the point in the spreadsheet response that the position must be judged on the current circumstances and the position is that the Applicants property has changed significantly over the years and when sold to them it was as a family home with the predominant land being located to the front of the house but with a double hedged footpath intervening.

When the property was acquired by the Applicants in June 2013 the only vehicular access to the front of the house involved driving across the field. During their first Winter in the house the track across the field became impassable and on several occasions vehicles became stuck in the mud. Hence, three years ago, in April 2014 (following pre-consultation with Wiltshire Council) the Applicants added a drive and parking area in front of the house.

Over the last few years this has become integral to the house operating as a family home. Objectors have sought to say that the area of land to the front of the house (North of the footpath) is not "garden" and aside of the parking area it is currently planted as an orchard and meadow. However, it is entirely reasonable for the Applicants to want ease of access to their vehicles and to have enjoyment of the orchard.

It is also reasonable for the Applicants to wish to have views from their house and not look out on to tall hedges at close range even if a prior owner may have preferred this. In the Applicants' opinion the previous double line of high hedges created a most unnatural effect which is why they took action to remove them in 2014. The Applicants did not remove the hedges so as to create the grounds for a diversion: they removed them to have views and greater enjoyment of their house and its grounds.

By removing the hedges they have not created an unusual setting or layout for their land. On the contrary they have removed something which was itself an unnatural feature in the landscape.

3 The School may have an issue but it could be addressed in another manner.

Several objectors accept the benefit to the School of diverting the path yet seem to think this can be achieved by other means. That the School chose not to be an Applicant reflects the School's difficulty of being part of the community and being aware of the strong personal feelings expressed by some in that community against a diversion. Nonetheless the School supports the current diversion order.

It is worth noting that the Applicants could satisfy the diversion tests by seeking a diversion solely on that part of the path that is on their land but recognised that they in owning the field next to the School, were uniquely placed to offer a solution which addressed the concerns of parents of pupils at the School by providing a route away from the School. Without the Applicants' support the School would be unable to achieve this.

4 The verge between points A and H is dangerous.

There is some contradiction and apparent misunderstanding in the objectors' responses. It is accepted that as there is insufficient parking on the School's site when children are taken to or collected from School, that parents park on the road alongside the verge and children are taken along the verge to get to the School's drive (at point A) from where they are walked to the School's buildings.

This activity occurs only in term times and at the start and end of the School's day so for the greater majority of the time, the verge is not in use at all.

At the same time (i.e. in term times and at the start and end of the School's day) the existing footpath from A-B forms the route used not only to walk children from point A but also with vehicles by members of staff and by parents dropping off or collecting their children. The parking area is a narrow strip located to the south west side of the drive so vehicles are manoeuvred into and out of the parking area over the footpath from A to B.

Whilst there are no reported incidents of conflict, the potential for this and of injury is far greater on that section of the exiting path rather than on the verge where no cars are parked or manoeuvred.

The verge is sufficiently wide for people to walk in safety and whilst cars may pass on the road, that does not create any additional or unforeseen hazard. As appears from the attached photographs, drivers have a good view of the verge when driving in either direction.

The crossing point to continue on the public right of way network remains at point A and there is therefore no additional or new risk in crossing the road.

5 The diversion is substantially less convenient because it is longer.

The point is made that for those living at Spring Cottage next to the School, or at St Annes Cottage next to the Applicants' property the occupants will have further to walk. As appears in the spreadsheet in response to these specific issues, these properties have private rights so that, for example in the case of Spring Cottage, there is no difference accessing point A.

The impact on properties served by the existing public right of way is an issue that goes to the expediency of the diversion after assessing whether the diversion is substantially less convenient to the public as a whole (see further the conclusion section below)

For all other users travelling between point A and point G, the differences in distance between the existing and diverted paths are marginal. Since groups like the Footpath Club and Walking Club suggest a very high level of use for the existing path, it appears that the predominant users will be those that walk through as part of a longer route and no one appears to have suggested in their response that the diversion would be inconvenient by reason of its length.

6 and 7 The diversion is substantially less convenient because it is too narrow or the diversion is substantially less convenient because it is undefined.

These points appear to be related and may to some extent be contradictory. The diverted path has a defined width of 2 metres which is ample for people to walk. The diversion is undefined by structures where it crosses the Applicants' field between points J and H but if there is any issue as to the route to be taken, this can easily be addressed by the erection of waymark posts in the field and if the use is at the level suggested, then the line will become defined on the ground.

The contradiction is that in being across a field and not therefore confined by structures or hedges, the path is more open which would appear to address the concerns that it is too narrow. Greater width for the cross-field section is available but is not considered necessary.

8 The diversion is not safe because of stock and traffic.

There is no vehicular traffic on the diversion at any point. The position of the use of the verge has been addressed above.

The Applicants are not farmers and do not have livestock but the field has been made available to others for grazing livestock. The Applicants would continue to, manage the field to ensure that the public could use it in safety. Where the existing path enters the Applicants' land from the School's land (at point D), the public are walking in the same field over which the diversion route is aligned. There have been no reported incidents of conflict between the users of the path and any grazing animals.

When judged by the level of vehicles on the existing route from A-B, the proposed diversion is safer for the public.

9 The route is historic.

This appears to be the main reason for people to object (other than that the Applicants should not be entitled to divert the path) and would go to the issue of the balance of the loss of public enjoyment set against the benefit to the landowners resulting from the diversion.

The arguments to retain the existing route of an historic path must be strong if they are to outweigh the purpose of the network to be of a modern purpose reflecting how land is used and managed today.

That a route commencing at A and proceeding to G (as depicted on the Report Plan) has existed for some years is not an issue. It appears in Mr Riley's extracts, the earliest appearing to be the 1st Edition of the 25 inch Ordnance Survey County Series.

I would suggest that other than the start and finish points of the path, the current path has little historic value.

The Applicants' property was once part of the society of the immediate area comprising the Chapel and School and is shown as a convent on all four maps. The position of the Chapel and the School remains unchanged through the succession of maps produced by Mr Riley with the last one representing, I believe, the position that pertained around 1930.

The differences between then and today in respect of the layout, purpose and appearance of the locality is clear.

The Applicant's field was part of a larger field which also incorporated what is now the School's playing field.

The whole length of the path from G to E was enclosed and the remainder of the path and the road network to which it joins was not enclosed. The roadside hedges did not exist.

Following a planning approval in 2011, the School has been substantially extended so that the "historic" line of the path was diverted.

The School has created a parking area off the line of the path and have surfaced the driveway.

The section A-B is now used by mechanised vehicles on a daily basis, with heavy use during certain times of the day during school term times.

The Applicants property is now a private residence.

As a result of these significant changes, it has not been possible to enjoy a "historic" experience when using the path for some years predating the Applicants' purchase of their

property. The path has evolved (as it should) to reflect the land, property and social changes that have taken place in a changing society.

Conclusion

The first consultation (prior to the order being made) resulted in more than 30 letters or e-mails in support of the diversion. After the order was made and objections were invited a similar number of letters/e-mails were received.

Whilst acknowledging that the diversion application and order has attracted strong feelings, a significant element of the opposition appears to be based upon hostility to the Applicants and a misunderstanding of the relevant issues.

The objectors paint a picture of a path which is well used both as part of a promoted walk, by walkers and other groups and by local people. Such use clearly increases the intrusiveness of the footpath on the Applicants and on the School and adds weight to the expediency of diverting the path to ameliorate the impact caused by its current alignment.

The Applicants have made out their case that the diversion is expedient in their interests and in the interests of the School, and the School support the diversion.


Critically, there are no serious arguments advanced by objectors that the diversion is substantially less convenient to the public as a whole and whilst several assert that to be the case, there is little if any empirical evidence put forward to support such assertions. Any evidence that has been put forward has been addressed.

The impact on the immediate neighbours whose land can be accessed both by their private rights and also via the footpath falls to be dealt with under the expediency of the diversion under Section 119(6)(b), together with any arguments about the "historic" nature of the existing path (under S119(6)(a)). For the reasons set out above, these arguments cannot outweigh the benefit of the diversion to the Applicants and the School as owners and occupiers of the land crossed by the existing path.

We appreciate that the issue is now one for consideration by the Council's Area Planning Committee. All that the Applicants seek is the opportunity for the several issues identified by them and the objectors to have a detailed airing before an independent inspector appointed by the Secretary of State. In accordance with the Council's policy for opposed public path orders, they will make the case for confirmation.

If there is any further information you require, please do not hesitate to contact me.

Yours sincerely,



MICHAEL WOOD, DIRECTOR

M: 

	Name	Organisation (if any)	Summary of comments	Our comments
1	Bill Riley		There are unrecorded footpaths crossing the site. The diversion would no longer connect with these unrecorded paths.	Any depiction of tracks on old Ordnance Survey maps is no evidence that these were or are public rights of way.
2	Simon Pritchard	West Tisbury Parish Council	Historical path that has been used for generations to access the school and countryside. Residents of the properties would have known about the footpath when they moved in.	The pre-existing knowledge of the existence of the public right of way at the time of purchase has been confirmed by the courts not to be a bar to the diversion of a public path. The diversion is in the interests of the owner of both the Applicants' property and of the School. The rights of way network should be an evolving one taking into account changes in the way people live and work and take recreation in the countryside. The characteristic of the path today reflects few of the "historic" features for which the path may have come into existence. The Priory is now a private house and has no direct social connection with other buildings in the locality. The grounds through which the path passes are now private. The path through the school involves the use of a vehicular driveway in daily use in school term by staff and parents together with the residents who live next to the School every day, with motor cars and by delivery and service vehicles. This is not a historic use or a historic means of access but reflects the reality of modern life in a small rural community with children attending school being ferried by car and householders depending on their cars to access goods and services. The original alignment of the path through the School was diverted in around 2011 to enable the construction of a new school building, which provides no feeling of a "historic" setting. The attitude of society is now far more cautious whereby persons, in many cases unknown to the school children and entitled to take with them dogs off leads are free to have contact with young children. Such a historic intrusion is increasingly unacceptable. The diversion route continues to provide good access to the countryside.

3	Roger Walker	<p>The path will be less convenient to members of the public and less enjoyable. The report supporting the application is biased in favour of the applicant. A current lack of privacy and security is self inflicted as the applicant's removed a hedge and built a patio across the line of the footpath. Concerned that objections were excluded from consultation.</p>	<p>There is a misunderstanding of the legal tests in that whilst a diversion may be made in the interests of the public alone, in the interests of the landowner alone or in the interests of both the owner and the public, there is no requirement for the Order to be in the interests of both the owner and the public. The Objector appears to accept that there is merit in the diversion of the path out of the grounds of the School and has proposed the same, with the diversion to be placed onto the Applicant's land to re-join the existing alignment so that it continues to run alongside the Applicant's house. Such a proposal would fail as it is not in the interests of the owners of the field over which the Objector proposes the path should run since it affords them no benefit. In terms of the convenience of the diversion across the field between points J and H, any issue as to the line to be followed on the ground can easily be addressed by waymarking and it is not unusual for paths to run over fields in this way. The path is located in the countryside and so the presence of livestock is not to be unexpected but there are clear rules on how livestock is to be managed. Whilst the field is not subject to a 'prow' the Applicants' have made such use of it as they can. In the event of the diversion being confirmed, any use would have to take fully into account that it was then subject to the right of the public to use the same. The Applicants have not built a patio over the footpath and the route of the footpath is open and unobstructed. The Applicants removed the hedges as the same were unmanaged and overgrown, blocked views from their house and interfered with the access they were entitled to have to their land. They were also an unnatural feature in the landscape.</p>
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4	Janet Amos		<p>It is an ancient path that forms part of the Wessex Ridgeway. The applicants were aware of the footpath when they purchased the property. The removal of a hedge has compromised their privacy. The diversion will inconvenience adjacent residents. A permissive path does not guarantee future rights for the School. A previous application in 1998 confirmed this route. Supporters of the diversion are not local residents - Locals views should be given more credence.</p>	<p>The arguments as to prior knowledge of the route and the removal of the hedges are addressed above and are not repeated. In terms of the directness of the route to the old Chapel - the overall difference between the terminal points of the existing and proposed paths is marginal. This objector speaks of the "iconic nature" of the existing path but the nature of the path has clearly changed considerably in recent times. The OS plans produced by Objector 1 (Mr Riley) depict the position historically with the whole section of the Order Route from Point G passing both the Applicant's property and St Anne's Cottage to have been enclosed on both sides. Thereafter, the path runs through a field which was later divided and is now partly the School's playing field and partly the field over which the diversion is aligned. The plans show the area to be largely unenclosed by field and road boundaries unlike the position today. The historic plans show how the footprint of the School buildings have increased substantially over time. In 2011 the School was further developed with an additional building that necessitated the diversion of a section of the Order Route. This created an entirely new aspect of the school and the way its grounds were traversed. Any suggestion that the significant landscape changes and building development have had no effect on the nature of the "historic" path are questionable. The Applicants have the support of many parents and of the Sidford and Gibson families who are local residents. The Sidfords made the specific point of feeling embarrassment when walking so close to the Applicants house and they are regular users of the path.</p>
5	Joanna Harrison		<p>The route is historic. The views of long term inhabitants should have a "longer" perspective than those new to the area.</p>	<p>See above re references to this being a historic path and that local residents who are regular users of the path support the diversion.</p>

6	Dr Mary Myers		It is not supported by other affected property holders as stated by Wiltshire Council. We will lose a footpath that goes past our doorway. Probably all of the support is from the school as parents have been asked to write letters in support.	Whilst Section 119(6)(b) takes account of the effect of the Order as respects other land served by the existing public right of way, and the comments of Dr Myers are noted accordingly, St Annes Cottage does have a full right of access from the highway and will gain access to the diverted public footpath at point J, a distance of less than 60 metres from the existing path.
7	J A Murphy		Regular user of the path for the last 20 years. It is historic. The applicants chose to remove the hedge which gave them privacy. Use of a private consultant is unfair and biased.	See above re references to this being a historic path and the irrelevant issue of the Applicant's prior knowledge. We will not respond to comments on the use of a consultant as the Order has been made and the issue is as to its determination, not how or why it was made.
8	Kate Ashbrook	Open Spaces Society	Proposed diversion is substantially less convenient to the public and will have an adverse effect on public enjoyment. Walkers would need to use the road between A and H.	The OSS fails to provide any reason why the diversion is substantially less convenient or will have an adverse impact on public enjoyment. In relation to the use of the verge to access H from A, the argument is poorly made. Whilst it is accepted that the verge is used when children are dropped off and collected from the school, the section of the existing path from A on the driveway to the school carries significant traffic and vehicle manoeuvre on and off the drive/prow using the parking area south west of the drive. If anything this represents a greater risk to walkers. As to the traffic levels on the road, accessing point H from the north west already involves crossing the road and the verge is sufficiently wide to provide shelter from the traffic for the walk of 45 metres along its length.
9	Chairman of Trustees	The Wardour Chapel Trust	The footpath is a sensible, direct route between the school and church. It is historical and used by local people to access the church today. School children would have a longer diversion to access the church. Think the diversion is subject to the landowners permission.	The agreement with the School to allow access from point D to join the diverted path represents a sensible compromise to enable the School to remove the footpath from its playing field. The Applicants are happy to put the arrangement onto a formal basis and there is no reason why this should not run with the land in the event of a future sale. However, until the diversion issue is resolved this cannot be finalised but the Trust is invited to discuss the matter.

10	Honoria Connolly		The footpath was confirmed in 1997 with a local enquiry with the evidence of 96 people.	This Objector is confusing the issues for the DMMO and the current application and the DMMO comments are not relevant. The diversion does not remove anyone's rights to access the countryside.
11	Anthony Connolly		The footpath was confirmed in 1997 with a local enquiry with the evidence of 96 people. The diversion would be substantially less convenient to the public.	As above.
12	Bea Corlett		The footpath was confirmed in 1997 with a local enquiry with the evidence of 96 people. The diversion would be substantially less convenient to the public.	Simply copies Anthony Connolly's objection.
13	Norman Martin	South Wiltshire Ramblers	The footpath was confirmed in 1997. The diversion would make walkers walk on the road between points H and A. It does not meet up with the adjoining footpath making it less convenient for walkers. States width of diversion (2m) will be half the width of the present.	This Objector raises an issue as to the width of the diversion. The existing path from G-E is generally restricted in width to no more than a useable width of 2 metres and this will be replicated on the section from G to J. From E-D and from D-C-B the path is not physically restricted and on the driveway from A the width does exceed 2 metres but this is shared with any vehicular traffic. On the diversion from J to H the path is unrestricted so that whilst it has a defined width of 2 metres, this is not inconvenient. The view of PINS is that a 2 metre width of a public path is that which enables people to walk and pass each other in comfort. A definitive width of 2 metres does not render the diversion substantially less convenient. This Objector also suggests there are dangers of walking next to roads and states that the present route does not require walking along a public road. The diversion does not require "walking along a public road" whereas the existing route does require people to walk on a busy school driveway. The diverted path joins up with the public path opposite point A by walking on the verge from H and A.

14	James Ryan	The footprint was confirmed in 1998. The reasons for the diversion have not been cited by previous occupiers. The diversion would bring users in greater proximity to the road.	Reference to the DMMO is not relevant. The owners of the property in 1998 challenged the existence of a public right of way, and the effect on their property by reason of a finding that this was a public footpath would not have been a relevant objection. It appears the previous owners chose to address the decision to confirm a footpath by physical means, but the path remained in close proximity to their house and prevented them enjoying free access from the house onto their land. That the then owner chose not to seek a diversion is no bar to such an application being made now in the circumstances detailed in the application. The Objector states that the road by the school is "at times congested" and has traffic travelling "at speed". Congestion primarily occurs at the start and finish of the school day and affects point A and the section A- B as much as it affects the verge A-H. If the road is not congested then vehicles can travel at up to the national speed limit and the road has to be crossed at point A regardless of the diversion if one is using the route for onward northerly travel so the argument of danger is specious. The verge is used daily during school term time and there is no incident of injury to anyone using it.
15	Mrs A Rowe	The owners were aware of the footpath when they purchased the property. The diversion brings users closer to traffic on the road where there is potential to injury to highway users.	This Objector also seeks to argue that the diversion will cause walkers to be exposed to great danger without any evidence that the current verge is a safety issue. Even when in use by parents twice a day at the start and end of the school day there is sufficient space for walkers to traverse the verge to go to point A to cross the road to continue walking the prow network. The diversion does not force walkers into the road. The verge is used by parents twice a day for a relatively short period of time, Monday to Friday. At weekends and times outside the start and finish of the school day the verge is not used by parents.
16	Barbara Farrell	The owners were aware of the footpath when they purchased the property.	This objection is addressed above.

17	Gillian Hooper		<p>The path is a historic route. It would be less convenient for users. None of the former owners have tried to divert the path. It is subjective that users might prefer the views from the other footpath. Danger to schoolchildren is greater between points A and H than by dog excrement.</p> <p>Historic arguments and DMMO points dealt with above. The argument that dog excrement may still occur in school playing field is specious. If there are no public rights of way over the school field then the school can refuse access to dogs - the field is fenced and access is gated so absolute control is possible. Although the Objector suggests the verge is dangerous, this is again unsubstantiated. The Objector's right to access point A and the bus stop is not affected by the diversion as the property has a right of way from the road (confirmed in correspondence from the Objector at the time of the School's application for consent to extend its property.</p>
18	Mrs Alex Ward	<p>Does not live in Wardour. Footpath was approved in 1997 and is historic. The applicant's knew of the footpath when they bought the house. Pupils are always accompanied by an adult. The proposed route is less convenient to users.</p>	<p>DMMO arguments and prior knowledge of footpath dealt with above. The Objector opines that "security to the pupils in using the footpath is totally unfounded as they are always accompanied by an adult". This suggests the Objector has failed to appreciate that the issue is a public path running through a school playing field where pupils cannot be "accompanied" on a one to one basis, for example, that the path especially to the side of the school gives opportunity for persons to get close to the children which may be inappropriate. It fails to take into account that the public are free to enter the grounds without challenge; that their dogs may be let to run off the lead; that their dogs may foul the area when the school is shut and there are no adults supervising. As this objector admits she does not live in Wardour she may be unfamiliar with the day to day position.</p>
19	Pamela Chave	Tisbury Footpath Club	<p>The path has been used by schoolchildren for many years. The owners knew about the footpath when they purchased the property.</p> <p>Both the DMMO arguments and prior knowledge points are dealt with above.</p>

20	Tisbury Parish Council	Tisbury Parish Council	<p>Unanimous vote by Parish Councillors to object to the Order. Felt the school had valid grounds but the section past The Priory was not warranted for any valid reason. The hedge that was removed by the owners created the lack of privacy. The statements made in the report were inaccurate.</p>	<p>It is to be noted that this objection is based upon an assertion that the diversion past the Priory is "not warranted" and that it is the removal of the hedge that caused the lack of privacy. The legislation requires an assessment of what is in the interests of the applicants, and must take account of the situation as it is not as it was. The Applicants had a number of reasons for removing the hedge which separated the house from the bulk of the Applicants' land including the new driveway access and parking. The PC accepts the benefits of a diversion for the School without identifying how this might otherwise be achieved. The comment that the Applicants' garden is in fact agricultural land is pedantic. It is planted as an orchard and sits immediately to the front of the Applicants' house. It is de facto an area for the Applicants to use in conjunction with the house and the restriction is on use, not enjoyment. Crucially the PC has not argued that that the diversion is substantially less convenient or that the use of the verge from A-H is a danger.</p>
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21	Tisbury Footpath Club		<p>The school had not thought the risk of the footpath serious enough to take action themselves. The removal of the hedge is self inflicted expediency. The diversion is less convenient. Feel that the enjoyment of the diversion will be diminished. Historical path. Think the proposed diversion fails all the tests and that the consultation was flawed.</p>	<p>The interest of the owner point is addressed above. The assertion that the route is substantially less convenient because it is undefined appears to contradict the Ramblers point that it is too narrow. That the alignment will "substantially reduce disabled access" is without any evidential foundation. Whilst the needs of disabled people are to be taken into account and reasonable adjustment is to be made where possible, persons with a mobility impairment (being a relatively small percentage of "disabled people") who wish to use the route will encounter other limitations on the existing route, not least the cobbled surface outside the Applicants' property which has proved impossible for a boy with a powered wheelchair to negotiate. In fact, if one is to delve into arguments about "disabled access" there are strong reasons to divert any intrusive path for persons with a mental health condition some of whom can feel discomfort entering areas ostensible "private" in nature. This can be a particular issue for persons on the Autistic Spectrum. Issues regarding the use of the field crossed by the diversion are addressed above. Similar historical issues have been addressed. We do not propose to comment on criticisms of Mike Walker's report as the Order has been made and it is the responses to the Order which now fall to be addressed.</p>
22	Tim Martin		<p>Same points as above</p>	<p>We shall not repeat the above.</p>
23	J and K MacDonald		<p>The permissive right of way allows the owner to withdraw permission at any time. The diversion is less convenient to users. The owners would have been aware of the footpath when they brought the property.</p>	<p>No additional points beyond those addressed above. Emphasis is on effect on School Children and reference back to the DIMMO which is not relevant.</p>

24	Mercy Sword		<p>The diversion is less convenient to users and involves walking on the road between points A and H. It is discriminatory to only allow children from the School to allow the permissive path.</p>	<p>The Objector's comments regarding the length of the diversion are specific to her parents' property and not to the public at large (who will commence or finish at point A). The comments regarding the safety of the verge for young children is not supported by the fact that it is so used on a daily basis during term time with children being supervised. One is not walking in the road where the traffic is but walking next to the road. If the diversion is confirmed it is for the school and the Applicants to determine who may walk on their land and there is no issue of "discrimination".</p>
25	Ambrose Connolly		<p>The diversion would inconvenience the neighbours of the applicants and users of the footpath. It was established in 1997.</p>	<p>Issues on the impact on immediate neighbours addressed above. DMMO issues not relevant.</p>
26	Alan MacDermot		<p>The footpath was established by public enquiry in 1997. The applicants bought their house knowing that it had a public footpath.</p>	<p>The DMMO issue is not relevant. The Applicants have promoted an application that benefits the School as well as their property. They could have simply sought to divert the path from point D which would have had far less an impact on their other land over which the diversion is proposed and would have avoided them having to address issues such as the use of the verge. Whilst this objector has heard of no "incident" the School is supporting the application and many objectors have acknowledged the benefit. These benefits are mentioned above and are not repeated. If it is considered better to react only when an incident occurs rather than reasonably anticipate the position and ignore the views of OFSTED then that will be a judgment for the decision takers. The pre-existing knowledge is not relevant.</p>

27	Emily Toynton		Has used footpath for 50 years. The diversion is less convenient and would take the path on to the road potentially endangering users of the footpath with proximity to cars.	The diversion does not involve any use of the road. Unlike the existing route part of which is shared with the School and those who live alongside the school with motor vehicles, save for crossing the Applicants' drive at point J, there is no vehicular traffic on the diversion route.
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Friday 23rd February 2018

Dear Mr. and Mrs. Taylor

To be read out at the meeting of the Southern Area Planning Committee in March 2018.

The Governing Body and school have discussed the plans submitted by Alison and John Taylor and the proposed easement. We agree to provide a statement in support of this application to be read out at the meeting as follows:


The Governing Body of Wardour Catholic Primary School (the School) supports the proposed plans for the new footpath submitted by the applicants Alison and John Taylor.

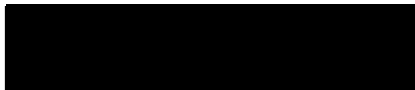
The concern of Wardour Catholic Primary School and the governing body is the education of the children who attend the School and the safeguarding of those children.

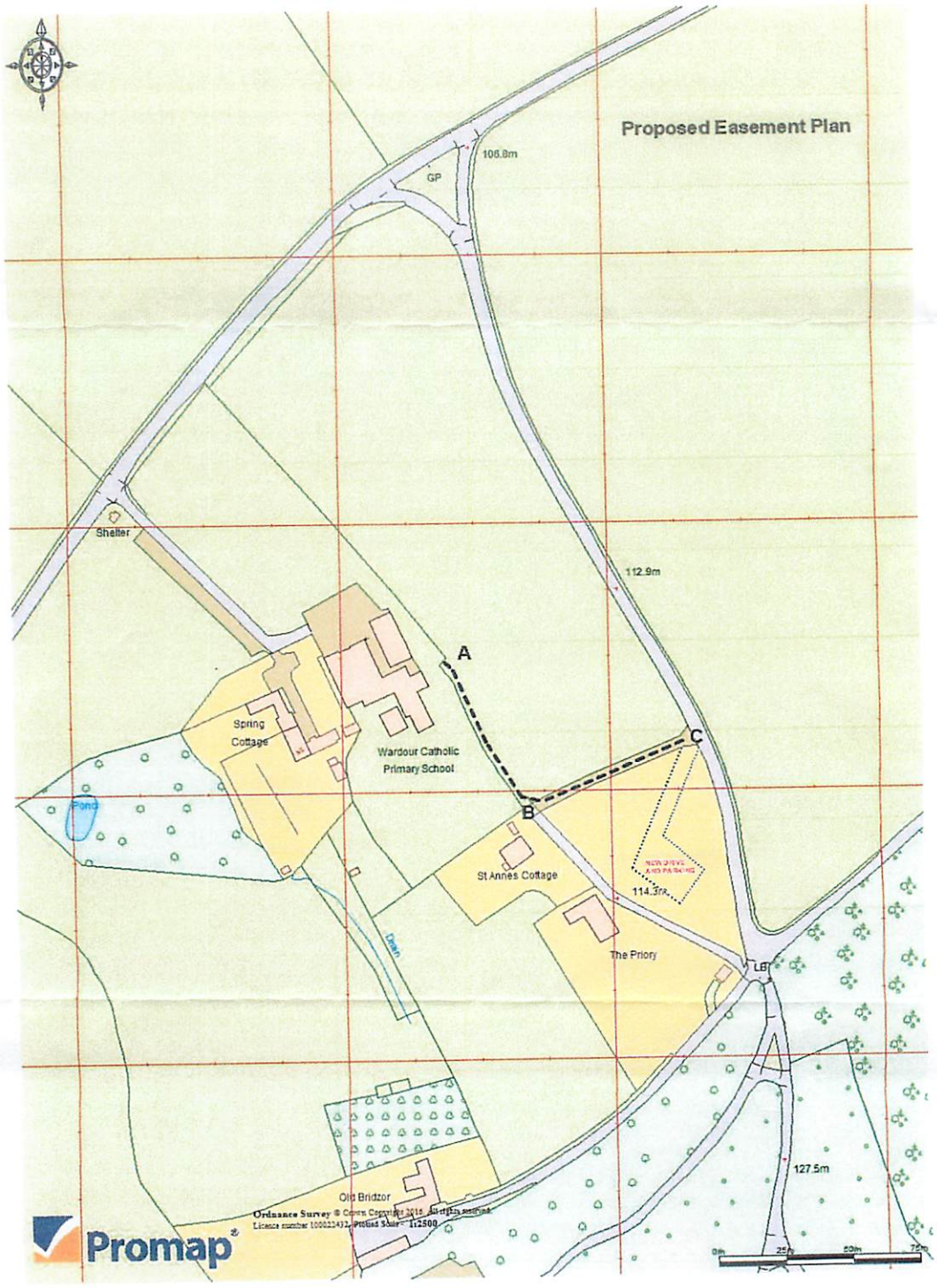
The current footpath poses safeguarding risks.

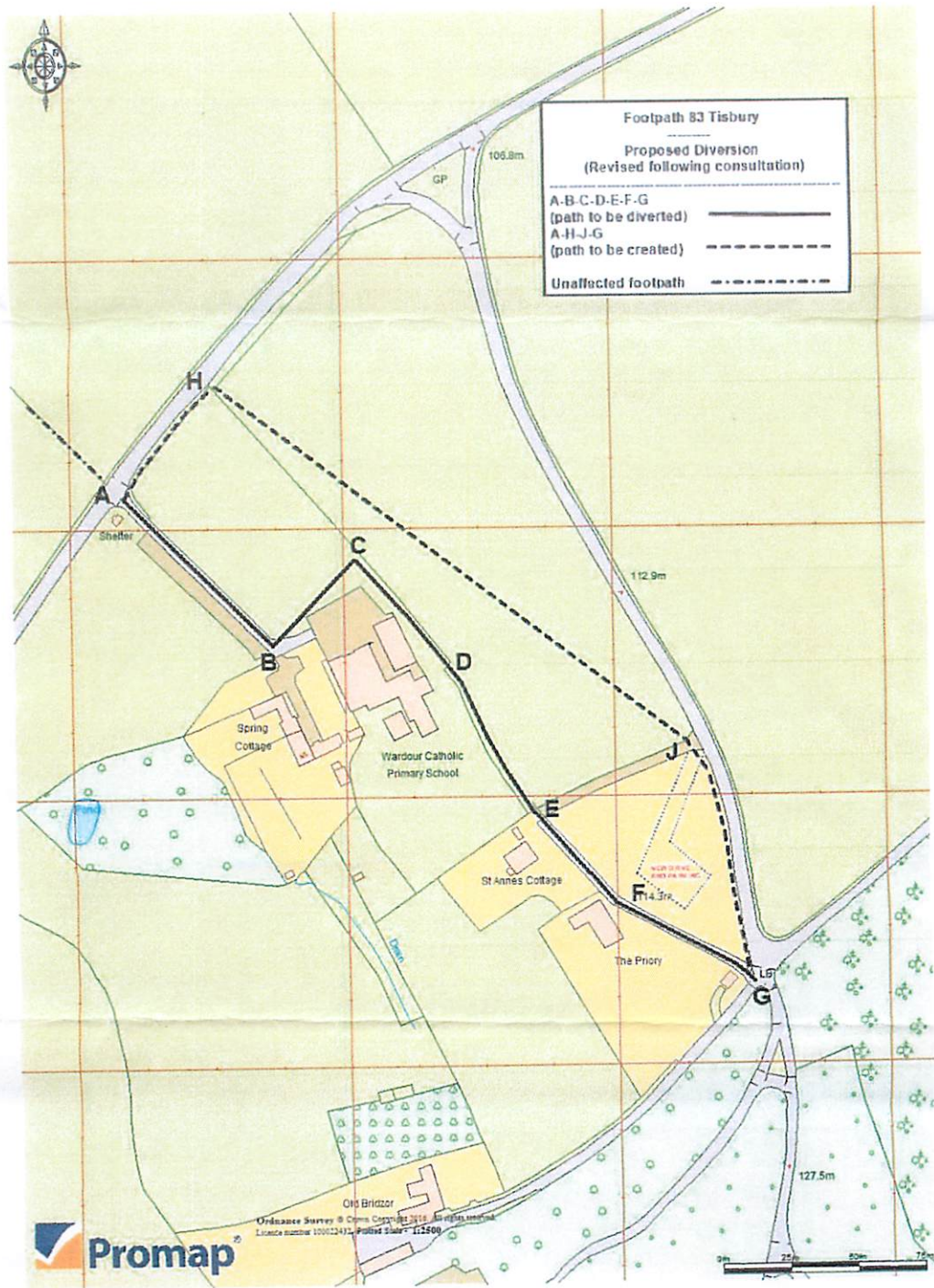
We support the new footpath plans and are grateful that Alison and John Taylor will legally recognise an alternative footpath in perpetuity for Wardour school children and staff as shown on the map submitted to us by Alison and John Taylor.

Yours faithfully


Caroline Lander
Headteacher


Fiona Baker
Co-chair of Governors





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Pen Y Garn Cefneithin
Carmarthenshire
SA14 7EU

T: 0203 [REDACTED]
[REDACTED]

Ms Sally Madgwick
Rights of Way Officer
Wiltshire Council
Bythesea Road
Trowbridge
Wiltshire BA14 8JN

Date: 06 March 2018

Our ref: MW

Your ref: SM/TISB83

By email only

Dear Ms Madgwick

**Wiltshire Council Southern Area Planning Committee 8 March 2018
Highways Act 1980 Section 119
The Wiltshire Council Parish of Tisbury Path No 83 Diversion Order and Definitive Map
Modification Order 2017**

I have reviewed your published Committee Report with my clients ahead of the Committee Meeting on 8 March. As the Council's policy is not to provide a draft in advance of publication for comment and corrections to be made, the applicants have had no opportunity to ensure that matters are stated accurately before Members read the report. As you have moved from a position of support for the making of the Order to one of opposing the continuation of the process, this is of particular concern.

My clients believe that the report does not address the statutory tests fairly or equitably. Section 119 makes it clear that an Order may be made and ultimately confirmed if it is expedient in the interests of the occupier of land. The interests of the School as occupier are clearly of far greater weight than the interests of the owner of the School's land who owes no direct duty to the primary school pupils. The balance between this interest and any impact on public enjoyment is also a compelling reason for the ultimate confirmation of the Order. It is plainly expedient under both Section 119(1) and 119(6) Highways Act 1980. My clients will be taking further advice regarding a legal challenge if necessary, based upon your interpretation of the legislation and the appropriate weight to be afforded to the evidence as dealt with in your report which is at the heart of this.

As you know, the School has recently provided a letter confirming their support and identifying that they do have real safeguarding issues. Even without this letter, we cannot conceive of a situation of a public right of way passing through a school playground which

would not be of serious concern to a school, and this was evidenced by the letters and emails from parents, neighbours and governors.

It is almost beyond belief that the owners of the land would not wish to lend their support to ensuring the safety of the school children. It cannot be expedient in their interests as owners to permit the current position to continue when a solution has been offered by my clients. The School could not resolve the safeguarding issue at the time a diversion of the footpath was secured for the development of buildings (in agreement with the Chapel Trust) because as you are aware, diversions under the Town and Country Planning Act 1990 are to enable development to take place, and cannot address wider issues associated with the established planning use for the land. This is the first opportunity presented to the School to resolve the impact of a public right of way through their playground field and passing close by school classrooms.

For the record, the School advised my clients in May 2016 that the Chapel Trust had been advised of the intended application for a diversion and we had proceeded on the basis that they would share the interests of the School.

The section of the diversion through the School does not directly benefit my clients and taking the path out of the grounds of the School and onto their land is, to some extent, to my clients' disadvantage as it would affect their ability to manage their field in the future.

However, it did appear to my clients that the diversion out of the grounds of the School was the right thing to do in conjunction with a diversion of the path away from their house to a route which was less intrusive. The alignment of the diversion was accepted by the Council after the site meeting between Nick Cowen and Mike Walker. That followed the initial consultation with local people from which you were already aware of potential objections, yet you proceeded nonetheless.

Your reference to the footpath being fenced from the field at the time of a site visit is noted but it was only done so by the owners of St Anne's Cottage and Old Bridzor to whom my clients had loaned their field for grazing, as members of the public had repeatedly left the gate open allowing the livestock to escape. It is regrettable that before reaching a substantive view on the importance of this in the report, that my clients were not asked for their comments, or how they would intend managing the field after the diversion of the footpath.

My clients have become aware of a significant degree of local lobbying against the proposal and are sceptical about the motives of those involved. Although you have noted that it is not a relevant consideration, some of this lobbying has been promulgated on the basis that my clients, as recent arrivals into the village, should not be permitted to alter anything.

My clients wholly reject the implied criticism in the report of the supporting correspondence from parents who have responded in identical terms, especially as this support had been generated by the activity of a concerned parent rather than from canvassing by my clients. Ultimately there is not much a parent can add to the proposition that removing the path from the School would be beneficial to the safety of their child. Others have highlighted the

additional benefits for example by improving the accessibility of the path for mobility impaired children. This material has been dismissed and given little if any weight.

The School had doubtless assumed that since you had made the order there would be no need to mount a campaign to rival the 30 objections, as the natural process would follow based on the fairness of the case, rather than it favouring he who shouts loudest.

Whilst they would still wish to pursue this diversion, my clients feel it is probable that the Committee will act on your advice and accept your recommendation as you are providing them with professional advice even though they consider it to be entirely unbalanced, and therefore see no purpose in attending the Committee meeting or in being represented. Within a three-minute time slot it is simply impossible to convey in detail the relevant issues to rebut the matters in your report. However, they have asked me to point out that they reserve all their rights in this matter and expect the Committee to proceed properly, balancing all of the relevant issues.

We will be informing the representatives of the Governors of the School, and it will be a matter for them to determine whether they wish to take any further steps themselves to address the impact of the path.

[REDACTED]

[REDACTED]

[REDACTED]

DIRECTOR

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Wiltshire Council
Southern Area Planning Committee
8th March 2018

Planning Appeals Received between 21/12/2017 and 23/02/2018

Application No	Site Location	Parish	Proposal	DEL or COMM	Appeal Type	Officer Recommend	Appeal Start Date	Overturn at Cttee
16/07409/FUL	39 Devizes Road Salisbury, Wiltshire SP2 7AA	SALISBURY CITY	Demolition of existing workshops and replacement with 9 x 2 bed apartments in a three storey block including cycle parking and landscaping	DEL	Written Representations	Refuse	20/02/2018	No
17/00469/FUL	Corner Cottage Becketts Lane Chilmark, Wiltshire SP3 5BD	CHILMARK	Retrospective application for the formation of vehicle access	DEL	Written Representations	Refuse	03/01/2018	No
17/02284/FUL	Land south of Overway Lane, Donhead St Andrew	DONHEAD ST ANDREW	The erection of a detached dwelling and garage and associated works (resubmission of 16/09227/FUL)	DEL	Written Representations	Refuse	20/02/2018	No
17/06448/FUL	Clearbury View Pacombe, Redlynch Wiltshire, SP5 2JJ	REDLYNCH	Erection of 2no. chalet style detached dwellings along with parking and associated landscaping	DEL	Written Representations	Refuse	20/02/2018	No
17/06515/FUL	1 Bluebell Cottages Britmore Lane Gutch Common Shaftesbury Wiltshire, SP7 9BB	DONHEAD ST MARY	Conversion of Existing Detached Double Garage/Wood Store into Studio Annex/Holiday Let.	DEL	Written Representations	Refuse	20/02/2018	No

Planning Appeals Decided between 21/12/2017 and 23/02/2018

Application No	Site Location	Parish	Proposal	DEL or COMM	Appeal Type	Officer Recommend	Appeal Decision	Decision Date	Costs Awarded?
16/10907/OUT	Land at Empress Way Ludgershall Wiltshire	LUDGERSHALL	Outline application for up to 269 dwellings (Use Class C3), 2-form entry primary school, highways including extension to Empress Way, green infrastructure incl open space and landscaping, infrastructure, drainage, utilities and engineering works - External Access from Empress Way not reserved.	DEL	Hearing	Refuse	Dismissed	06/02/2018	Costs Applied for by Wiltshire Council – REFUSED
17/02445/FUL	Dragonhead Barn Dean Road, West Dean Salisbury, SP5 1HR	GRIMSTEAD	Retrospective application for change of use of existing agricultural building to workshop/storage and erection of two agricultural buildings.	DEL	Written Reps	Refuse	Dismissed	16/01/2018	Costs Applied for by Appellant – REFUSED
17/04835/PNCOU	Longhedge Farm Yard Longhedge, Wiltshire SP4 6BS	DURNFORD	Notification for prior approval under class Q- proposed change of use of existing agricultural building to form one dwelling and associated operational development	DEL	Written Reps	Refuse	Dismissed	09/02/2018	None
17/05837/FUL	Land at Cherry Trees/ Bruerne Cottage Gunville Road, Winterslow Salisbury , SP5 1PP	WINTERSLOW	Creation of a new access.	DEL	Written Reps	Refuse	Allowed with Conditions	09/02/2018	None
17/05893/FUL	2 Duchy Cottages North Road, Mere Wiltshire, BA12 6HG	MERE	Proposed garage	DEL	Written Reps	Refuse	Dismissed	09/02/2018	None

The legal duty to state the reasons for making decisions on planning applications

A recent Court case (Dover District Council v CPRE Kent – December 2017) has set out more clearly the need for Councils to give reasons for their decisions when making planning decisions. Whilst this has been well known in relation to refusals of planning permission, the judgment adds more clarity as to what is required when decisions are taken to approve applications, and particularly when the decision is to approve an application against officer recommendation. This note looks at the implications of that court decision.

1. Refusal of applications and the addition of conditions

It has long been the case that local planning authorities must give reasons for refusing permission or imposing conditions. This is because there is a statutory right of appeal against the refusal or the imposition of conditions. Article 35(1) of the Town and Country Planning (Development Management Procedure) (England) Order 2015 states that the authority in their decision notice must 'state clearly and precisely their full reasons'.

Members will be aware that in both delegated and committee reports, reasons for refusal are clearly set out by officers, and where members wish to refuse an application against officer recommendation, officers will prompt them for 'clear and precise' planning reasons. There is nothing new in this aspect. Members will also be aware that when officers are issuing delegated approvals, or recommending applications to committee for approval, the reasons for any conditions to be attached are identified in the decision notice or committee report.

2. Approval of planning applications

In relation to delegated decisions, there is a duty to produce a written record of the decision 'along with the reasons for that decision' and 'details of alternative options, if any, considered or rejected' (regulation 7, Openness of Local Government Bodies Regulations 2014). The Council complies with this requirement in relation to planning applications by issuing a decision notice and preparing a separate delegated report. Both of these are then uploaded to the Council's web site so that any interested person can discover both the decision on the application and the reasons that the decision has been made. The judgment re-affirms that what is required is an adequate explanation of the ultimate decision.

In relation to committee decisions, where an application is recommended for approval by officers, the judgment makes it clear that if the recommendation is accepted by members, no further reasons are normally needed, as the Planning Officer's Report will set out the relevant background material and policies before making a reasoned conclusion and it will be clear what has been decided and why.

The Judgment breaks new ground by providing greater clarity on what is required in the circumstances where members of a planning committee choose to grant planning permission when this has not been the course recommended by officers in the Planning Officers Report.

In short, the Judgment makes it clear that there is a principle of 'fairness' that needs to be applied, so that those who may be opposed to the decision can understand the planning reasons why members have arrived at their decision. There is no question that members are of course entitled to depart from their officers recommendation for good reasons, but the judgment makes clear that these reasons need to be 'capable of articulation and open to public scrutiny'. The Judgment cites an extract from 'The Lawyers in Local Government Model Council Planning Code and Protocol (2013 update) as giving the following 'useful advice':

'Do make sure if you are proposing, seconding or supporting a decision contrary to officer recommendations or the development plan that you clearly identify and understand the planning reasons leading to this conclusion/decision. These reasons must be given prior to the vote and recorded. Be aware that you may have to justify the resulting decision by giving evidence in the event of any challenge'

A further paragraph of the Code is cited that offers the following advice:

'Do come to your decision only after due consideration of all the information reasonably required upon which to base a decision. If you feel there is insufficient time to digest new information or that there is simply insufficient information before you, request that further information. If necessary, defer or refuse'

The underlying purpose of the judgment is to ensure that members can demonstrate that when granting permission they have properly understood the key issues and reached a rational conclusion on them on relevant planning grounds. The Judgment notes that this is particularly important in circumstances where they are doing so in the face of substantial public opposition and against the advice of officers for projects involving major departures from the development plan or other policies of recognised importance. This enables those opposing the decision to understand how members have arrived at their decision.

3. Practical Implications of the Judgment

The judgment re-affirms that the Council's existing practices and procedures are suitable to meet the legal duties imposed on it in relation to decision making on planning applications. The two key points are that where significant new information is provided shortly before a decision is due to be made, it is appropriate for members to ask for it to be explained, or if they consider that more time is required for themselves or officers to assess and understand it, to consider deferring a decision to provide suitable time. Secondly, when approving applications against officer recommendation, particularly those that are in sensitive areas or are controversial, the reasons why members consider that the harm identified can either be suitably mitigated or the reasons why a departure from policy is justified must be explained and recorded to demonstrate to those opposing the development how the Council has reached a rational conclusion. Members need to engage with the recommendations of the officer and explain the reasons for departure from those recommendations. If no rational explanation on planning grounds is recorded, any such decision could be at risk of challenge in the Courts.

Mike Wilmott

Head of Development Management

Date of Meeting	8 th March 2018
Application Number	17/00842/OUT
Site Address	Land opposite Horefield, Idmiston Road, Porton, Wiltshire, SP4 0LD
Proposal	Outline Planning Application for residential development of 16 dwellings with all matters reserved. Provision of new footways and dropped kerb crossings to Nicholas CofE Primary School and 18 public car parking spaces for Horefield residents/school use.
Applicant	Mr S Ingram
Town/Parish Council	IDMISTON
Electoral Division	BOURNE AND WOODFORD VALLEY – (Cllr Hewitt)
Grid Ref	419325 136905
Type of application	Full Planning
Case Officer	Lucy Minting

Reason for the application being considered by Committee/Background

The application was called in by Councillor Hewitt on the grounds of Environmental or Highway Impact and was originally presented to the Southern Area Planning Committee meeting on 14/12/2017. The officer's report (amended to take into account the late correspondence circulated at the meeting) is attached at Appendix A. The committee minutes are attached at Appendix B.

Following the receipt of additional ecological information prior to the meeting, the council's ecologist was satisfied that sufficient information had been provided to suitably inform the assessment of likely significant effects to the River Avon Special Area of Conservation (SAC), Salisbury Plain Special Protection Area (SPA)/SAC/SSSI and Porton Down SPA/SSSI.

However, it did not address the council's ecologist objections to insufficient information with regard to other ecological receptors. In particular the council's ecologist referred to the first version of the report making reference to trees having moderate bat roosting potential but this was then later retracted without explanation. The LPA required the results of the tree survey and associated preliminary bat roost assessment referred to in the ecology summary and a plan to show the trees/hedgerows being retained to be submitted to the LPA for review. In the absence of this, the application was previously recommended for refusal.

However, the Southern Area Planning Committee deferred making a decision in order for updated ecological information to be submitted to the LPA for consideration.

A Bat Potential Roost Feature Inspection Survey & Bird Potential Report has been submitted.

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 S106 Agreement.

2. Report Summary

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

- Principle
- The impact on the character and appearance of the open countryside/special landscape area
- Highway considerations
- Archaeology
- The impact on the living conditions of proposed and nearby properties
- Nature conservation interests
- Sustainable Construction
- Water environment and drainage
- S106 Developer Contributions towards infrastructure/facilities/CIL
 - Affordable Housing
 - Public open space
 - Waste contributions

The application has generated 81 third party representations of objection, 30 third party representations of support and 9 third party representations commenting and No objections from Idmiston Parish Council

3. The Proposal

In addition to the Bat Potential Roost Feature Inspection Survey & Bird Potential Report; the plans have been revised which show the retention and enhancement of the existing two hedgerows along the side boundaries and also in response to some of the other comments made at Committee an increase in public parking from 15 to 18 spaces:



4. Planning Considerations

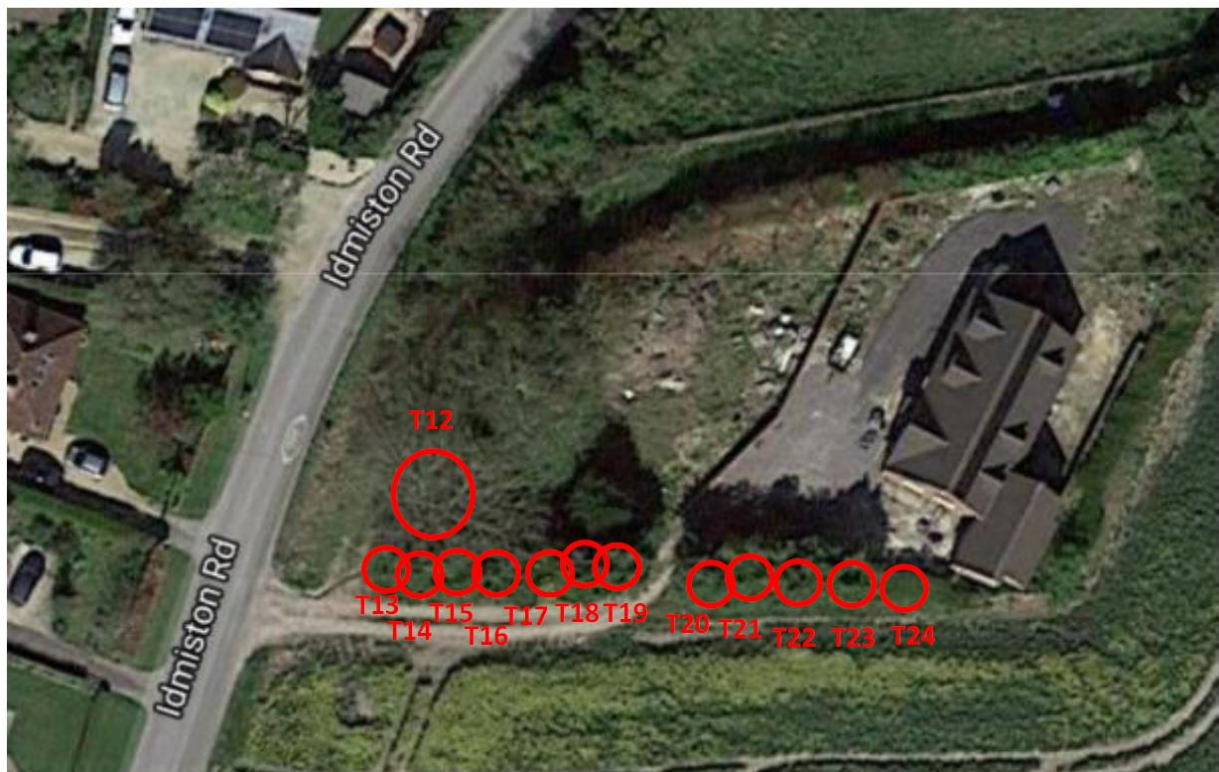
4.1 Nature conservation interests

The ecological survey consisted of a preliminary ground level roost assessment of the two hedgerows, specifically any shrubs and trees for evidence of bats or the potential for bats to use for roosting and recorded 24 shrub and tree species.

Fig1. Location of Trees Surveyed for Potential Roost Features - Southern Boundary.



Fig2. Location of Trees Surveyed for Potential Roost Features - Northern Boundary.



The survey assessed the two areas of vegetation as having no to negligible potential to be used by bats for roosting, although there is low to moderate potential the two areas may be used by bats for foraging. Both areas of vegetation have moderate potential to support breeding birds, offering low lying cover and nesting habitat.

The survey report recommends that both areas are improved for biodiversity with the planting of a double row of native shrub and tree species, and bat and bird boxes are installed within both areas of habitat to maximise available roosting opportunities.

The survey report also recommends that proposed site clearance and construction works take place between November and late February to avoid the breeding season and any lighting used during the Site works should be erected so that it doesn't create a barrier to potential bat flight lines along either hedgerow.

Following the receipt of a satisfactory survey, the Council's ecologist has raised no objections subject to conditions (see conditions 14-17).

4.2 Other issues

The previous officer report explains in detail why the principle of development is considered acceptable and the changes to the proposals increasing the number of public car spaces are not considered to amend the previous favourable recommendations in terms of highway considerations; impact on living conditions; the character and appearance of the area; the water environment and drainage, or archaeological issues.

However, for new build residential development the local planning authority has previously sought energy performance at "or equivalent to" Level 4 of the Code for Sustainable Homes via planning condition. However, the LPA is currently no longer applying CP41 and related conditions to applications given it has effectively been superseded by the current government direction of travel favouring Building Regulations for these matters.

5. Conclusion

The site is located within open countryside being located outside of any designated settlement boundary, although the outline application with all matters reserved for 16 dwellings (5 affordable houses are proposed in accordance with the CP43 requirements) follows the Idmiston Neighbourhood Plan being 'made' and as such is acceptable in principle.

The proposal is considered acceptable in terms of access and parking provision, and would not be prejudicial in terms of highway safety or surface water or foul water drainage (subject to conditions).

Following additional ecological information being submitted, the council's ecologist has raised no objections subject to conditions.

In addition to on-site affordable housing, developer contributions are triggered towards infrastructure/facilities, including recreational open space, and waste and recycling facilities which require a S106 agreement.

RECOMMENDATION:

To delegate to officers to grant planning permission:-

- (a) Subject to the prior completion of a Section 106 legal agreement (for the provision of 5 affordable dwellings; financial contribution for waste and recycling containers; financial contribution towards off site recreational open space and the provision and transfer of 18 “public” spaces for Horefield resident/school use to the Parish Council.

And subject to the following conditions:

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

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

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

- (a) The scale of the development;
- (b) The layout of the development;
- (c) The external appearance of the development;
- (d) The landscaping of the site;
- (e) The means of access to the site.

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

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

(3) An application for the approval of all of the reserved matters shall be made to the Local Planning Authority before the expiration of three years from the date of this permission.

REASON: To comply with the provisions of Section 92 of the Town and Country Planning Act 1990.

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

Plan Reference: 1:500 and 1:1000 Site Location Plans, received by this office 19/12/2017
Bat Potential Roost Feature Inspection Survey & Bird Potential Report January 2018, received by this office 20/02/2018

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

(5) No development shall commence on site until the exact details and samples of the materials including any finishes 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.

(6) No development shall commence on site until a scheme for the discharge of foul water from the site has been submitted to and approved in writing by the Local Planning Authority. No dwelling shall be first occupied until foul water drainage for that dwelling has been constructed in accordance with the approved scheme and the last dwelling to be occupied on the site shall not be so occupied until the foul water drainage scheme for the whole of the site has been completed 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 proposal is provided with a satisfactory means of drainage and does not increase the risk of flooding or pose a risk to public health or the environment.

(7) No development shall commence on site until a scheme for the discharge of surface water from the site (including surface water from the accesses/driveways), incorporating sustainable drainage details together with permeability test results to BRE365 has been submitted to and approved in writing by the Local Planning Authority. No dwelling shall be first occupied until surface water drainage for that dwelling has been constructed in accordance with the approved scheme and the last dwelling to be occupied on the site shall not be so occupied until the surface water drainage scheme for the whole of the site has been completed 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.

(8) 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:-

- * 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;

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 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.

(10) No development shall commence on site until details of the proposed paved footway, accesses, drive gradients, car parking and any other associated highway works, have been submitted to and approved by the local planning authority. The development shall not be first occupied until the works referred to above have been constructed and laid out in accordance with the approved details.

REASON: To ensure that the paved footways and associated highway works are constructed in a satisfactory manner.

(11) No development shall commence on site until an investigation of the history and current condition of the site to determine the likelihood of the existence of contamination arising from previous uses has been carried out and all of the following steps have been complied with to the satisfaction of the Local Planning Authority:

Step (i) A written report has been submitted to and approved by the Local Planning Authority which shall include details of the previous uses of the site for at least the last 100 years and a description of the current condition of the site with regard to any activities that may have caused contamination. The report shall confirm whether or not it is likely that contamination may be present on the site.

Step (ii) If the above report indicates that contamination may be present on or under the site, or if evidence of contamination is found, a more detailed site investigation and risk assessment has been carried out in accordance with DEFRA and Environment Agency's "Model Procedures for the Management of Land Contamination CLR11" and other authoritative guidance and a report detailing the site investigation and risk assessment shall be submitted to and approved in writing by the Local Planning Authority.

Step (iii) If the report submitted pursuant to step (i) or (ii) indicates that remedial works are required, full details have been submitted to the Local Planning Authority and approved in writing and thereafter implemented prior to the commencement of the development or in accordance with a timetable that has been agreed in writing by the Local Planning Authority as part of the approved remediation scheme. On completion of any required remedial works the applicant shall provide written confirmation to the Local Planning Authority that the works have been completed in accordance with the agreed remediation strategy.

REASON: The 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 land contamination can be dealt with adequately prior to the use of the site hereby approved by the Local Planning Authority.

(12) No development shall commence until details for the provision of a water supply and fire hydrants necessary to meet the fire-fighting needs of the housing development (including the installation arrangements and the timing of such an installation) have been submitted to and approved in writing by the Local Planning Authority. The approved measures shall be implemented in full accordance with the agreed details.

REASON: To ensure that adequate measures for fire-fighting can be incorporated into the development, including the construction phase.

(13) No construction shall take place on Sundays or Public Holidays or outside the hours of 08:00 to 18:00 Monday to Friday and 08:00 to 13:00 on Saturdays.

REASON: To minimise disturbance to nearby residents during the construction.

(14) The proposed development shall be undertaken in accordance with the recommendations and timings stipulated in section 4.0 of the Bat Potential Roost Feature Inspection Survey & Bird Potential Report (Daniel Ahern Ecology, January 2018).

REASON: To ensure implementation of appropriate mitigation measures for protected species and to ensure compliance with wildlife legislation and the NPPF.

(15) The proposed development shall retain vegetative boundary features and shall not include the felling of any trees along the boundary of the site. Trees and hedgerow along the

boundaries of the site shall be suitably protected during the pre-construction and construction phase.

REASON: To ensure appropriate protection for habitats and protected species and to ensure compliance with wildlife legislation and the NPPF.

(16) No development shall commence until a Landscape and Ecological Management Plan (LEMP) has been submitted to the local planning authority for written approval. The LEMP shall include but not be limited to including the following: details of ecological mitigation measures to be implemented during construction including the protection of hedgerows and trees; details of the ecological enhancement measures to be implemented in accordance with section 4.0 of the Bat Potential Roost Feature Inspection Survey & Bird Potential Report (Daniel Ahern Ecology, January 2018) and these shall be shown on a site plan; and shall provide details/plans and schedules of proposed planting and soft landscaping.

REASON: To ensure appropriate avoidance, mitigation and enhancement measures for biodiversity and landscape.

(17) No new external lighting shall be installed until a Sensitive Lighting Strategy has been submitted to the local planning authority for approval in writing. The lighting strategy shall specify the number, type and location of luminaires and lighting columns to be installed and will be accompanied by a lighting contour plan/lux plot. In addition, details of mitigation measures setting out how light spill onto retained habitats will be minimised and how the boundaries will be retained as dark corridors shall be submitted for approval.

REASON: To ensure appropriate mitigation for protected species and the retention of dark corridors along the site boundaries.

INFORMATIVE TO APPLICANT: S278 Agreement

The applicant should be advised that he will be required to enter into a S278 Legal Agreement with the Council to secure the highway works including the adoption of the new paved footway across the frontage of the application site.

INFORMATIVE TO APPLICANT: Reserved Matters Outstanding

Notwithstanding the indicative layout, elevation and floorplans submitted with this application, the approval of this application does not necessarily indicate the Council's opinion on the reserved matters and is without prejudice to any formal decision taken in respect of development of the above site at the detailed reserved matters stage.

INFORMATIVE TO APPLICANT: Wessex Water

Water Supply and Waste Connections

New water supply and waste water connections will be required from Wessex water to serve this proposed development. Application forms and guidance information is available from the Developer Services web-pages at our website www.wessexwater.co.uk.

Further information can be obtained from our New Connections Team by telephoning 01225 526222 for Water Supply and 01225 526333 for Waste Water.

Separate Sewer Systems

Separate systems of drainage will be required to serve the proposed development. No surface water connections will be permitted to the foul sewer system. An extract plan from Wessex Water records showing the approximate location of our apparatus within the vicinity of the site can be found on the application file which can be viewed on the council's website against the relevant application record.

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: 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.

APPENDIX A – Previous report to 14/12/2017 SAPC -amended to take into account the late correspondence circulated at the meeting

Date of Meeting	14 th December 2017
Application Number	17/00842/OUT
Site Address	Land opposite Horefield, Idmiston Road, Porton, Wiltshire, SP4 0LD
Proposal	Outline Planning Application for residential development of 16 dwellings with all matters reserved. Provision of new footways and dropped kerb crossings to Nicholas CofE Primary School and 15 public car parking spaces for Horefield residents/school use.
Applicant	Mr S Ingram
Town/Parish Council	IDMISTON
Electoral Division	BOURNE AND WOODFORD VALLEY – (Cllr Hewitt)
Grid Ref	419325 136905
Type of application	Full Planning
Case Officer	Lucy Minting

Reason for the application being considered by Committee

Councillor Hewitt called in the application for the following reasons:

- Environmental or Highway Impact

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 REFUSED.

2. Report Summary

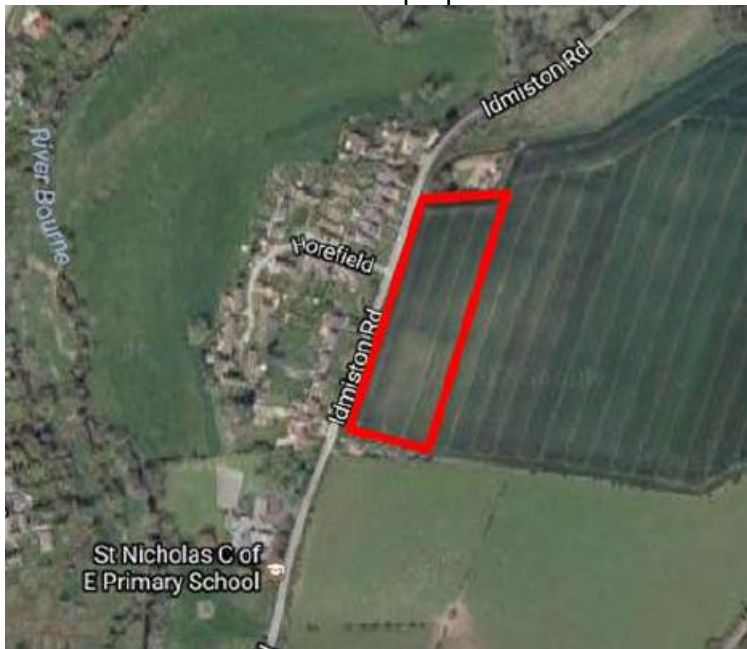
The main issues which are considered to be material in the determination of this application are listed below:

- Principle
- The impact on the character and appearance of the open countryside/special landscape area
- Highway considerations
- Archaeology
- The impact on the living conditions of proposed and nearby properties
- Nature conservation interests
- Sustainable Construction
- Water environment and drainage
- S106 Developer Contributions towards infrastructure/facilities/CIL
 - Affordable Housing
 - Public open space
 - Waste contributions

The application has generated 81 third party representations of objection, 30 third party representations of support and 8 third party representations commenting and No objections from Idmiston Parish Council

3. Site Description

The site is outside the settlement boundary for Idmiston and is currently an agricultural field opposite the Horefield Estate. The site is bounded by Idmiston Road to the west, arable field to the east and two residential properties to the north and south.



4. Planning History

None

5. The Proposal

This is an outline application with all matters reserved for a residential development of 16 dwellings.

Outline planning applications seek permission of a proposed development in principle and allows for specific details of the application to be reserved for subsequent approval by the local planning authority at a later stage (reserved matters).

'Matters' are defined in Part 1 of The Town and Country Planning (Development Management Procedure) (England) Order 2015 defines these as:

"access", in relation to reserved matters, means the accessibility to and within the site, for vehicles, cycles and pedestrians in terms of the positioning and treatment of access and circulation routes and how these fit into the surrounding access network;

Where access is a reserved matter (as is the case in this application), the application for outline planning permission must state the area or areas where access points to the development proposed will be situated.

"appearance" means the aspects of a building or place within the development which determines the visual impression the building or place makes, including the external built form of the development, its architecture, materials, decoration, lighting, colour and texture;

"landscaping", means the treatment of land (other than buildings) for the purpose of enhancing or protecting the amenities of the site and the area in which it is situated and includes—

(a) screening by fences, walls or other means;

- (b) the planting of trees, hedges, shrubs or grass;
- (c) the formation of banks, terraces or other earthworks;
- (d) the laying out or provision of gardens, courts, squares, water features, sculpture or public art; and
- (e) the provision of other amenity features;

“layout” means the way in which buildings, routes and open spaces within the development are provided, situated and orientated in relation to each other and to buildings and spaces outside the development;

“scale” except in the term ‘identified scale’, means the height, width and length of each building proposed within the development in relation to its surroundings.

An indicative layout plan has been submitted:



The application has also been revised to now include the provision of new footways and dropped kerb crossings to Nicholas CofE Primary School and 15 public car parking spaces for Horefield resident/school use.

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 3: Infrastructure Requirements
Core Policy 4: Spatial Strategy: Amesbury Community Area
Core Policy 41: Sustainable construction and low carbon energy
Core Policy 43: Providing affordable homes
Core Policy 45: Meeting Wiltshire's Housing Needs
Core Policy 50: Biodiversity & geodiversity
Core Policy 52: Green Infrastructure
Core Policy 57: Ensuring high quality design and place shaping
Core Policy 58: Ensuring conservation of the historic environment
Core Policy 60: Sustainable Transport
Core Policy 61: Transport and New Development
Core Policy 64: Demand Management
Core Policy 67: Sustainable drainage
Core Policy 68: Water resources
Housing Land Supply Statement (March 2017)

Saved policies of the Salisbury District Local Plan:

C6 – Development within the Special Landscape Area
-Ref 7.15: 'the release of additional development land will need to be weighed carefully against any resulting erosion of the landscape setting.'
-Ref 7.9: The location, scale and nature of such development will be carefully controlled in order to conserve the character of the special landscape area.
D8 – Public Art
R2 – Recreational Open Space
PS5 – Education facilities

Wiltshire Local Transport Plan 2011-2026:

Car Parking Strategy
Cycling Strategy

Wiltshire and Swindon Waste Core Strategy:

Policy WCS6

Government Guidance:

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

Supplementary Planning Guidance:

- Idmiston Neighbourhood Development Plan (Made April 2017)
- Adopted Supplementary Planning Document 'Creating Places Design Guide' April 2006
- The Wiltshire Planning Obligations Supplementary Planning Document (SPD) (Adopted May 2015)
- Idmiston, Porton & Gomeldon Village Design Statement (March 2013)
- Habitat Regulations Assessment and Mitigation Strategy for Salisbury Plain Special Protection Area
- Local Flood Risk Management Strategy (April 2015)

Conservation of Habitats and Species Regulations 2010

7. Summary of consultation responses

Spatial Planning: No objection

The application site relates to two sites identified for residential development in the Ildminster Neighbourhood Plan. The proposed scheme would deliver specific objectives of the Neighbourhood Plan by providing a mix of housing, including housing to meet the needs of the elderly and affordable housing.

Whilst it is considered that the proposal meets the objectives of the Neighbourhood Plan with regard to delivering a mix of housing. It is also considered that it is not so substantial and its cumulative effect is not so significant, that to grant permission would undermine the Wiltshire Core Strategy to any significant degree.

Therefore, as far as policy interpretation is concerned it is considered that the scheme would provide some significant benefits. It is considered that it would be difficult to justify a refusal because the adverse impacts of granting permission would not significantly or demonstrably outweigh the benefits, that is, unless you consider other material considerations suggest otherwise.

Wiltshire Council Highways: No objections subject to conditions

The layout shown on the Scheme Layout Plan 1p/pa/O1C is generally acceptable, subject to full details. Recommended conditions (details of the paved footway, accesses, drive gradients, car parking and other associated highways works to be approved; scheme for the discharge of surface water from the accesses/driveways) and informative that the applicant will need to enter into a Section 278 agreement with the council to secure the highway works including the adoption of the new paved footway across the frontage of the site.

Wiltshire Council Archaeology: No objections

Following receipt of the field evaluation report, on the evidence available it is considered unlikely that significant archaeological remains would be disturbed by the proposed development.

Wiltshire Council New Housing: No objections subject to S106 for on-site Affordable Housing provision (5 units)

Wiltshire Council Drainage: No objections subject to conditions (schemes for foul water discharge and surface water discharge to be agreed) following submission of revised flood risk assessment and drainage strategy.

Wessex Water:

New water supply and waste water connections will be required from Wessex Water to serve this proposed development.

Separate systems of drainage will be required to serve the proposed development.

No surface water connections will be permitted to the foul sewer system.

Wiltshire Council Public Protection: No objections subject to conditions:

(Limit the hours of construction to minimise noise/dust (Monday to Friday 08:00-18:00; Saturday 08:00 – 13:00, not at all on Sundays or Bank Holidays and a contaminated land investigation of the site)

Natural England: No comments

Natural England has no comments to make on this application (it is for the LPA to determine whether or not this application is consistent with national and local policies on the natural environment)

Natural England has not assessed this application for impacts on protected species.

Wiltshire Council Ecology: Object

- I am satisfied that sufficient information has now been provided by the applicant and their ecological consultant to suitably inform the assessment of likely significant effects under the Conservation of Habitats and Species Regulations 2010 which we, as competent authority, must undertake for this application given its location within 2km of the River Avon Special Area of Conservation (SAC), Salisbury Plain Special Protection Area (SPA)/SAC/SSSI and Porton Down SPA/SSSI. **It is considered that the proposed development alone, or in-combination with other plans and projects, will not result in a likely significant effect on any of the aforementioned Natura 2000 sites or their qualifying features.**
- **However, the ecology summary states: ‘An individual tree survey was completed on 3/12/17; this confirms bat roost potential of the 13 trees to be negligible to low.’** Firstly, as this is late correspondence since my last response to the application, if this is to be relied upon as evidence by the applicant, **an associated preliminary roost assessment detailing the survey method and results for each tree assessed should be provided to the LPA for review, however, such a report has not been submitted to the LPA.** Secondly, this does not suitably address the query in my second response to the application regarding why the first version of the report made reference to trees on site with moderate roosting potential and this was then retracted within the second version of the report. **No rationale has been provided to date for this downgrading since the initial assessment on site. The Council must be provided with evidence that the survey method was appropriate particularly in light of the aforementioned discrepancy, and this also augments the request for the preliminary roost assessment baseline report to be submitted to the LPA.**
- The Ecological Summary states: *‘There has been repeated confirmation from the planning consultant that there is no intention to remove any of the boundary vegetation, hedgerow, dense scrub or occasional standards.’* It then goes on to stipulate: *‘As above, the planning consultant has stated on several occasions that the plans for the proposed development will not entail the removal of any of the vegetation on either the northern or southern boundaries of the proposed site. See below; Tony Allen (planning consultant) 06/12/17 - “We have no desire or need to remove any hedgerow as part of this development”.* There has been no such repeated confirmation from the planning consultant to my knowledge, with the first confirmation being set out in the Ecological Summary and covering email from Tony Allen received by Wiltshire Council on 7th December and therefore subsequent to my second response to the application.
- In response to the comment in the Ecological Summary, it is not entirely clear what point is being made, however, the applicant should note that EclAs (Ecological Impact Assessment) are often produced as stand-alone documents and do not always feed into a full EIA. Furthermore, it is for the applicant’s ecological consultant to determine what level of ecological reporting is needed based on the type and scale of the proposed development (for non-EIA projects), and **the LPA has a right to ask for further information if they consider that information which is needed to support the application, is lacking.**

Wiltshire Council Waste:

Support subject to condition (details of bin collection points) and S106 contribution of £1456 towards waste and recycling containers.

Wiltshire Council Public Open Space:

16 x 3 bed dwellings would generate the following requirement (192 sq metres of Play, 320 sq metres of Casual and 1152 sq metres of Youth and Adult. As no on-site Public Open Space is proposed, an off-site contribution to upgrade nearby facilities would be sought via a S106 agreement.

Wiltshire Council Education: No developer contributions being sought.

Places for this development are currently available at either St Nicholas, Porton and/or Gomeldon Primary, within latest forecasts and capacity (no requirement for a developer contribution towards the expansion of primary school places from this application)

Whilst all spare capacity is already more than accounted for at Secondary level; mindful of the CIL pooling restrictions that apply now to S106s and the small size of this application, the Council has decided not to make a case for a developer contribution from it, towards the expansion of secondary age provision in Salisbury.

Wiltshire Council Public Arts:

The arts service will not be requesting a public art contribution for this development. I have no objection or further comment to make on this development.

Idmiston Parish Council: No objections

- The IPC Neighbourhood Plan (IPC NP) support the site for development and the IPC supports this development
- The IPC NP is on statute as formal planning policy for the Idmiston Parish - supported by the Wiltshire Council Core Plan and Central Government Planning Policy.
 - The Development over delivers on affordable housing vs. planning requirements for a development of this scale.
 - Site issues around Highways and Archaeology have been resolved; we understand that Environmental concerns are being closed out following an additional survey and review.
 - a potential increase in the target for housing in Wiltshire by 2026
 - increasing the target by another 20,000 above the current target of 44,000 houses
- The IPC NP has identified development sites to cover this as a proportional increase; the land opposite Horefield is recognised as an approved site for development within the Parish and a key option towards achieving the allocated housing development targets for the Parish.

8. Publicity

The application was advertised by site notice, in the local paper and neighbour consultation letters.

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

- Traffic is already unacceptable at Idmiston School during dropping off and collection times (parents park on the road or across resident driveways) and from workers accessing DSTL site
- Impact to existing residents through increased traffic volumes/congestion/parking management problems on Idmiston Road from widening the pavement/narrowing the road – increase in double parking

- Existing residents use the bank to park their cars
- Loss of on road parking along Idmiston Road from creation of new vehicular entrances (28 spaces proposed insufficient for future/existing residents, parents with in excess of 70-80 vehicles per day and village events/sports day – 147 cars parked along Idmiston Road). Site should be enlarged to provide more parking.
- Proposed parking spaces are in front of affordable/elderly housing
- Increased highway safety risk from proposed new driveways with blind spots onto Idmiston Road/near brow of hill and bend (contrary to Idmiston Neighbourhood Plan Policy 9)
- Highway and pedestrian safety risk from proposed footway and pedestrian crossing being obstructed by parked cars and close to proposed car park/vehicles manoeuvring
- Blocking of highway for emergency services access (who have not been consulted) and public transport
- Proposed paved footway in front of Nos 1-4 Horefield will restrict where residents can park, obstruct established vehicular accesses, space for parking and cause nuisance from pedestrians using the footway.
- Suggest footway should be on east side of road so need for only 1 crossing or on both sides of road. Who will manage crossings?
- Fibre Optic Infrastructure buried beneath eastern bank may restrict building of footpath
- Previous proposal for use of footpath from Horefield to access the school is an unsuitable non-maintained path which would lead to more parents parking in Horefield which itself has no pavements.
- School traffic is unresolved
- Concerns of obstruction of public highway, noise nuisance and water and air pollution during the build phase (*Officer note - Problems arising from the construction period of any works, e.g. noise, dust, construction vehicles, hours of working are covered by Control of Pollution Acts*)
- Noise, light pollution, air pollution
- Damage to existing residents fences/cars
- Flooding (drains run from the bungalows along Idmiston Road and down through Horefield)
- Increased burden on sewage and drainage infrastructure, which will not cope as already running at full capacity/has blocked/flooded previously and increased risk of failure in the drainage system to properties in Horefield at the bottom of the hill
- There has been localised surface water flooding (confirmed in INP pg 32). Development of sloping site will reduce the capacity for water to soakaway from non-permeable surfaces and removal of bank, increasing run-off and likelihood of flooding to existing dwellings (further exacerbated by climate change). Contrary to Idmiston Neighbourhood Plan Policy 2 (avoiding flooding) and NPPF (development must not increase the risk of flooding to others)
- The FRA is ambiguous and fails to clarify how surface water runoff will be achieved (query depth of infiltration testing given site will be excavated) soakaway nor how the ageing and dilapidated drainage/sewage system will cope (drainage and sewage pipes have not been updated since Horefield Estate was built [pumping stations designed to run for 3/4 hours per day now run 24 hours a day] pipework is brittle and susceptible to tree root invasion)
- No reference to old abandoned well in garden of No 11 Horefield
- Flooding/mudslides from field into proposed dwellings and gardens (FRA does not refer to these previous incidents where land owner placed straw bales along the side of field)
- Sloping site has significant buildability problems (surplus soil/drainage)

- Numbers of dwellings exceeds 10 dwelling limit (contrary to Neighbourhood Plan) and inappropriate in scale to Horefield
- Neighbourhood Plan is very misleading
- Overshadowing, overlooking, overbearing, loss of light and outlook to existing Horefield dwellings at lower level with development dominating the skyline (contrary to human rights act article 8 of a right to a private and family life and home)
- Horefield is a Hamlet and should not be included as part of the Idmiston Neighbourhood Plan
- Site should be discounted for development - there are more suitable sites for development of new houses without highway safety risks associated with busy road and large school (with likely future expansion of school/pre-school increasing risk)
- Set precedent for further development
- Assurances that S106/conditions will be complied with
- Massive upheaval for small increase in housing stock
- Landscape impact and loss of countryside by infilling open vista visible from A338 in an elevated position which will breach the horizon (contrary to INP policies 3, 4, 5, 17 and 18, NPPF and Core Policy 57 of WCS)
- Loss of trees
- Impact on wildlife – buzzards, red kites, owls, bats, hobbys, woodpeckers and butterflies regularly seen (ecology report only records winter months whilst field borders places of special interest)
- Area is situated within conservation sites (Porton Down and RSPB Winterbourne Downs) both of which have evidence of Stone Curlews. Long term effects could lead to habitat fragmentation
- No open space provision
- Impact to power infrastructure, buses and council services (refuse collection) and existing village/community facilities already struggling to cope
- Archaeological interest
- Loss of valuable farmland used for producing food
- Bungalow to south of the site (Tresillian) was refused planning permission for an extension (S/2004/2592) (*Officer note – planning permission was granted for a rear extension and loft conversion at Tresillian under application reference no. S/2005/532*)
- Permission was refused for a new dwelling at Swanson
- Reference to amended plans increasing number of units (*Officer note –the revised layout plan [although it is only indicative as this is an outline application with all matters reserved] has been corrected such that the number of units annotated/shown complies with the number of dwellings applied for [16 units, of which 5 would be affordable] – a previous version showed 21 dwellings on the site*)
- Blocking of views and devaluing of properties (*Officer note - this is not a material planning consideration*)
- Copy of petition dated 1st December 2014 with 94 signatories *'we the undersigned would object to a development of housing on the Idmiston Road, Porton because of parking facilities for the school which is already presenting numerous problems especially if emergency vehicles had to use the road. Also extra residential parking would be lost for those living on the Idmiston Road. There is also the problem of sewage and infrastructure. Those persons who live on the Idmiston Road would also be overlooked; several residents have lived here for over 50 years.'*

30 representations have been received **supporting** the application, summarised as follows:

- Good opportunity for the village and for people to be able to afford to live in a village location
- Mix of starter homes, affordable housing, retirement properties and larger homes

- Much needed mix of affordable housing
- Improvements to application will benefit local community and designed with full regard to the community
- Application is in areas supported and identified for development in the Neighbourhood Plan, which given Idmiston Parish Council more power in decision making
- Application has been supported by majority of Idmiston Parish Council
- Development meets every condition of neighbourhood plan (which has clarity as opposed to ambiguity) consideration should now be given to the areas outlined in Figure 1 of the Neighbourhood Plan
- Development of both sites at the same time is justified to provide much needed affordable housing (*Officer note – the threshold for provision of affordable housing is 11 units*)
- Development is of moderate size (is not proposing the maximum capacity of 20 units) which will not destroy the rural feel of the area and maintain the character and charm of village life (not aimed at high density housing but a spacious scheme with parking, landscaping and pleasant living)
- Meets CP43 affordable housing requirements
- Will sit well within and be sensitive to its surroundings
- Will give the shop in Porton and other businesses trade
- All properties will have off-road parking
- Proposed development will not impact or worsen the existing problem of the volume of traffic during school starting/finishing times
- Additional proposed off-road parking will be a major benefit (will lower the amount of cars parked outside the school)
- Support pedestrian crossing to alleviate earlier concerns and provide safer footpaths and traffic calming for existing residents and children on busy stretch of road
- Suggest relocation of bus stop shelter
- Paved footway does not need to be 2m wide (*officer note – a 1.5m footway is now proposed details of which can be conditioned*)
- Surface water drainage will be fully compliant with sustainable drainage system to not impose any extra surface water load on existing drains and surface water runoff from field will be buffered by development
- Capacity of foul water drains is of concern but Wessex Water have raised no objections to previous applications in the village.

9 representations have been received **commenting** on the application, summarised as follows:

- Have raised a parliamentary question with MP regarding the development
- Footpath referred to from Horefield is not part of the Porton Jubilee Walk
- Not all neighbours have been consulted (*Officer note – all properties adjoining the site have now been notified*)
- Delays in publishing third party comments online
- Personal bird records kept since 1988 and field camera for 5 years adjacent to the Memorial Hall have recorded 58 species of birds and numerous mammals but none are considered to be endangered/at risk
- Field has been intensively farmed/mono culture and for car parking limiting ecological value
- Hedges will be retained and eight trees serving as roosting sites could be replaced
- Planning application at Chalk House which has greater ecological importance was approved contrary to Parish Council's recommendation

9. Planning Considerations

9.1 Principle of development

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

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

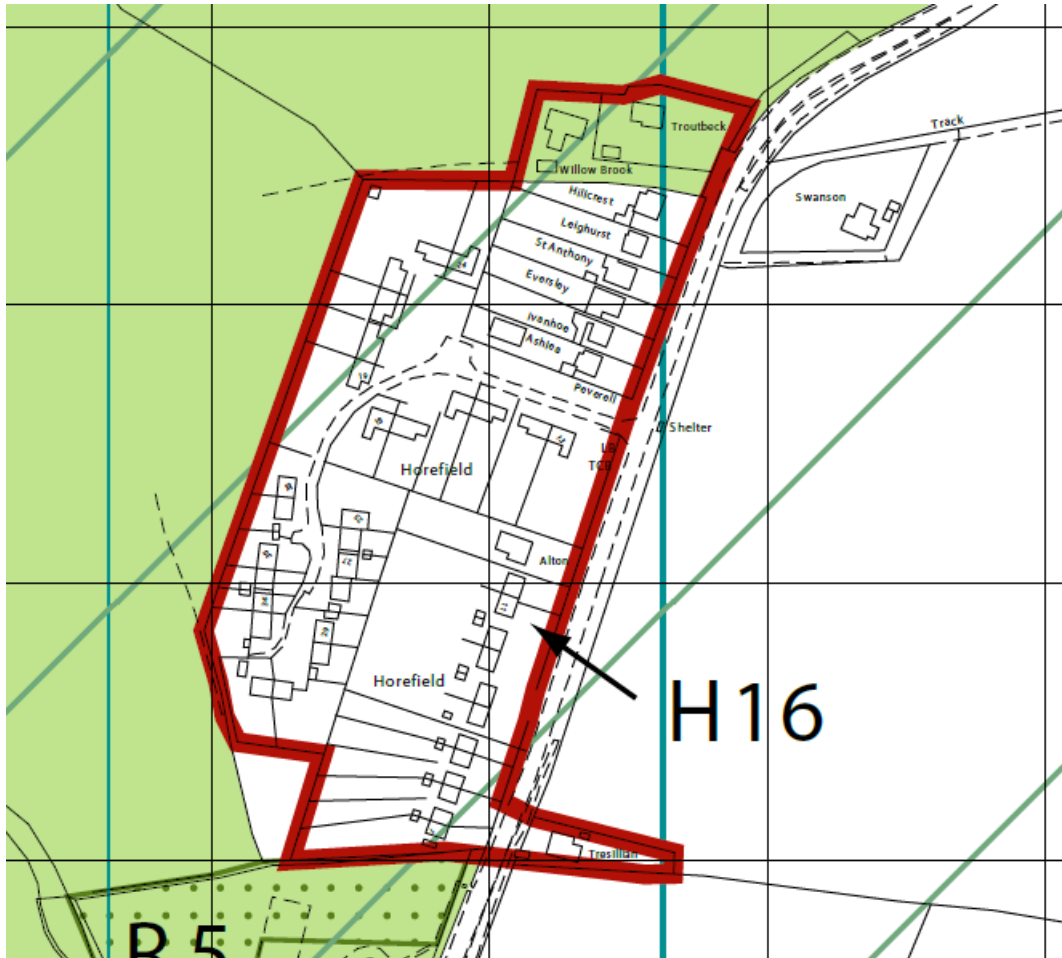
At the heart of the NPPF is a presumption in favour of sustainable development and the Adopted Wiltshire Core Strategy seeks to build resilient communities and support rural communities but this must not be at the expense of sustainable development principles. The Settlement and Delivery Strategies of the Core Strategy are designed to ensure new development fulfils the fundamental principles of sustainability.

This means focusing growth around settlements with a range of facilities, where local housing, service and employment needs can be met in a sustainable manner. A hierarchy has been identified based on the size and function of settlements, which is the basis for setting out how the Spatial Strategy will deliver the levels of growth.

Core Policy 1 of the Wiltshire Core Strategy sets out the 'Settlement Strategy' for the county, and identifies four tiers of settlement - Principal Settlements, Market Towns, Local Service Centres, and Large and Small Villages. Only the Principal Settlements, Market Towns, Local Service Centres and Large Villages have defined limits of development/settlement boundaries.

Core Policy 2 of the Wiltshire Core Strategy sets out the 'Delivery Strategy'. It identifies the scale of growth appropriate within each settlement tier, stating that within the limits of development, as defined on the policies map, there is a presumption in favour of sustainable development at the Principal Settlements, Market Towns, Local Service Centres and Large Villages.

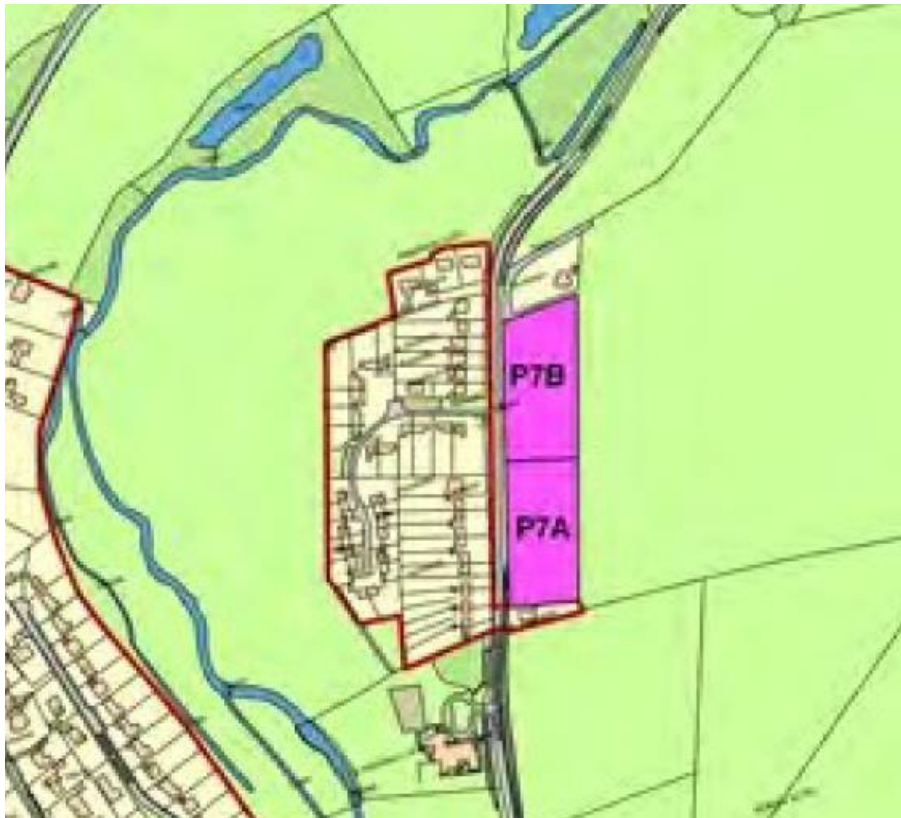
Porton is defined as a Large Village under Core Policy 4 and the settlement boundary/limits of development has been retained under Appendix E of the WCS.



The proposed site is outside the limits of development as defined on the policies map (extract attached above). The Core Strategy explains that relaxation of the settlement boundaries will only be supported where it has been formally reviewed through a subsequent Site Allocations Development Plan Document (DPD) or community led planning documents (including Neighbourhood Plans).

Following an independent examination and a positive referendum result (84% of the votes in favour of the Neighbourhood Plan with a requirement for over 50% votes in favour for the NP to succeed), Wiltshire Council decided to formally 'make' the Idmiston Neighbourhood Development Plan in April 2017. The Idmiston Neighbourhood Plan now forms part of the Development Plan for Wiltshire and the policies in the plan will be given full weight when assessing planning applications that affect land covered by the plan.

The site is identified in 'Figure 1 – Table of Preferred Sites' on page 42 of the Neighbourhood Plan and comprises site P7A and P7B:



Policy 19 of the Neighbourhood Plan is relevant to new development sites:

Policy 19 - New Development Sites

The Neighbourhood Plan will facilitate the delivery of approximately 32 homes across the Plan period. The delivery of new homes will be monitored, in the event that the development of new homes through existing commitments or proposals will not achieve the figure of approximately 32 dwellings, consideration will then be given for the development of the sites shown in Figure 1 of the plan. Subject to other policies in this Plan new residential development proposals will be supported to achieve the housing requirement where they deliver infill development or at the large village of Porton small scale development of no more than 11 homes within and immediately adjacent to the settlement boundary of Porton, as established in the Core Strategy. Residential development elsewhere in the Plan area will be resisted.

Policy 17 of the Neighbourhood Plan is also relevant to new developments:

Policy 17 - Development Criteria

Any developments in villages will need to meet all of the following criteria:

- Be well related to the existing village envelope
- Be of modest scale and not generally exceed ten dwellings, in order to protect the rural nature of the village
- Reflect the character and variety of the existing pattern of development in the village
- Follow the lines of the contours on sloping sites to ensure a better fit with the existing land form

'Figure 1 – Table of Preferred Sites', states the indicative capacity for site P7A is '10 dwellings' and for site P7B it is also '10 dwellings'. The proposed number of dwellings (16) is below the combined indicative capacity of 20 and it is therefore considered that the proposal accords with policies 17 and 19 in this regard.

The NP encourages/facilitates the provision of 'no more than' 'approximately 32 dwellings' through the plan period (2015-2016). There is an outstanding commitment of 20 dwellings (14/02043/FUL at Chalk House, Porton), leaving a gap of 'approximately 12'. It is considered that as this proposal (for 16 dwellings) would then meet that gap, officers are of the view that it is acceptable in principle against policy 19 of the neighbourhood plan.

In addition to the consideration of principle, it is also necessary to consider the other relevant planning policies and the normal range of material considerations that have to be taken into account when determining a planning application and a judgement is necessary in terms of all the development impacts considered below.

The site also lies within a Special Landscape Area, and an Area of Special Archaeological significance.

9.2 The impact on the character and appearance of the open countryside/special landscape area

The NPPF states that the planning system should contribute to and enhance the natural and local environment by protecting and enhancing valued landscapes. The site is located within a special landscape area and Core Policy 51 seeks to protect, conserve and enhance Wiltshire's distinctive landscape character and development '*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 a high standard of design in all new developments through, in particular, enhancing local distinctiveness, retaining and enhancing existing important features, being sympathetic to and conserving historic buildings and landscapes, making efficient use of land, and ensuring compatibility of uses (including in terms of ensuring residential amenity is safeguarded).

The site itself is currently in agricultural use and the proposed development will alter the character and appearance of the site both within the immediate vicinity of the site and with the wider landscape setting as the site is visible from the A338 across the valley.

Whilst the proposals will result in an intrusion of built development into the open countryside, the site has been included in the neighbourhood plan and inevitably any built development is going to be seen within the relatively open landscape with trees/hedging predominantly to the north and south boundaries, although landscaping of the site and design/scale of the proposed dwellings will be considered at the reserved matters stage to ensure the development assimilates as much as possible into the landscape setting.

9.3 Highway considerations

9.3.1 Parking for the proposed dwellings

The supporting text to Core Policy 64 refers to a parking study, commissioned by the council in January 2010, which included a comprehensive review of parking standards, charges and policy within both the plan area and neighbouring areas. The resulting LTP3 Car Parking Strategy was adopted by the council in February 2011 and includes policy PS6 – Residential parking standards and policy PS4 - Private non-residential standards. The parking standards for new dwellings are set out in the Wiltshire Local Transport Plan 2011-2026 – car parking strategy:

Table 7.1 Minimum parking standards (allocated parking)

Bedrooms	Minimum spaces
1	1 space
2 to 3	2 spaces
4+	3 spaces
Visitor parking	0.2 spaces per dwelling (unallocated)

The minimum cycle parking standards will also apply and are included at appendix 4 of the Cycling Strategy and are as follows:

- 1 covered space per bedroom for up to 3 bedroom dwellings.
- 3 covered spaces per unit for 4 bedroom dwellings.
- 4 covered spaces per unit for 5 + bedroom dwellings

As this is an outline application, the sizes of the dwellings are not under consideration, although it is considered that there would be sufficient space (based on the indicative layout plan) within the site to accommodate the required parking standards.

9.3.2 Paved footway

Following an initial objection from the highways authority to the proposal on the grounds that the development was likely to generate an increase in pedestrian traffic on a highway lacking an adequate footway link with the existing paved footway to the south of the site opposite the Primary School, with consequent additional hazards to all users of the Class III Idmiston Road; amended plans have been submitted which include the provision of a 1.5m wide paved footway to form a link with the existing footway to the south of the site. This will be created on highways owned land.

Third party objections include that the paved footway will block access to driveways of some of the properties in Horefield (there are three properties which have created driveways off the road, although there is no record of planning permission being granted for these accesses, they appear to be well established). The highways authority has confirmed where

any cars on these drives currently stick out onto the public highway, they are obstructing the public highway, which could be enforced and that the proposed footway in this location could have a dropped kerb to still allow access to the driveways (details of which could be agreed by condition).

Where cars currently informally park on the highway verges outside the school and along Idmiston Road (this is not allocated parking and as such there is no right to park here), although where the development/provision of a paved footway would restrict this current parking arrangement, if cars either park on the paved footway or park further out in the road causing a highway obstruction, this could be enforced as a matter of highway obstruction, although the highways authority has suggested that bollards could be used to prevent parking on the footway (details of which could be agreed by condition).

9.3.3 Public car parking

The neighbourhood plan identified that a major problem for St Nicholas C of E Primary School is the lack of parking on the school site necessitates teachers having to park in Idmiston Road, limiting parking for parents when dropping off and picking up children before and after school times:

Policy 12 - School Parking

Proposals for the provision of off-road parking to be made at both the Primary Schools; St Nicholas C of E Primary School in Porton and Gomeldon Primary School along with the provision of a new footway from Idmiston village towards St Nicholas C of E Primary School will be strongly supported. The introduction of a 20mph speed limited in the vicinity of the two primary schools will also be strongly supported.

The application has been amended to include 15 “public” spaces for Horefield resident/school use. These are not necessitated by the proposed development although are being offered taking into account Policy 12 of the Idmiston Neighbourhood plan and would need to be transferred to the Parish Council via S106 agreement.

Subject to conditions (details of the paved footway, accesses, drive gradients, car parking and other associated highways works to be approved; scheme for the discharge of surface water from the accesses/driveways) and informative that the applicant will need to enter into a Section 278 agreement with the council to secure the highway works including the adoption of the new paved footway across the frontage of the site it is considered that the application is acceptable in terms of accessibility and parking provision.

9.4 Archaeology:

Paragraph 128 of the NPPF includes the following:

‘Where a site on which development is proposed includes or has the potential to include heritage assets with archaeological interest, local planning authorities should require developers to submit an appropriate desk-based assessment and, where necessary, a field evaluation.’

The council’s archaeologist considered that the site was of archaeological interest as it lies close to known remains which are likely to contain prehistoric settlement and a number of undated features run into the site. It was therefore considered that the site had the potential to contain heritage assets of archaeological interest and field evaluation was necessary to reveal the impact of the proposed development on any buried archaeology.

An archaeological trial trench evaluation was carried out by AC archaeology Ltd. in September 2017 and the results submitted to the council. The evaluation aimed to establish the significance, presence or absence, extent, depth, character and date of any archaeological features, deposits or finds within the site and comprised the machine excavation of five trenches. Although several natural features and anomalies were noted, none of the trenches excavated contained archaeological features and no finds or artefacts were recovered from the site investigation.

Following the submission of the report, the council's archaeologist considers it unlikely that significant archaeological remains would be disturbed by the proposed development and has changed the previous objection (as the field evaluation had not been undertaken) to no objections.

9.5 The impact on the living conditions of proposed and nearby properties

Core Policy 57 also requires that development should ensure the impact on the amenities of existing occupants is acceptable, and ensuring that appropriate levels of amenity are achievable within the development itself:

vii. Having regard to the compatibility of adjoining buildings and uses, the impact on the amenities of existing occupants, and ensuring that appropriate levels of amenity are achievable within the development itself, including the consideration of privacy, overshadowing; vibration; and pollution (such as light intrusion, noise, smoke, fumes, effluent, waste or litter).

The NPPF's Core Planning Principles (paragraph 17) also include that planning should *'always seek to secure high quality design and a good standard of amenity for all existing and future occupants of land and buildings.'*

Objective 16 of the Councils Design Guide states (page 67) also refers to the need for new development proposals to exhibit *'How the new dwelling(s) will relate to the context and to each other to create a particular place'*.

Residential amenity is affected by significant changes to the environment including privacy, outlook, daylighting and sunlight inside the house, living areas and within private garden spaces (which should be regarded as extensions to the living space of a house). The extent to which potential problems may arise is usually dependent upon the separation distance, height, depth, mass (the physical volume), bulk (magnitude in three dimensions) and location of a development proposal in relation to neighbouring properties, gardens and window positions. A right to a view is not a material planning consideration, although consideration of impact to outlook is.

Whilst this application has been submitted with all matters reserved; an indicative layout plan has been included, it is considered that the indicative site layout demonstrates that dwellings could be accommodated on the site without adverse impact to residential amenity (for occupiers of both existing and proposed dwellings).

9.6 Nature Conservation Interests:

Core Policy 50 of the Wiltshire Core Strategy and the National Planning Policy Framework requires that the planning authority ensures protection of important habitats and species in relation to development.

The council's ecologist's comments have been attached in full above, raised a holding objection to the application.

The site is within 2km of the Porton Down Special Protection Area (SPA). This European site is protected for its population of breeding stone curlew. The site is also within 2km of the River Avon Special Area of Conservation (SAC) and the Porton Meadows SSSI and the Salisbury Plain SPA/SAC/SSSI.

Special Areas of Conservation (SACs) and Special Protection Areas (SPAs) are protected under The Conservation of Habitats and Species Regulations 2010. These are a network of sites designated for supporting habitats or species of high nature conservation importance in the European context. Any activity that has a detrimental effect on these European sites is made an offence under the Regulations.

When a European site is affected by a land use authorisation, it is necessary to consider whether the activity being authorised would impact on any of the designated features.

This assessment work is governed by the Habitats Regulations 2010 and is undertaken by the "competent authority", which for planning applications is "the planning authority".

Regulation 61 of the Habitats Regulations 2010 states the responsibilities for competent authorities thus:

- (1) A competent authority, before deciding to undertake, or give any consent, permission or other authorisation for, a plan or project which—
 - (a) is likely to have a significant effect on a European site or a European offshore marine site (either alone or in combination with other plans or projects), and*
 - (b) is not directly connected with or necessary to the management of that site, must make an appropriate assessment of the implications for that site in view of that site's conservation objectives.**
- (2) A person applying for any such consent, permission or other authorisation must provide such information as the competent authority may reasonably require for the purposes of the assessment or to enable them to determine whether an appropriate assessment is required.*

Where a development is likely to have a significant impact on a European site, the Regulations require a rigorous assessment of the impacts, known as an Appropriate Assessment in order to demonstrate that any likely impacts are avoided or reduced to levels as to avoid adverse impacts upon the SPA.

This needs to be provided prior to the determination of the planning application because in carrying out their statutory duty in line with the National Planning Policy Framework, Natural Environment and Rural Communities (NERC) Act 2006, Regulation 61 of the Habitats Regulations 2010 and the Wiltshire Core Strategy, the local planning authority's ecologist must be provided with sufficient information to facilitate a robust and suitably informed assessment with regards to the potential for the proposed development to impact upon ecological receptors. A review of the submitted information has revealed that further information from the applicant is required before this can be undertaken by the Council

The council's ecologist has advised that the ecological survey report is also insufficient on a number of grounds including that the applicant does not confirm through the provision of appropriate plans, that the vegetative boundary features will be retained and yet the ecological survey recommendations and conclusions put forward to the Council for consideration have been based on an assumption it will all be retained, and the ecological reporting indicates ecological receptors may be present (bat roosts and reptiles). It is therefore also considered that insufficient information has been submitted to demonstrate

that there will not be an adverse impact upon other ecological receptors (including existing hedgerows, trees, vegetative features, bat roosts and reptiles).

All ecological surveys required must be undertaken prior to the determination of the planning decision and cannot be conducted to discharge a planning condition. This is the case for outline applications as well as full applications.

In the absence of sufficient information, the application is recommended for refusal.

9.7 Water environment & Drainage:

One of the main concerns of local residents is that the proposals could cause dwellings in Horefield to flood (both surface water and foul water).

The development site is located in Flood Zone 1, the zone of least flood risk (described in the NPPF as land having a less than 1 in 1,000 annual probability of river or sea flooding).

The Planning Practice Guidance for the National Planning Policy Framework (NPPF) requires a site-specific Flood Risk Assessment (FRA) to be carried out for developments located in Flood Zones 2 and 3 and for those which are 1 hectare (ha) or greater in size. A site-specific FRA is required to ensure that the development is safe from flooding and will not increase the risk of flooding elsewhere (addressing any drainage problems that may arise as a result of the development).

The site is over 1 hectare in size and a site specific FRA and drainage strategy has been submitted (revised during the course of the application).

This confirms that there is currently no active management of surface water on the greenfield site, with the site topography suggesting that surface water runoff currently runs to the road from the south east towards the north west; that there is no formal surface water drainage in Idmiston Road (confirmed by Wessex Water) and therefore an alternative solution is required to ensure that the development does not increase the risk of flooding to others.

The existing greenfield surface water runoff discharge (rate and volume) has been calculated and infiltration tests have been undertaken which demonstrate that the proposed drainage strategy (the use of varying infiltration systems such as soakaways, infiltration trenches and pervious paving) is a feasible solution.

Wessex Water has also confirmed that there is capacity in the foul network located at Idmiston Road.

The council's drainage officer has raised no objections to the proposed scheme subject to conditions (detailed schemes for foul water discharge and surface water discharge to be agreed).

9.8 Sustainable Construction

The WCS' key strategic objective is to address climate change. It requires developers to meet this objective under Core Policy 41- Sustainable Construction which specifies sustainable construction standards required for new development.

For new build residential development the local planning authority is now seeking energy performance at “or equivalent to” Level 4 of the Code for Sustainable Homes via planning condition.

9.9 S106 obligations and CIL

The introduction of the Community Infrastructure Levy (CIL) has significant implications for the use of S106 Planning Obligations. The legal tests for when you can use a S106 are set out in regulation 122 and 123 of the Community Infrastructure Levy Regulations 2010 (as amended) and have three important repercussions for S106 obligations; making the tests for the use of S106 obligations statutory (the tests are that any obligations will need to be necessary to make the development acceptable in planning terms, directly related to the development, and fairly and reasonably related in scale and kind to the development), ensuring that there is no overlap in the use of CIL and S106 obligations and restricting the use of ‘pooled’ S106 obligations.

As well as the legal tests, the policy tests are contained in the NPPF:

"203. Local planning authorities should consider whether otherwise unacceptable development could be made acceptable through the use of conditions or planning obligations. Planning obligations should only be used where it is not possible to address unacceptable impacts through a planning condition.

204. Planning obligations should only be sought where they meet all of the following tests: necessary to make the development acceptable in planning terms directly related to the development; and fairly and reasonably related in scale and kind to the development."

9.9.1 Affordable Housing:

Core Policy 43 of the Wiltshire Core Strategy sets out a requirement for 30% on-site affordable housing provision within the 30% Affordable Housing Zone. In line with recent government guidance, this only applies on applications of over 10 dwellings (the threshold is therefore 11 units).

This application for 16 dwellings therefore requires 5 affordable units to be provided. This would meet the policy requirement and would assist in addressing the need for affordable housing in Idmiston parish.

Core Policy 45 of the Wiltshire Core Strategy states that housing size and type will be expected to reflect that of the demonstrable need for the community within which a site is located.

In order to meet need the New Housing team have advised affordable housing units should be provided with a tenure mix of 60% of the units (3 units) being for Affordable Rented housing, and 40% of the units (2 units) being provided for shared ownership.

The new housing team have advised that there is currently a need for:

Affordable Rented: 1 x 1 bedroom / 2 person house, flat or bungalow)
1 x 2 bedroom / 4 person house or bungalow
1 x 3 bedroom / min 5 person house or bungalow;

Shared Ownership: 1 x 2 bedroom / 4 person house;
1 x 3 bedroom / min 5 person house.

The planning statement submitted with the application confirms that *'Affordable housing in terms of quantum and tenure/size type will be delivered in accordance with the requirements of Core Strategy Policy 43.'*

The affordable dwellings will be required to be transferred to a Registered Provider, approved by the Council, on a nil subsidy basis. The Local Authority would have nomination rights to the affordable dwellings, secured through a S106 Agreement.

9.9.2 Public Open Space

16 dwellings would generate the following requirement (192 sq metres of Play, 320 sq metres of Casual and 1152 sq metres of Youth and Adult. As no on-site Public Open Space is proposed, an off-site contribution to upgrade nearby facilities would be sought via a S106 agreement.

The Neighbourhood Plan identifies *'play areas, one of which, in Porton, has a "toddler" play park and a field marked for football. Unfortunately, the play area is situated on the flood plain and is frequently unusable as it is waterlogged. There is a second play area at the far extent of East Gomeldon Road. There are no youth facilities and this is an important deficiency.'*

The Neighbourhood Plan supports the community interest for existing sites (identified in the plan) should be protected and enhanced for public enjoyment wherever and however possible and Community Aspiration 7 *'Improve the Porton Recreation Ground'* looks to *'revisit the feasibility of improving the drainage and quality of the Porton recreation ground to provide a better long term sport and recreational facility.'*

9.9.3 Waste Contributions

The on-site infrastructure required by the proposal is the provision of waste and recycling containers for each residential unit. Waste and recycling contributions are outlined in the *'Waste Storage and Collection Guidance for New Development'*. The following s106 contribution is required for the provision of this essential infrastructure to make the application acceptable in terms of Core Policy 3:

Property type category	Contribution per house/per category	Quantity	Total
Individual house	£91	16	£1,456
		Total	£1,456

This contribution is directly related to the development and is specifically related to the scale of the development, as it is based upon the number of residential units on site and would also need to be contained within a S106 Agreement.

CIL

The Community Infrastructure Levy (CIL) came into effect on the 18th May 2015; CIL will be charged on all liable development granted planning permission on or after this date and would therefore apply to this application. However, CIL is separate from the planning decision process, and is administered by a separate department. If the application were to be approved, an informative would be added advising that the development would be subject to CIL.

10. Conclusion

The site is located within open countryside being located outside of any designated settlement boundary, although the outline application with all matters reserved for 16 dwellings (5 affordable houses are proposed in accordance with the CP43 requirements) follows the Idmiston Neighbourhood Plan being 'made' and as such is acceptable in principle.

Following revised details being submitted in respect of highways and drainage, the proposal is considered acceptable in terms of access and parking provision, and would not be prejudicial in terms of highway safety or surface water or foul water drainage (subject to conditions).

However, the proposed scheme provides insufficient information in relation to ecology and is recommended for refusal.

In addition to on-site affordable housing, developer contributions are triggered towards infrastructure/facilities, including recreational open space, and waste and recycling facilities. It will be necessary to include reasons for refusal relating to these contributions/infrastructure requirements in the event of an appeal against a decision to refuse the scheme but to include an informative that this can be overcome by the submission of a S106 agreement contributing to waste and recycling containers, off-site open space contributions and on site affordable housing provision.

RECOMMENDATION: REFUSE

(1) In carrying out their statutory duty in line with the National Planning Policy Framework, Natural Environment and Rural Communities (NERC) Act 2006 and the Wiltshire Core Strategy, the local planning authority's ecologist must be provided with sufficient information to facilitate a robust and suitably informed assessment with regards to the potential for the proposed development to impact upon ecological receptors (including existing hedgerows, trees, vegetative features, bat roosts and reptiles). A review of the submitted information has revealed that further information from the applicant is required before this can be undertaken by the Council.

It is therefore considered that insufficient information has been submitted to demonstrate that the development will not have an adverse impact upon other ecological receptors, contrary to Core Policy 50 of the Wiltshire Core Strategy, the Natural Environment and Rural Communities (NERC) Act 2006, The Conservation of Habitats and Species Regulations 2010 and guidance within the National Planning Policy Framework.

(2) The proposal does not make provision for on-site affordable housing, contrary to Core Policy 43 of the Wiltshire Core Strategy.

(3) The proposal does not make provision for off-site recreational open space provision, contrary to Core Policy 3 of the Wiltshire Core Strategy and Saved Policy R2 of the Salisbury District Local Plan.

(4) The proposal does not provide for contributions towards waste and recycling containers (on-site infrastructure required by the proposal), contrary to Core Policy 3 of the Wiltshire Core Strategy and policy WCS6 of the Wiltshire and Swindon Waste Core Strategy.

INFORMATIVES: It should be noted that reasons 2-4 for refusal, could be overcome if all the appropriate parties agree to enter into a Section 106 Agreement contributing to waste and recycling containers, off-site open space contributions and on site affordable housing provision.

APPENDIX B – Minutes of SAPC meeting of 14/12/2017

17/00842/OUT - Land opposite Horefield, Idmiston Road, Porton, Wiltshire, SP4 0LD

Public Participation

David Neal spoke in objection to the application

Adrian Dibden spoke in objection to the application

Valerie Creswell spoke in support of the application

Tony Allen spoke in support of the application

Simon Zielonka spoke in support of the application

Cllr James Humphries spoke on behalf of the Parish Council

The Senior Planning Officer, Lucy Minting introduced the report, which recommended that the application for Outline Planning Application for residential development of 16 dwellings with all matters reserved. Provision of new footways and dropped kerb crossings to Nicholas CofE Primary School and 15 public car parking spaces for Horefield residents/school use, be refused.

It was noted that the proposed site was outside the limits for development. The site was currently in agricultural use, and school parking had been identified as an issue.

The Parish Council was in support of the application and the site had been included in the NHP.

Attention was drawn to late correspondence circulated at the meeting, relating to a response to late submission of ecological data provided by the applicant.

The reasons for refusal had been altered, as listed on late correspondence.

The Ecological Officer had considered the new submission and concluded there would not be an adverse impact.

Members then had the opportunity to ask technical questions of the Officer. It was clarified that the applicant did not have control over some sections of the land, which was why the planned footpath would cross over twice. Specific details of the type of crossing would be conditioned as part of the decision should the application be approved; however it was understood that the crossing would be unmanned.

The plan showed the proposal to retain the verge along the roadside, except where the accesses were to the front dwellings.

There was no right to park on the verge at present, so there would be no loss to residents. The proposal included 15 public spaces for use.

Members of the public then had the opportunity to present their views as detailed above. The Unitary Division Member Cllr Mike Hewitt then spoke on the application, noting that it was not an easy application and if he had not called it in it would have been refused. He believed there was a place for houses along the site, being built properly with appropriate consideration of the road.

The site was outside of the housing boundary, and there were flooding issues, but these could be overcome. The Water company had been working in the village, to make improvements over last few years. If the application was approved, there were still lots of questions to be asked. With additional parking and further consideration to the cars dropping children off for school along that road, as it was unsafe.

Cllr Hewitt then moved the motion of refusal, in line with Officer's recommendation, this was seconded by Cllr Britton.

A debate followed where key issues raised included the support of NHP Group and the Parish Council. The parking problem on this narrow road was a major issue. The extra spaces proposed would not go anywhere near solving the problem.

The proximity of the houses to the road compared to the houses on the diagram, was a material consideration. A proposal where the houses were set a little further back or perhaps less of them may be more favourable. The right-hand side of road was open country, giving a country feel to the area, putting this number of houses there would change that feel.

There was a flooding issue on that stretch of road, if you build there the water would have to go somewhere else.

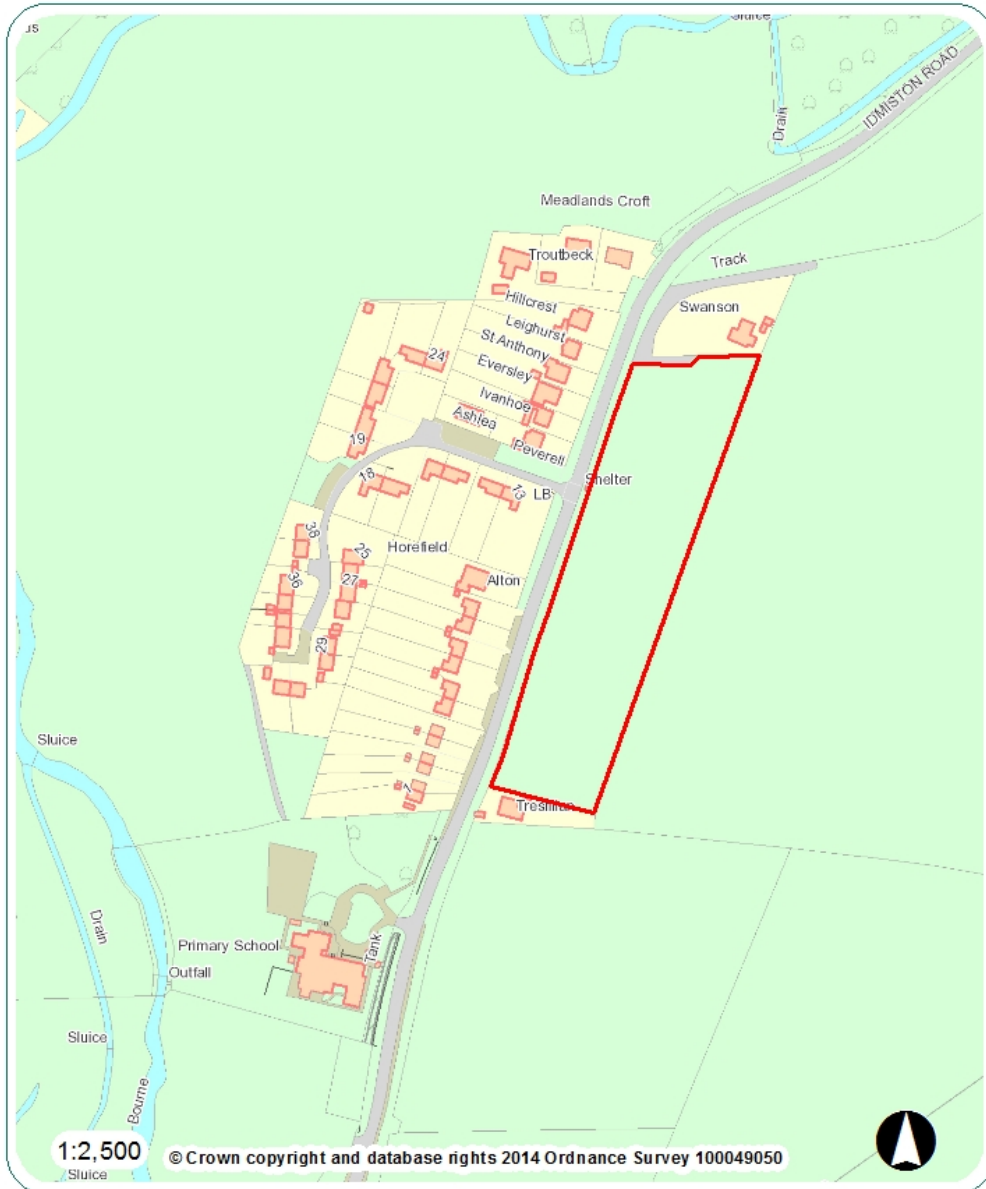
The Committee then voted on the motion of refusal in line with Officer's recommendation. This motion was not carried.

The Chairman then moved the motion of deferral until spring, in order to consider the application, once the additional ecology information was available, this was seconded by Cllr McLennan.

Resolved: That application 17/00842/OUT be deferred until spring 2018 to allow for the ecology report to be submitted.

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17/00842/OUT
Land opposite Horefield
Idmiston Road
Porton
Wiltshire
SP4 0LD



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REPORT OUTLINE FOR AREA PLANNING COMMITTEES

Report No.

Date of Meeting	8 th March 2018
Application Number	17/06709/FUL
Site Address	Corrindale, The Street, Teffont Magna, Salisbury, Wiltshire, SP3 5QP
Proposal	Construction of a new house and vehicular access
Applicant	Diana Jefford
Town/Parish Council	TEFFONT
Electoral Division	NADDER AND EAST KNOYLE – (Cllr Wayman)
Grid Ref	398930 131952
Type of application	Full Planning
Case Officer	Lucy Minting

Reason for the application being considered by Committee

Councillor Wayman has called in the application for the following reasons:

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

1. Purpose of Report

To consider the above application and the recommendation of the Area Development Manager that planning permission should be APPROVED.

2. Report Summary

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

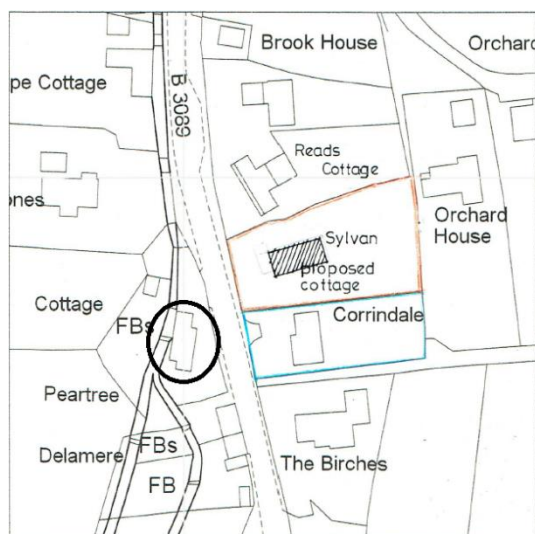
- Principle of development
- Scale, Design, Impact to character and appearance of area, designated heritage assets (conservation area and listed building) and landscape designated as an AONB
- The impact on the living conditions of proposed and nearby properties
- Highways considerations
- Ecology & Trees
- Potential Archaeology
- Drainage
- Sustainable construction and low carbon energy
- CIL

The application has generated an Objection from Teffont Parish Council, 14 letters of objection and 13 letters of support

3. Site Description

The site is on the east side of the B3089 through Teffont Magna and forms part of the curtilage of Corrindale. There are properties to the east (Orchard House) and North (Reads Cottage).

The site within the Cranborne Chase and West Wiltshire Downs Area of Outstanding Natural Beauty (AONB), Teffont conservation area and Bathurst Cottage (circled) which is opposite Corrindale to the west side of the B3089 is Grade II listed.



The front part of the site is reasonably level, but the landform rises steeply to the rear of the site, which is 12 to 14metres higher than the road level.

There is a post and rail fence to the road boundary with a mixture of fencing/trees/hedging to the other site boundaries and within the site.

Dwellings in Teffont vary from being orientated with ridge lines running parallel with the road (including Corrindale, Reads Cottage, Bathurst, Peartree and Delamere Cottages in the immediate vicinity of the site), to being 'side on' presenting gables/hipped roofs to the street (including Fitz House barn, Bradstones and Brook House to the north and The Birches to the south).

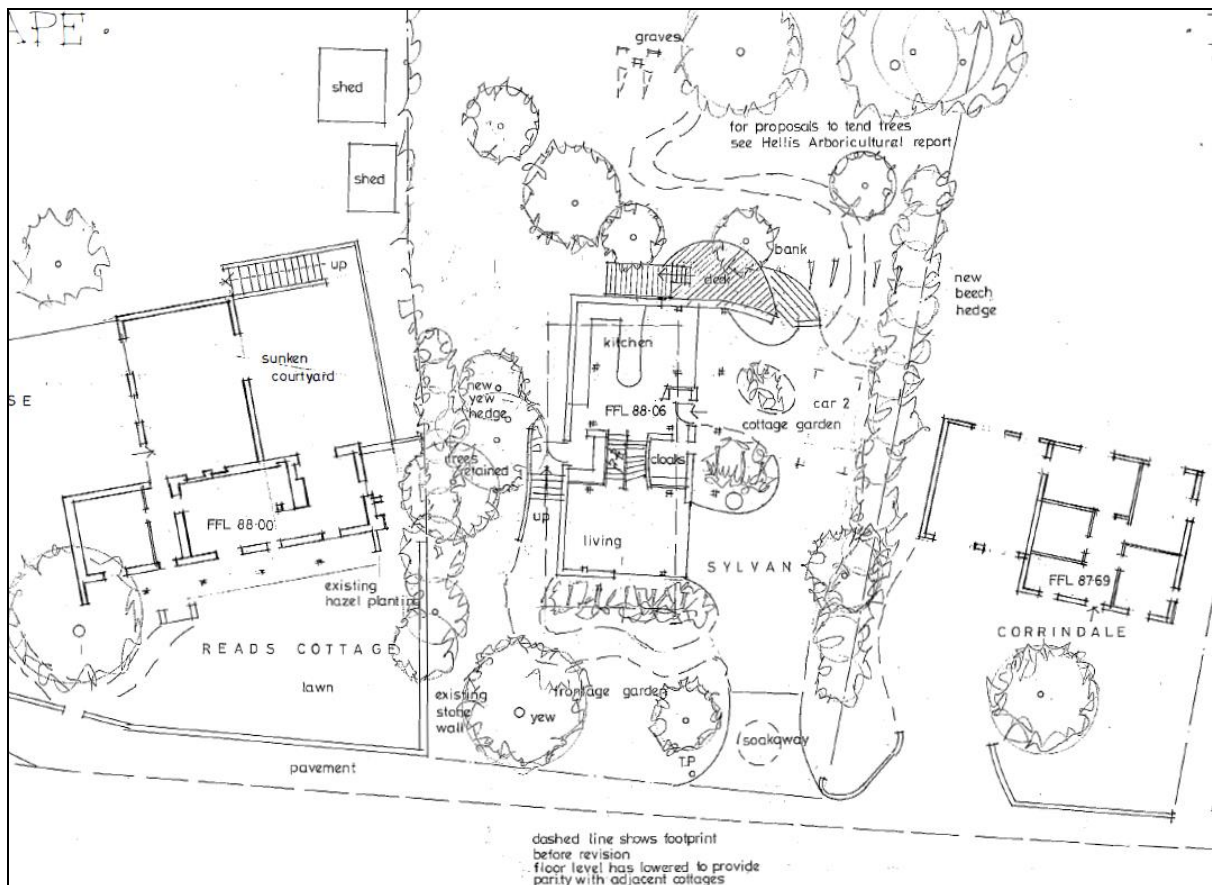
4. Planning History

Application Ref	Proposal	Decision
S/2002/2436	Full planning application for Demolition of existing dwelling (Reads Close) and outbuildings and construction of three dwellings and associated landscaping and alterations to access	Refused 11/08/2003
S/2003/0084	Conservation Area Consent for Demolition of existing (unlisted) dwelling known as Reads Close (now Reads Cottage) and outbuilding	Refused 11/08/2011
S/2005/2038	Trees in Conservation Area application: 1 x Yew prune to clear path, shape and dead wood 1 x Elder - fell 1x Hazel next to telegraph pole - coppice 5 x Goat willow - pollard Silver Birch & Walnut - 30% reduction and shape Oak - lightly prune Ash - fell Yew - reshape Norway Spruce - fell	No objections 18/11/2005

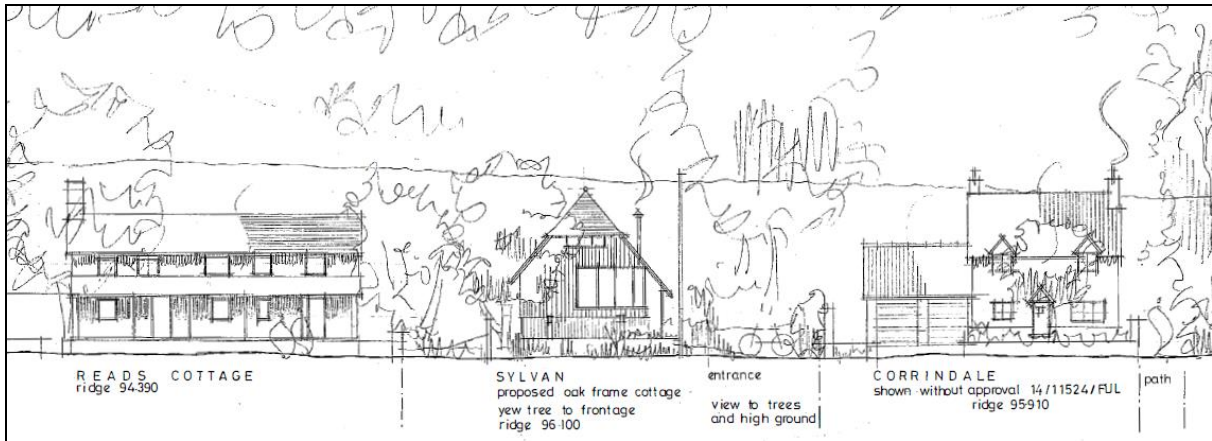
	4 x Apple - 50% height reduction and shape Leyland Cypress - fell 15 x Hazel – re-coppice	
14/02281/TCA	Trees in Conservation Area application: Pollard 2x Ash to approximately 4.5 m	No objections 01/05/2014
15/00782/TCA	Trees in Conservation Area application: 1. Yew - reduce by approx. 25% to remove overhang over path/highway. Reshape 2. Ash - reduce by approx. 40% 3. Leylandii - reduce by approx. 50% 4. Holly - reduce by approx. 25% to improve shape and remove overhang into neighbouring property 5. Oak - remove, 6, 7 & 8. Three apple trees - remove	No objections 12/03/2015
15/12785/TCA	Trees in Conservation Area application: Reduce all Trees listed to a height and proximity to adjacent houses.	No objections 12/02/2016
17/08571/TCA	10 Leylandii Cypress trees - fell	No objections 12/10/2017

5. The Proposal

The proposal is for a new detached 3 bedroom dwelling sited between Corrindale and Reads Cottage, with new vehicular access from the B3089 (The Street). The scheme has been amended during the course of the application.

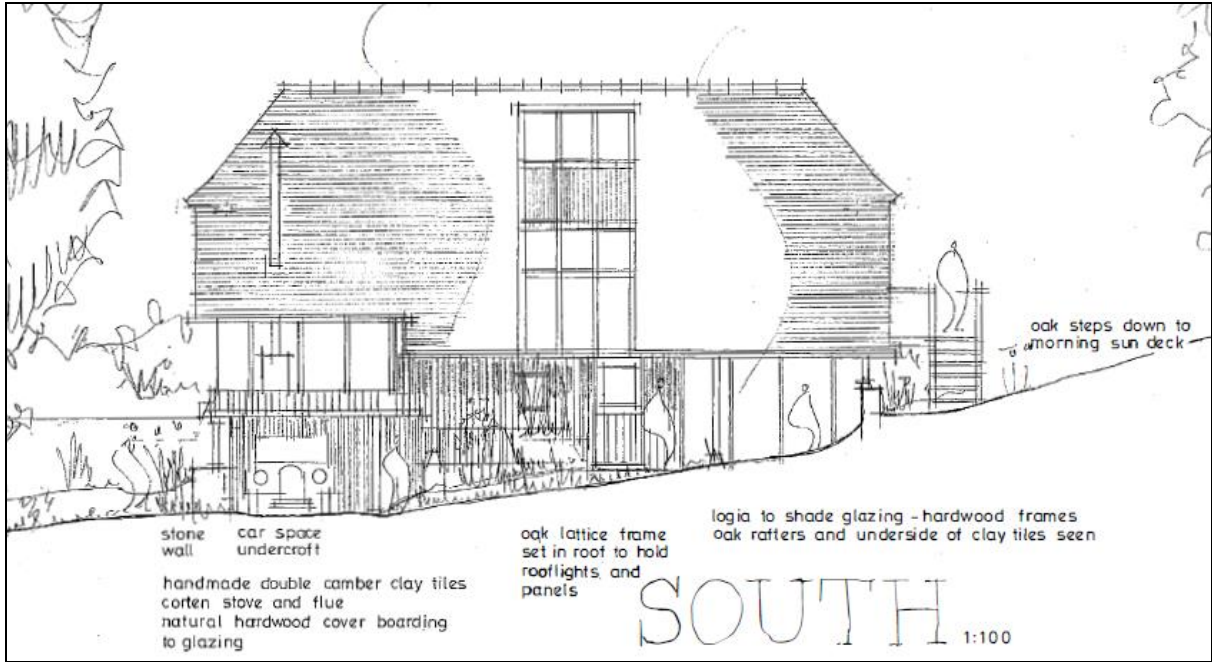


Extract from revised proposed location plan – dashed line shows footprint of building before revision



Extract from street scene elevation

The proposed dwelling is orientated 'gable end' onto the street and utilises the changing levels across the site with an undercroft parking space provided towards the front of the building and two levels of living accommodation above with low eaves lines and rooms set within the roofspace.



Extract from South Elevation showing undercroft parking space

The dwelling is proposed to be built of oak frame above a natural stone plinth, clad with oak boarding, under a clay tile roof with hardwood windows and doors.

The following changes have been made to the scheme:

- The dwelling, and therefore its west gable elevation, has been moved back 1.5m from the proposed position.
- The dwelling has been moved south away from the boundary to Reads Cottage by 0.5m at the front and 1.0m at the rear eastern gable.
- The dwelling has been further lowered into the land by 0.5m, so that the kitchen and entrance ground floor are now in parity with the floor levels of the houses on either side.

- As the ground floor level is now only 1.36m above pavement, access ramping to front door is possible without steps. The stone steps and associated retaining walls have been removed.
- To simplify edges, gutters to hip roof ends have been removed.
- Trees to north of proposed cottage have been retained to provide screening and assist in retaining the 'treed gap'.

6. Planning Policy

The Wiltshire Core Strategy (WCS):

Core Policy 1 (Settlement Strategy)

Core Policy 2 (Delivery Strategy)

Core Policy 3 (Infrastructure Requirements)

Core Policy 33 (Spatial Strategy for the Wilton Community Area)

Core Policy 41 (Sustainable Construction)

Core Policy 43 (Providing affordable homes)

Core Policy 50 (Biodiversity and Geodiversity)

Core Policy 51 (Landscape)

Core Policy 57 (Ensuring high Quality Design and Place Shaping)

Core Policy 58 (Ensuring the Conservation of the Historic Environment)

Core Policy 60 (Sustainable Transport)

Core Policy 61 (Transport and New Development)

Core Policy 62 (Development impacts on the transport network)

Core Policy 64 (Demand Management)

Core Policy 67 (Flood Risk)

Wiltshire Local Transport Plan 2011-2026:

Car Parking Strategy

Government Guidance:

Planning Practice Guidance

National Planning Policy Framework (NPPF) March 2012

- In particular, chapter 7: Requiring good design (paragraphs 58, 60 and 61), chapter 11: Conserving and enhancing the natural environment (paragraphs 109 & 115) and chapter 12: Conserving and enhancing the historic environment (paragraphs 128, 129, 131, 132, 133 & 134) of the framework are considered particularly relevant.

Supplementary Planning Guidance:

Cranborne Chase & West Wiltshire Downs AONB Landscape Character Assessment (LCA) 2003

Adopted Supplementary Planning Document 'Creating Places Design Guide' April 2006

Teffont Village Design Statement Adopted 24/01/2015

Planning (Listed Building and Conservation Areas) Act 1990:

- Section 16: Listed Building Decisions
- Section 66: Special considerations affecting planning functions
- Section 72: General duty as respects conservation areas in exercise of planning functions

7. Summary of consultation response

Conservation:

Comments on revised plans:

Further to the revised drawings, I can confirm that they do respond to some of my concerns. There have been modest improvements to the location of the building within the site, the ridge line, and especially the hard landscaping on the right/southern side. Perhaps the strangest element of the design is the integral car port, as this pushes the 'ground' floor upward and creates internal level changes, but the amendments have meant that the front door is much more accessible. Reading the comments of others on the application, there seems to be a level of concern at the loss of the undeveloped treed section from the streetscene, and the coalescence of the eastern side of the village. This is certainly reasonable in CA terms, and could be defended if necessary. I do consider that the impact on the setting of the LB opposite would be very modest.

Comments on original plans:

I expressed concerns at preapp about the scale and design of this proposed new dwelling. A previous refusal (S/2002/2436) is relevant, as of course is the VDS, and we should be mindful that the CA is not one of continuous built form, there are several green or treed gaps, of which this is one, that contribute to its rural character.

The scheme has been amended since preapp, however I would suggest that (in terms of the spacing of properties in the street, rather than neighbour impact which others will consider) the northern elevation is still too close to Reads Cottage, especially in view of the latter's verandah, and that it is too far forward in the site – both of the neighbouring properties are angled as if part of a crescent, yet the proposed building juts forward of the middle, giving it more prominence than desirable; having discussed this on site I can appreciate that the topography of the site makes it difficult, and I think that perhaps some compromise could be had here, by pushing the western gable back (or shortening the building) about 1.5m. This would also serve, critically, to give the building more of the appearance of sitting within its garden, rather than fronting the road. In terms of scale, the building has difficulties due to the steep slope of the site, but I am concerned that by creating an integral garage it forces the building to be wider and taller than otherwise necessary; the hard landscaping necessary to provide access both to the garage and the front door at first floor level has a significant impact on the potential for a traditional garden setting, and need to be reduced in scale. I would certainly suggest that the front door should be able to be reached without steps. The new access adjacent to the existing would greatly open up the street frontage and complete the loss of the current perception of the site as a lightly wooded area, but if the western elevation is further back into the site then this would be improved, and if a planting scheme can form part of the approval that would give the authority an element of control. I wonder if a simple one-and-a-half storeyed building is out of the question.

If there is a mind to approve the application, I should like to be confident of materials, fenestration details, eaves and rainwater goods.

As submitted I would suggest that the proposal would fail to preserve or enhance the character of the CA, contrary to section 72 of the Act, and would have a negative, albeit modestly so, impact on the setting of the grade II listed building opposite, contrary to section 66; and there would be no public benefit outweighing the harm (NPPF 134). There is no heritage appraisal that looks at the heritage issues directly, contrary to NPPF 128 & Core Policy 58.

Archaeology: Support subject to conditions

This site is of archaeological interest as it lies close to the historic core of Teffont Magna, which dates to at least the Saxon period. It is therefore recommended that a programme of archaeological works in the form of an archaeological watching brief is carried out as part of any development.

Ecology: No comment

Highways: No objections subject to conditions

The revised proposed will not be detrimental to highway safety. Parking for 2 vehicles and turning within the site has been demonstrated, therefore it is considered that the development will not detrimentally affect highway safety and I therefore wish to raise no highway objection providing the following conditions are imposed (first five metres of the access to be consolidated and surfaced; access/turning and parking to be provided and maintained; visibility across the site frontage and surface water drainage)

Public Protection: No Observations**Wessex Water: Comments**

Comments confirming new water supply and waste water connections will be required from Wessex Water which can be added as informative.

WC Drainage: Support subject to conditions

The site is in Flood Zone 1, although road in front of the site is shown to be in Flood Zones 2/3 and to have had surface water flood risk for 1 in 100 year events with access/egress issues.

Any proposed use of soakaways will need to be backed up by permeability testing to BRE 365 plus in chalk areas any soakaway needs to be at least 10m from buildings/structures There may be existing foul drainage crossing the site (this existing system is likely to be S105A public)

Recommend conditions for details of foul and surface water drainage to be agreed.

AONB Partnership: Comments

The AONB Partnership has the following comments on this application.

1. The Cranborne Chase and West Wiltshire Downs AONB has been established under the 1949 National Parks and Access to the Countryside Act to conserve and enhance the outstanding natural beauty of this area which straddles three County, one Unitary and five District councils. It is clear from the Act, subsequent government sponsored reports, and the Countryside and Rights of Way Act 2000 that natural beauty includes wildlife, scientific, and cultural heritage. It is also recognised that in relation to their landscape characteristics and quality, National Parks and Areas of Outstanding Natural Beauty are equally important aspects of the nation's heritage assets and environmental capital. This AONB's Management Plan is a statutory document that is approved by the Secretary of State and is adopted by the constituent councils. It sets out the Local Authorities' policies for the management of this nationally important area and the carrying out of their functions in relation to it, as required by section 89 of the CRoW Act. The national Planning Practice Guidance [Natural Environment paragraph 004] confirms that the AONB and its Management Plan are material considerations in planning.

2. The National Planning Policy Framework states (paragraph 109) that the planning system should contribute to and enhance the natural and local environment by protecting and enhancing valued landscapes which include AONBs. Furthermore it should be recognised that the 'presumption in favour of sustainable development' does not automatically apply within AONBs, as confirmed by paragraph 14 footnote 9, due to other policies relating to AONBs elsewhere within the Framework. It also states (paragraph 115) that great weight should be given to conserving landscape and scenic beauty in AONBs, which have the highest status of protection in relation Cranborne Chase Area of Outstanding Natural Beauty to landscape and scenic beauty. The conservation of wildlife and cultural heritage are important considerations in these areas.

3. Local government (including planning authorities), Ministers of the Crown, individual councillors, any public body, statutory undertakers and holders of public office also have a

statutory duty in section 85 of the CRoW Act to have regard to the purposes of AONB designation, namely conserving and enhancing natural beauty, in exercising or performing any functions relating to, or so as to affect, land in an AONB.

4. More detailed information in connection with AONB matters can be found on the AONB web site where there is not only the adopted AONB Management Plan but also Position Statements and Good Practice Notes (Planning Related Publications). In particular when considering construction within the AONB I would draw attention to our Good Practice Note on Colour in the Countryside

5. The site is in the West Wiltshire Downs landscape character area of the Open Chalk Downland landscape character type of the AONB's landscape character assessment. Greater details of the landscape, buildings and settlement characteristics can be found in the Landscape Character Assessment 2003. That document is available and it can be viewed in FULL on our web site.

6. As you may be aware, the AONB is very concerned about light pollution. Any external lighting should be approved by the Local Planning Authority and comply with the AONB's Position Statement on Light Pollution and the more recent Good Practice Note on Good External Lighting and Paper by Bob Mizon on Light Fittings.

7. This proposal appears to be a single property being squeezed in between existing properties. As you know, the AONB Management Plan identifies affordable housing as the primary need within the AONB. There is no indication that the current proposal would fall into that category.

8. I note the comments of your Conservation Officer in connection with the street scene and the character of the Conservation Area.

9. Looking at the details of the proposed design it appears that the architect has not taken account of AONB guidance on matters such as roof lights and extensive windows in relation to potential light pollution and prejudicing dark night skies. It also appears that there is a modern, possibly stainless steel, chimney which would detract from the scene. If you are minded to consider an approval the AONB would wish to see these matters corrected.

Teffont Parish Council:

Teffont Parish Council (TPC) appreciates that the applicant has taken into account some of the concerns expressed by Councillors at the August Parish Council meeting and by the Conservation Officer. The plans have been amended.

However, there are still reservations and concerns on some points. TPC request that Wiltshire

- Council Planning Committee should consider the following issues in refusing the application.
- The height of the building still dominates the environment, especially impacting on Reads Cottage which has a considerably lower roof line.
- Although the position of the proposed new house has again been moved very slightly further away from Reads Cottage, it remains forward in position to Reads Cottage and Corrindale and is still too close to Reads Cottage. It would still impact on its neighbours' privacy and light.
- There is a question on whether this plot should be built on at all taking into account the street scene and open space which will be lost.
- Wiltshire Core Policy 57 "Ensuring high quality design and place shaping. (Section iii) responding positively to the existing townscape and landscape features in terms of building layouts, built form, height, mass, scale, building line, plot size, elevational

design, materials, streetscape and rooflines to effectively integrate the building into its setting.” This clearly is not being taken into account in this application.

- Teffont Village Design Statement states that any new building should be in sympathy with the traditional cottages and not overwhelm the neighbouring properties. Ample space must remain around the building, especially on either side, in order to protect the special open quality of the village. This application still does not take this into account.

8. Publicity

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

14 representations have been received objecting to the scheme. The material considerations raised are summarised as follows:

- Adverse impact to conservation area and AONB
- Proposal is garden infill. Site should remain as an undeveloped green and treed/rural wooded gap between houses
- Will compromise character of Teffont - Reduces open space and urbanisation of one of few remaining green spaces in rural conservation area fundamental to Teffont's identity (other gaps/green spaces have already been built on).
- Loss of open space which absorbs noise and vibrations of heavy vehicles
- Teffont is unsuitable for more development due to lack of infrastructure (no school, shop, post office, pub and very poorly served by public transport)
- Overdevelopment & overcrowding of site - Previous scheme for a dwelling on this land (in similar location and slightly smaller) was refused as part of redevelopment of Reads Close (now Reads Cottage) with three dwellings (S/2002/2436)
- Contrary to scale of traditional buildings in village
- Design inappropriate (imposing and will not blend in)
- Revised plans have only slightly revised the siting of the dwelling (which is not located centrally within the site) and only minimal reduction in proposed ridge height of 0.5m (by excavation) does not make significant changes on the impact and setting of the dwelling
- Unnecessarily tall building with ridge line still significantly higher than Reads Cottage and impact to Reads Cottage (exacerbated by still being forward of Reads Cottage and along southern boundary of Reads Cottage, causing overshadowing, overlooking over dominant and overwhelming impact to Reads Cottage/garden/patio and living areas)
- Replacing trees with dominant barn like structure will not enhance space and light for Reads Cottage
- Bulk and mass of proposal inappropriate to space and will compromise setting of Reads Cottage (previous apps to demolish Reads Cottage were refused as property was considered to make a positive contribution to the Conservation Area)
- Orientation, steep pitch, expanse of clay tiles, large rooflights and solar panels, will dominate historic views to north towards listed buildings and from within gardens
- Contrary to Core Policy 2 (i) and (ii) does not meet the housing needs of settlement
- Scale of house remains unaltered and still dominates site - Conservation officer's suggestion for 1 ½ storeyed building not been addressed. 1 ½ storeyed building would be more appropriate and potentially more affordable dwelling
- Out of keeping with flow of the street
- Height, scale, mass, building line and roofline contrary to Teffont VDS (with particular reference to text on pgs 11, 12, 22 – aims to protect open spaces as further development along eastern side of B3089 compromises important gaps and creates crowded feel without ample ground to sides and rear to maintain the sense of space and special open quality of the village)

- Too close to Reads Cottage
- Blocking of light to Reads Cottage/patio/garden is wrongly being justified by existing leylandii trees/hedge along north boundary of site (which neighbours would like to be reduced to 2m high or removed)
- Planting scheme is vague and photomontage is not accurate giving false impression dwelling is sited centrally within the site and should be disregarded
- Any dwelling should have a reduced ridge height than Reads Cottage, sited further away and centrally within the plot to not overwhelm Reads Cottage and allow space to each side improving aesthetic of street scene
- Parking could be provided by shared driveway with Corrindale (less disruption to highway and greater space within plot)
- Any dwelling should be rotated 90 degrees to follow the linear pattern of development
- Surface water drainage/flooding issues following felling of trees and excavation into bank.
- Trees need to be retained to preserve wooded nature of land on steep hill
- Materials will need to be conditioned
- Permitted development rights should be removed for additional windows and future extensions
- Reference to the site having family graves at the rear of the site
- Concerns neighbours have not been notified of revised plans (*Officer note – records show all properties adjoining the development site have been notified in accordance with the Council’s Statement of Community Involvement*)

13 representations have been received supporting the scheme. The material considerations raised are summarised as follows:

- Responds to local need in community for additional family housing for vitality and vibrancy of village where population has decreased from 1961 – 2011 by 13% (census figures) whilst population of Wiltshire as a whole has risen.
- Small villages can accept infill development
- Teffont VDS states development would ‘*compromise the important gaps*’ whereas WCS defines development in small villages ‘*as the filling of a small gap*’ which development complies with (plot is not in use as a garden remaining an unused vacant gap within the built area)
- Development of gaps/open spaces in villages is part of their evolution
- The site is not specifically mentioned in the Teffont VDS to not be developed
- Teffont has vast open stretches of undeveloped land (water meadows to the south and long paddock opposite Fitz House to the north)
- Complies with Teffont VDS which should not be used to object to any development
- South facing orientation fulfils VDS criteria (limited excavation, maintains space to the sides and views through and around, and thermally/energy efficient).
- There are existing properties with gable-ends facing the road which typifies the irregular, organic nature of a rural village building line (antithesis of urban, linear restraint)
- Differing orientation is one of appealing qualities of the village
- Scale and mass appropriate
- High quality design and materials, sensitive and responsive, taking cues from many other properties in village and rural nature, is complementary to the space, setting and respecting existing buildings (land characterised by rising slope of the eastern hillside of Teffont valley and the Grade II listed Bathurst Cottage)
- Good quality and interesting design will enhance the surroundings
- Size of plot is commensurate with immediate 3 neighbours. Space remains either side of the propose dwelling typical for this part of Teffont
- Scheme takes into account Reads Cottage.

- No impact to privacy of Reads Cottage (no fenestration on the north elevation)
- In accordance with guidance testing impact on Reads Cottage amenity of light
- A separate trees in conservation area application has been approved – 17/08571/TCA removing line of Leyland Cypress trees at request of Reads Cottage occupants; but retains deciduous and evergreen vegetation to north boundary (which will be supplemented with native hedging)
- Retention of existing landscape with minimal excavation and vast majority of trees including ecological/wildlife habitat beneath
- Any trees to be removed will be replaced.
- Post and rail fencing to site frontage will be replaced (rather than defensive stone walling or hedging) to maintain gentle boundary/distinctiveness of site with no additional hard landscaping
- Minimal visual parking impact by having undercroft parking space
- Reference to procedure of Parish Council meeting (which is not material to consideration of this application)

9. Planning Considerations

9.1 Principle of development:

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

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

At the heart of the NPPF is a presumption in favour of sustainable development and the Adopted Wiltshire Core Strategy seeks to build resilient communities and support rural communities but this must not be at the expense of sustainable development principles and the Settlement and Delivery Strategies of the Core Strategy are designed to ensure new development fulfils the fundamental principles of sustainability.

This means focusing growth around settlements with a range of facilities, where local housing, service and employment needs can be met in a sustainable manner. A hierarchy has been identified based on the size and function of settlements, which is the basis for setting out how the Spatial Strategy will deliver the levels of growth.

Core Policy 33 confirms that development in the Wilton Community Area should be in accordance with the Settlement Strategy set out in Core Policy 1 and growth in the Amesbury Community Area over the plan period may consist of a range of sites in accordance with Core Policies 1 and 2.

Core Policy 1 of the Wiltshire Core Strategy sets out the 'Settlement Strategy' for the county, and identifies four tiers of settlement - Principal Settlements, Market Towns, Local Service Centres, and Large and Small Villages. Only the Principal Settlements, Market Towns,

Local Service Centres and Large Villages have defined limits of development/settlement boundaries.

Core Policy 2 of the Wiltshire Core Strategy sets out the 'Delivery Strategy'. It identifies the scale of growth appropriate within each settlement tier, stating that within the limits of development, as defined on the policies map, there is a presumption in favour of sustainable development at the Principal Settlements, Market Towns, Local Service Centres and Large Villages.

Within the Settlement Strategy, Teffont is identified as a small village which do not have limits of development/settlement boundaries. The proposed site is therefore outside the limits of development as defined on the policies map and is therefore considered to be open countryside where there is a general presumption against development. However Core Policy 1 explains that some very modest development may be appropriate at Small Villages which will be carefully managed by Core Policy 2 (which states that limited development within the built area is acceptable) and the other relevant policies of the development plan.

Core Policy 2 states that at Small Villages such as Teffont, development will be limited to infill within the existing built area where it seeks to meet the housing needs of the settlement or provide employment, services and facilities and provided that the development:

1. *Respects the existing character and form of the settlement*
2. *Does not elongate the village or impose development in sensitive landscape areas,*
and
3. *Does not consolidate an existing sporadic loose knit area of development related to the settlement.*

Infill is defined in the Core Strategy as the filling of a small gap within the village that is only large enough for not more than a few dwellings, generally only one dwelling.

Table 5.20 Delivery of Housing 2006 to 2026 - Wilton Community Area of the Wiltshire Core Strategy identifies a housing requirement need for 255 dwellings, with a remainder of 102 within the community area (taking into account completions and specific permitted sites).

The site is also considered to be within the built up area of the village being a gap between existing residential development and as such further residential development could therefore be considered acceptable in principle.

In considering the acceptability of the proposals in principle; it is also necessary to consider the other relevant planning policies and the normal range of material considerations that have to be taken into account when determining a planning application and a judgement is necessary in terms of all the development impacts also considered below.

9.2 Scale, Design, Impact to character and appearance of area, designated heritage assets (conservation area and listed building) and landscape designated as an AONB:

The NPPF sets out Central Government's planning policies. It states the purpose of the planning system is to contribute to the achievement of sustainable development. It defines core planning principles which include that planning should always seek to secure high quality design. Paragraph 58 of the NPPF in particular states that development should respond to local character and history, and reflect the identity of local surroundings and materials and paragraph 132 requires development to enhance heritage assets and make a positive contribution to their setting.

The Planning (Listed Building and Conservation Areas) Act 1990 (sections 16, 66 & 72) requires proposals affecting listed buildings or their settings to seek to preserve the special

interest of the buildings and their settings. The principal considerations are to ensure that new development protects the significance of listed buildings and their settings, and prevents harm to their significance. Proposals within conservation areas must preserve or enhance the character and appearance of the areas.

Core Policy 57 of the WCS requires a high standard of design in all new developments through, in particular, enhancing local distinctiveness, retaining and enhancing existing important features, being sympathetic to and conserving historic buildings and landscapes, making efficient use of land, and ensuring compatibility of uses (including in terms of ensuring residential amenity is safeguarded).

Core Policy 58 'Ensuring the conservation of the historic environment' requires that 'designated heritage assets and their settings will be conserved, and where appropriate enhanced, in a manner appropriate to their significance.'

Objective 16 of the Councils Design Guide states (page 67) also refers to the need for new development proposals to exhibit '*How the new dwelling(s) will relate to the context and to each other to create a particular place*'.

The NPPF also states that the planning system should also contribute to and enhance the natural and local environment by protecting and enhancing valued landscapes which include AONBs. Core Policy 51 of the WCS seeks to protect, conserve and enhance Wiltshire's distinctive landscape character and development '*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.*'

Development proposed in the AONB should demonstrate particular regard to the character and appearance of the landscape setting. The AONB Partnership comments have been attached in full above. The AONB is characterised by a diversity of landscapes and these variations and differences are represented by 8 landscape types in the AONB Landscape Character Assessment (LCA) 2003. The application site is in the Donhead- Fovant Hills landscape character area. The LCA explains that villages such as Teffont are sited at the heads of shallower valleys which drain through the greensand to the valley below and although these villages are hardly visible within the wider landscape they do have a particular character, reflecting their unusual valley-head location and the use of local building materials (such as the local Chilmark stone) and styles and clay tiles and thatch are the dominant roof materials. The LCA includes a management objective that built development should respond to the villages' character and avoid the use of standard suburban designs and details. The AONB are also concerned about any external lighting which should comply with their Position Statement on Light Pollution.

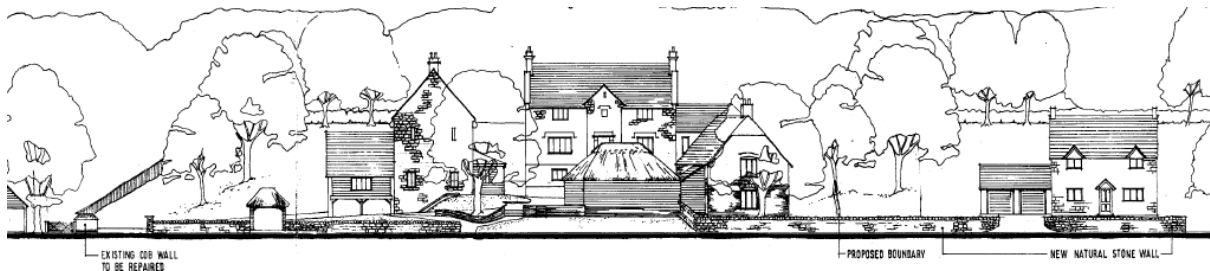
The Teffont Village Design Statement (VDS) refers to piecemeal development along the eastern side of the B3089 and concerns that further development would compromise important gaps and open views of the countryside and the intrinsic character and special charm of the village. The VDS guidelines for new development include that it should sit comfortably within its immediate surroundings; use natural materials (with natural stone being the preferred material for walls of new dwellings and tiles should be good quality handmade or hand finished clay peg tiles in muted colours); respect the traditional and vernacular feel of the village with high quality design and sensitive scale and proportions to not overwhelm neighbouring dwellings; include ample ground to the sides and rear so the sense of space is maintained along with views into and beyond the plot; enclosure by natural boundaries and building heights limited to single or two storeys with a mix of roof heights and levels adding character.

Objections raised to the application (summarised above) include that the site should not be developed at all and retained as an open treed gap within the street scene also referring to a previous refused scheme. Notwithstanding these objections to any development on the site; the comments also include that it is considered the proposed dwelling is too close to the adjacent dwelling Reads Cottage, should be orientated parallel to the road, sited centrally within the plot, and reduced in size and use of a shared access with Corrindale.

Representations of Support to the application (summarised above) include that the site is considered to be suitable for development as an infill plot, providing family living accommodation, and that the design, scale, materials and orientation is appropriate to the village character, the plot and neighbouring dwellings.

Each planning application is considered on its own merits, although previous decisions are material considerations. In this case the refused scheme (S/2002/2436) was for demolition of Reads Close (now Reads Cottage) and redevelopment with 3 dwellings on the site along with outbuildings. That application was refused for the following reason:

'The proposed development by reason of its number, massing and scale of dwellings would adversely impact upon the character of the conservation area and housing restraint area.'



Extract of street scene elevation of refused scheme

It is not considered that this automatically means the current scheme should be refused, as can be seen from the extract taken from the street scene elevation of the refused scheme; the issue was the overall number, massing and scale of dwellings proposed.

The amended plans to this application revise the location of the building, setting it further back (eastwards) by 1.5m and to the south within the site and reducing the ridge line (by excavating it down 0.5m). The revised plans retain existing and softening of proposed landscaping compared to the original proposals (the stone walls, steps and area of drive have been removed from the proposals).

The Supplementary Planning Statement to the revised plans explains that *'The desire is very much to maintain the view of trees seen past the proposed cottage to south and, conversely, for the landscape to flow past each side and down the slope to the Street frontage retaining the evergreen trees to the north...Orientating the cottage with its gable end onto the Street allows the trees of the high ground backdrop to be linked with the Street...This is a cottage made of the same palette of traditional materials and details that are found in the Conservation Area, but it has also evolved to respond and express an individuality intended to reinforce the specialness of the space.'*

The revisions are considered to reduce the prominence and give the building more of the appearance of sitting within its garden.

It is now considered that the proposal will not significantly harm the character or appearance of the conservation area, taking into account that whilst the site is currently an undeveloped

treed gap and inevitably any development is going to affect this; given the existing modern development along the road, and the now more softer approach to the landscaping, it is not considered to significantly harm the overall character of the area.

The AONB have raised concerns about any external lighting and that this should comply with the AONB's Position Statement on Light Pollution. It is considered reasonable for any external lighting to be agreed via condition and that an informative can be included advising the applicants of the AONB's Position Statement on Lighting.

It will be also appropriate to add conditions requiring materials to be agreed; sample stonework plinth panel, large scale details, hard and soft landscaping and to also remove permitted development rights for further extensions, additional windows or outbuildings.

Subject to these conditions, it is considered that the proposal will not cause significant harm to the character or significance of the Conservation Area, the setting or the listed building or have a significant impact on the visual amenities or character of the area or AONB.

9.3 The impact on the living conditions of proposed and nearby properties:

Policy CP57 requires that development should ensure the impact on the amenities of existing occupants is acceptable, and ensuring that appropriate levels of amenity are achievable within the development itself, and the NPPF's Core Planning Principles (paragraph 17) includes that planning should 'always seek to secure high quality design and a good standard of amenity for all existing and future occupants of land and buildings.'

Residential amenity is affected by significant changes to the environment including privacy, outlook, daylighting and sunlight inside the house, living areas and within private garden spaces (which should be regarded as extensions to the living space of a house). The extent to which potential problems may arise is usually dependent upon the separation distance, height, depth, mass (the physical volume), bulk (magnitude in three dimensions) and location of a development proposal in relation to neighbouring properties, gardens and window positions.

Objective 16 of the Councils Design Guide states (page 67) also refers to the need for new development proposals to exhibit 'How the new dwelling(s) will relate to the context and to each other to create a particular place'.

Only a utility room door/window is proposed on the north elevation, with the main fenestration on the west, east and south facing elevation (towards the side elevation of Corrindale).

The Building Research Establishment document 'Site Layout Planning for Daylight and Sunlight: a guide to good practice' (2011) provides a test which determines whether or not, for perpendicular development, further detailed daylight and sunlight tests are required. Providing that one of the 45 degree planes (i.e. elevation or plan) is unobstructed, daylight and sunlight levels are unlikely to be adversely affected because light will continue to be received either over the roof or beyond the end of the development.

Whilst the proposed dwelling is sited to the south of Reads Cottage, taking into account the distances (such that that dwelling does not exceed the BRE guidelines), the relationship between the siting of the proposed dwelling and Reads Cottage including that the footprint is angled away from Reads Cottage with receding roof; it is not considered that the dwelling would result in a significant adverse impact upon residential amenity.

It is considered that the dwelling has been designed to avoid unacceptable overlooking/overshadowing impacts in terms of layout of the development and position of windows and habitable rooms between both proposed and existing dwellings and it is not considered that the proposal will unduly impact on residential amenity.

In addition to considerations of character and appearance; it will be appropriate to remove permitted development rights for further windows/dormer windows being added and for extensions to the dwelling in order to maintain residential amenity.

9.4 Highways Considerations:

The supporting text to Wiltshire Core Strategy Policy 64 refers to a parking study, commissioned by the council in January 2010, which included a comprehensive review of parking standards, charges and policy within both the plan area and neighbouring areas.

The resulting LTP3 Car Parking Strategy (the third evolution of the Wiltshire Local Transport Plan) was adopted by the council in February 2011 and includes policy PS6 – Residential parking standards. The parking standards for new dwellings are set out in the Wiltshire Local Transport Plan 2011-2026 – car parking strategy:

Table 7.1 Minimum parking standards (allocated parking)

Bedrooms	Minimum spaces
1	1 space
2 to 3	2 spaces
4+	3 spaces
Visitor parking	0.2 spaces per dwelling (unallocated)

Cycle parking is also included in the undercroft.

The highways authority has advised that the revised proposal satisfactorily demonstrates parking for 2 vehicles and turning within the site and will not be detrimental to highway safety subject to conditions.

9.5 Ecology & Trees:

Core Policy 50 of the Wiltshire Core Strategy and the National Planning Policy Framework requires that the planning authority ensures protection of important habitats and species in relation to development and seeks enhancement for the benefit of biodiversity through the planning system.

The site has been assessed for its potential to support habitats and species of importance to nature conservation and the application documentation includes a Biodiversity survey report which explains that the site slopes from east to west, levelling off towards the west side with the level section having fewer trees than the steeper section and that there is limited vegetation due to shading from the trees.

Trees within conservation areas are protected as long as they meet the minimum size requirements (they must have a trunk diameter of 7.5cm measured at 1.5 metres above ground level). If the trees in question measure this size or greater than they are protected regardless of their species.

The application also includes a Tree survey report which explains the proposed development requires the removal of 10 trees and recommends that an arboricultural method statement, tree protection plan and schedule of arboricultural supervision is conditioned in order to safeguard the retained trees. This can be conditioned.

The Biodiversity survey report confirms that no bat roost features were found within trees on the site, although bats are commuting and foraging over the site using the east, south and west boundaries (where vegetation will be retained); no signs of other protected species were encountered (badger, reptiles, amphibians, dormice) although all of the trees and shrubs are of value to foraging and nesting birds. The report recommends biodiversity enhancements in the form of bat boxes; house martin nests and timings of work (which can be conditioned by reference to the mitigation measures outlined in section 5 of that report).

Details of the soft and hard landscaping of the site can also be agreed via condition.

The council's ecologist has no comments to make on the application.

9.6 Potential archaeology:

The National Planning and Policy Framework (NPPF) contains the following Policy:

"128. In determining applications, local planning authorities should require an applicant to describe the significance of any heritage assets affected, including any contribution made by their setting. The level of detail should be proportionate to the assets' importance and no more than is sufficient to understand the potential impact of the proposal on their significance. As a minimum the relevant historic environment record should have been consulted and the heritage assets assessed using appropriate expertise where necessary. Where a site on which development is proposed includes or has the potential to include heritage assets with archaeological interest, local planning authorities should require developers to submit an appropriate desk-based assessment and, where necessary, a field evaluation."

The Council's archaeologist has advised that this site is of archaeological interest as it lies close to the historic core of Teffont Magna, which dates to at least the Saxon period and normally a pre-determination field evaluation would be recommended, although in this case it is clear from the aerial photograph and arboricultural report that there are a larger number of trees and bushes on the site, making pre-determination evaluation difficult.

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

The Council's archaeologist has therefore recommended that a programme of archaeological works in the form of an archaeological watching brief is carried out as part of any development. If the applicant has further information on previous land use, such as significant terracing, which might affect the archaeological potential of the site, I would be happy to discuss it with them or their archaeological advisors.

9.7 Drainage:

The site is in Flood Zone 1 (the zone of least flood risk) and is not at risk of surface water flooding, although the council's drainage engineer has advised the road in front of the site is shown to be in Flood Zones 2 and 3 and at risk of surface water flooding.

Although there is no statutory requirement to do so; the Lead Local Flood Authority (LLFA) were erroneously consulted on the application. Comments have been received and are attached above.

It is proposed to connect to mains drainage (for which separate consent will be required from the relevant authority), and the issue of surface water drainage will be covered under building regulations for the dwelling, although the highways authority have recommended surface water details be agreed in the interests of ensuring no outflow to the public highway from the access/driveways. It is considered reasonable that a condition for the surface water from the access/driveways can be added, although the other suggested conditions from the council's land drainage engineer (scheme for discharge of foul water and surface water discharge) are unnecessary as covered under separate legislation although informatives can be added including the comments from the council's drainage engineer.

9.8 Sustainable construction and low carbon energy:

The WCS' key strategic objective is to address climate change. It requires developers to meet this objective under Core Policy 41- Sustainable Construction which specifies sustainable construction standards required for new development.

For new build residential development the local planning authority has previously sought energy performance at "or equivalent to" Level 4 of the Code for Sustainable Homes via planning condition. However, the LPA is currently no longer applying CP41 and related conditions to applications given it has effectively been superseded by the current government direction of travel favouring Building Regulations for these matters.

9.9 S106 obligations and CIL:

In line with government guidance issued by the DCLG (November 2014) Planning Contributions (Section 106 Planning Obligations), 1 proposed dwelling does not generate the need for S106 contributions.

The Community Infrastructure Levy (CIL) came into effect on the 18th May 2015; CIL will be charged on all liable development granted planning permission on or after this date and would therefore apply to this application. However, CIL is separate from the planning decision process, and is administered by a separate department.

10. Conclusion

It is considered that the proposed development of the site will maintain the character and appearance of the area and avoid adverse impact upon the character and appearance of the conservation area, the wider landscape (also designated as an AONB), setting of the listed building to the south west of the site and will not unduly impact upon residential amenity.

RECOMMENDATION: Approve subject to the following conditions:

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

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

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

Plan Ref: 1689.P-01 Rev A, received by this office 02/11/2017

Plan Ref: 1689.P.02 Rev A, received by this office 02/11/2017

Plan Ref: 1:1250 Location Plan Position of Cottage Revised Oct 2017, received by this office 03/11/2017

Biodiversity survey/assessment, received by this office 12/07/2017

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

(3) No development shall commence within the area indicated (proposed development site) until:

- A written programme of archaeological investigation, which should include on-site work and off-site work such as the analysis, publishing and archiving of the results, has been submitted to and approved by the Local Planning Authority; and
- The approved programme of archaeological work has been carried out in accordance with the approved details.

REASON: To enable the recording of any matters of archaeological interest.

(4) No development shall commence on site until a scheme for the discharge of surface water from the site access/driveway, incorporating sustainable drainage details, together with permeability test results to BRE365, to prevent discharge onto the highway 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, in the interests of highway safety.

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

- location and current canopy spread of all existing trees and hedgerows on the land;
- full details of any to be retained, together with measures for their protection in the course of development;
- a detailed planting specification showing all plant species, supply and planting sizes and planting densities;
- finished levels and contours;
- means of enclosure;
- 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, in the interests of visual amenity and the character and appearance of the area.

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

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

(7) No demolition, site clearance or development shall commence on site, and; no equipment, machinery or materials shall be brought on to site for the purpose of development, until a Tree Protection Plan showing the exact position of each tree/s and their protective fencing in accordance with British Standard 5837: 2012: "Trees in Relation to Design, Demolition and Construction -Recommendations"; has been submitted to and approved in writing by the Local Planning Authority, and;

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

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

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

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

[In this condition "retained tree" means an existing tree which is to be retained in accordance with the approved plans and particulars; and paragraphs above shall have effect until the expiration of five years from the first occupation or the completion of the development, whichever is the later].

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

(8) Notwithstanding the approved drawings, no walls of the development hereby permitted shall be constructed until details of the following have been submitted to and approved in writing by the Local Planning Authority:

(i) Large scale details of all external joinery (1:5 elevation, 1:2 section) including vertical and horizontal cross-sections through openings to show the positions of joinery within openings, depth of reveal, heads, sills and lintels;

(ii) Full details of proposed rooflights and solar panels, which shall be set in plane with the roof covering;

(iii) Full details of external flues including finish, background and mechanical ventilation, soil/vent pipes and their exits to the open air;

(iv) Full details of rainwater goods;

(v) Large scale details of proposed eaves and verges (1:5 section)

The works 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, to ensure that the development is appropriately detailed due to its location within the conservation area and setting of listed building.

(9) All windows shall be of timber. No paint or stain finish shall be applied to external timber until details of the paint or stain to be applied have been submitted to and approved in writing by the Local Planning Authority. Development shall be carried out in accordance with the approved details prior to the development being first occupied.

REASON: In the interests of visual amenity and the character and appearance of the area, to ensure that the development is appropriately detailed due to its location within the conservation area.

(10) No walls of the development hereby permitted shall be constructed until details and samples of the materials and finishes to be used for the external walls and roofs have been submitted to and approved in writing by the Local Planning Authority. Development shall be carried out in accordance with the approved details.

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

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

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

(12) No external lighting shall be installed on site until details of external lighting have been submitted to and approved in writing by the Local Planning Authority. The approved lighting shall be installed and shall be maintained in accordance with the approved details and no additional external lighting shall be installed.

REASON: In the interests of the amenities of the area and to minimise unnecessary light spillage above and outside the development site, to prevent light pollution and harm to the AONB.

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

REASON: In the interests of highway safety.

(14) No part of the development hereby permitted shall be first occupied until the access, turning area and parking spaces (including the undercroft car and cycle 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.

(15) The development hereby permitted shall not be occupied until the area between the nearside carriageway edge and a line drawn 2.4m metres parallel thereto over the entire site frontage has been cleared of any obstruction to visibility at and above a height of 600mm above the nearside carriageway level. That area shall be maintained free of obstruction at all times thereafter.

REASON: In the interests of highway safety.

(16) The development shall be undertaken and completed in accordance with recommendations and precautionary mitigation measures outline on section 5 of the Biodiversity survey/assessment Version 2 dated 11 May 2017.

REASON: To ensure adequate protection, mitigation and compensation for protected species.

(17) Notwithstanding the provisions of the Town and Country Planning (General Permitted Development) Order 1995 (as amended by the Town and Country Planning (General

Permitted Development) (Amendment) (No.2) (England) Order 2008 (or any Order revoking or re-enacting or amending that Order with or without modification), there shall be no additions 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.

(18) Notwithstanding the provisions of the Town and Country Planning (General Permitted Development) Order 1995 (as amended by the Town and Country Planning (General Permitted Development) (Amendment) (No.2) (England) Order 2008 (or any Order revoking or re-enacting or amending that Order with or without modification), no window, dormer window or rooflight, other than those shown on the approved plans, shall be inserted in the elevations, roofslopes or gable ends of the development hereby permitted.

REASON: To safeguard the character and appearance of the area and in the interests of residential amenity.

(19) Notwithstanding the provisions of the Town and Country Planning (General Permitted Development) (England) Order 2015 (or any Order revoking or re-enacting or amending that Order with or without modification), no garages, sheds, greenhouses and other ancillary domestic outbuildings shall be erected anywhere on the site on the approved plans.

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

INFORMATIVE: 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.

INFORMATIVE: External lighting

The application site is located within the countryside of the AONB which is currently bidding for 'Dark Sky Reserve Status' (further information can be found via - <http://www.ccwwdaonb.org.uk/our-work/dark-night-skies/>).

It is therefore recommended the applicant consider a scheme of screening/louvres to be attached to and used on all approved rooflight windows in the interests of the amenities of the area and to minimise unnecessary light spillage above and outside the development site. In considering any proposed external lighting, the applicant should comply with the Cranborne Chase and West Wiltshire Downs AONB position statement on Light Pollution available from: http://www.ccwwdaonb.org.uk/projects/pub_other.htm

INFORMATIVE: CIL

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 application involves an extension to the existing dropped kerb. 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 Wiltshire's Highway Authority before any works are carried out on any footway, footpath, carriageway, verge or other land forming part of the highway. Please contact our Vehicle Crossing Team on vehicleaccess@wiltshire.gov.uk and/or 01225 713352.

INFORMATIVE TO APPLICANT: Archaeological work

The work should be conducted by a professionally recognised archaeological contractor in accordance with a written scheme of investigation approved by this office and there will be a financial implication for the applicant.

If archaeological remains are encountered, this may have an effect on the programme of works.

INFORMATIVE TO APPLICANT: Exhumation of Human Remains

Nothing in this permission shall authorise the exhumation, removal, or interference with human remains which may exist on the site. Separate legislation exists for such matters.

INFORMATIVE TO APPLICANT: Wessex Water

Water Supply and Waste Connections

New water supply and waste water connections will be required from Wessex water to serve this proposed development. Application forms and guidance information is available from the Developer Services web-pages at our website www.wessexwater.co.uk.

Further information can be obtained from our New Connections Team by telephoning 01225 526222 for Water Supply and 01225 526333 for Waste Water.

Separate Sewer Systems

Separate systems of drainage will be required to serve the proposed development.

No surface water connections will be permitted to the foul sewer system.

Please find attached an extract from our records showing the approximate location of our apparatus within the vicinity of the site (this letter can be found on the application file which can be viewed on the council's website against the relevant application record)

INFORMATIVE TO APPLICANT: Surface Water and Foul Drainage

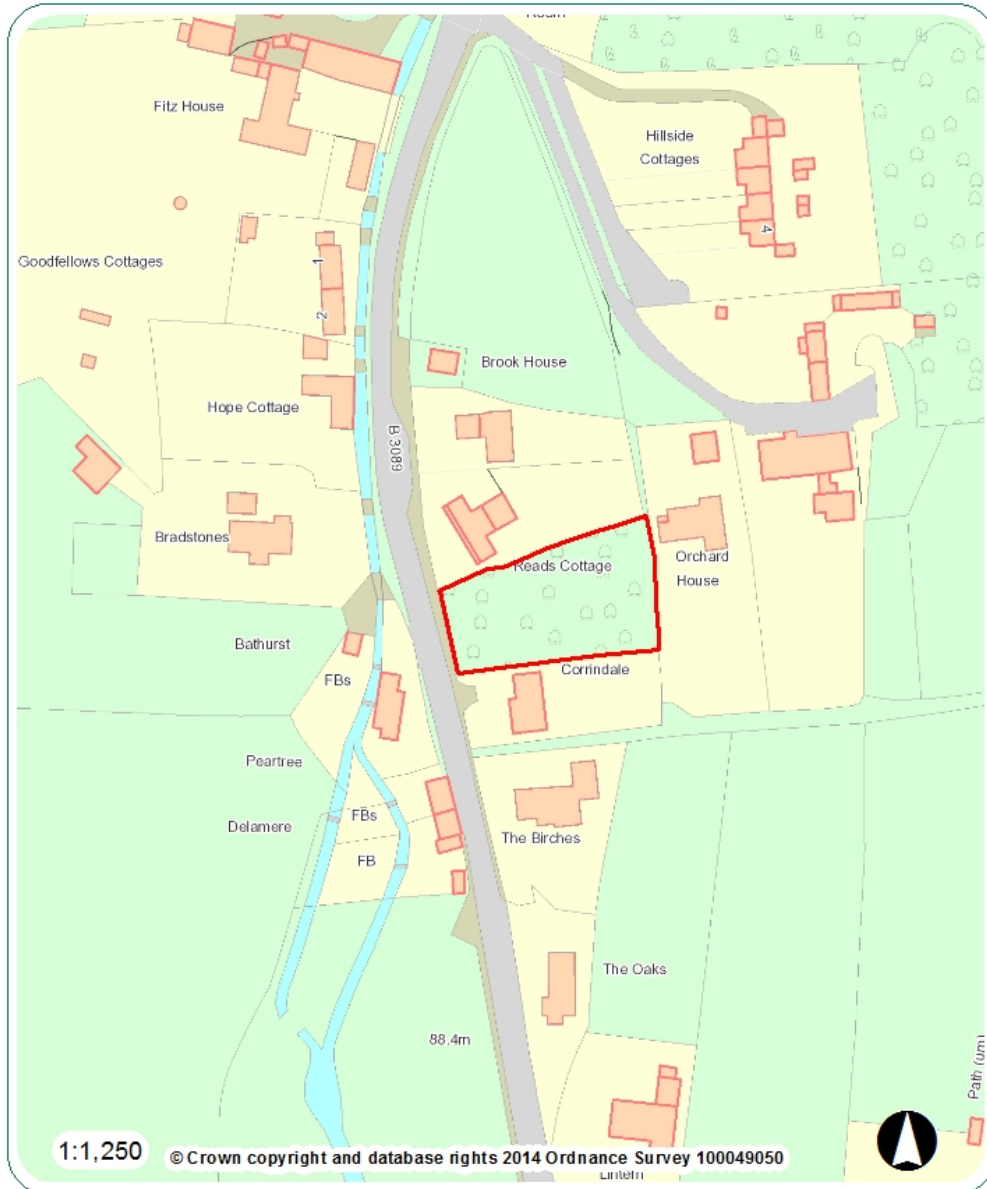
The application form states foul drainage disposal will be main sewer – the applicant will need to investigate the location of existing foul drainage system and pipework within the site as there may be S105A public sewers crossing the site which would require permission from Wessex Water.

The application form states storm water drainage disposal to be via a soakaway in the driveway – Any proposed use of soakaways will need to be backed up by permeability testing to BRE 365 plus in chalk areas any soakaway needs to be at least 10m from buildings/structures.

INFORMATIVE TO APPLICANT: Wildlife and Countryside Act

The applicant should note that under the terms of the Wildlife and Countryside Act (1981) and the Habitats Regulations (2010) it is an offence to disturb or harm any protected species, or to damage or disturb their habitat or resting place. Please note that this consent does not override the statutory protection afforded to any such species. In the event that your proposals could potentially affect a protected species you should seek the advice of a suitably qualified and experienced ecologist and consider the need for a licence from Natural England prior to commencing works. Please see Natural England's website for further information on protected species.

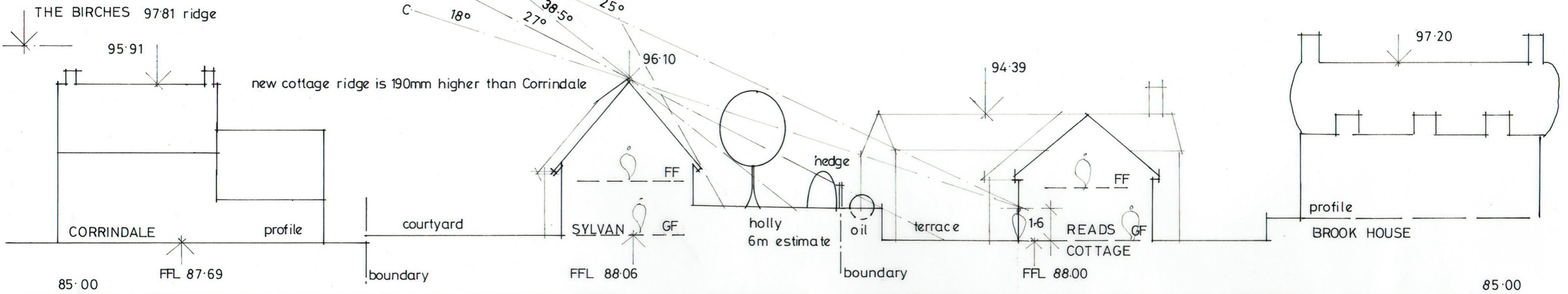
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SYLVAN

SOLAR SECTION



Line A - is the commonly-used designers 25° "rule of thumb" projection line employed by the Building Research Establishment Guidelines under which light amenity "is unlikely to be significantly affected".

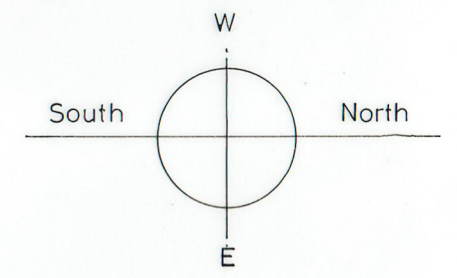
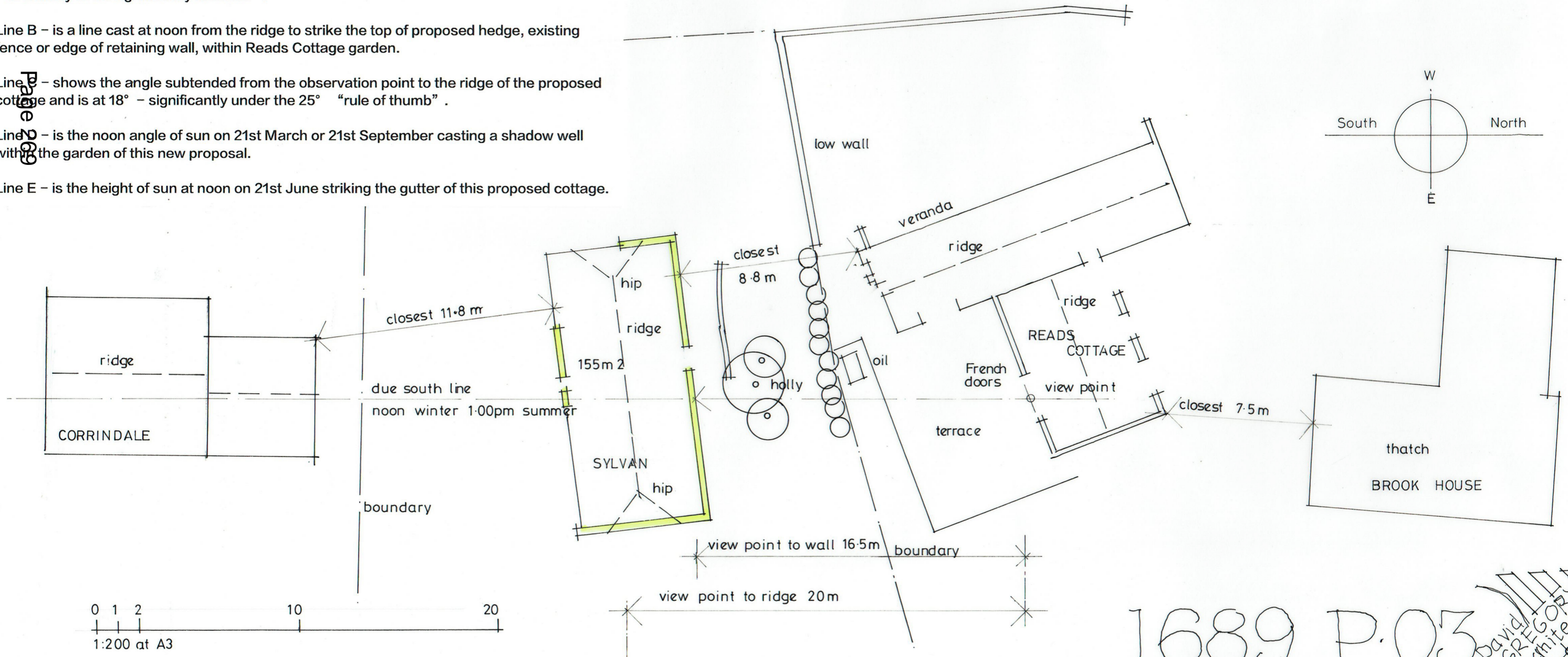
new cottage ground floor level is 60mm higher than Reads Cottage

Line B - is a line cast at noon from the ridge to strike the top of proposed hedge, existing fence or edge of retaining wall, within Reads Cottage garden.

Line C - shows the angle subtended from the observation point to the ridge of the proposed cottage and is at 18° - significantly under the 25° "rule of thumb".

Line D - is the noon angle of sun on 21st March or 21st September casting a shadow well within the garden of this new proposal.

Line E - is the height of sun at noon on 21st June striking the gutter of this proposed cottage.



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SUPPLEMENTARY STATEMENT 2

for

SYLVAN

Proposed New Cottage

TEFFONT MAGNA
SALISBURY, WILTSHIRE



View of site for proposed cottage – Reads Cottage is to left and Orchard House is above and behind

Hirondelle, Swallowcliffe, Salisbury, Wiltshire, SP3 5NX.
Tel: (01747) 870854
david.gregory.architects@googlemail.com
www.davidgregoryarchitects.co.uk

David Gregory Architects is the trading name of David Gregory Architects Ltd, reg in England and Wales No 9011295 reg office as above.

Parish Council Consultation and Committee Meeting

This statement has been prepared following public comments on the revised scheme presented to the Teffont Parish Council (14th November 2017), and the Planning team's recommendation for approval.

As time is short at the meeting, this statement is intended to provide information to assist members of the Southern Area Planning Committee when they meet on 8th March 2018.

Full Planning application 17/06709/FUL.

Please refer to Solar Section drawing 1689 P.03.

This statement should also be read as a continuation of the Design First Supplementary Statement and the Context Statements included with the application.

Clarification

The reasons for 'calling in' this scheme to the Southern Area Planning Committee are given as:

Scale, visual impact, design, bulk, height and general appearance, both on the street scene and particularly the property of Reads Cottage to north.

The following commentary and height information should help to clarify relative sizes, orientation and sequence, and assist in assessing these concerns.

The additional Solar Section drawing P.03 is intended to provide a graphic profile.

The Street is Level but Valley Sides are Steep

As a baseline to these measurements, it is interesting to note that the valley floor is level, to all intents and purposes.

The recorded pavement level at the bus stop to front of Brook House is 86.70m and to the front of Corrindale 86.66m, showing a very light fall of 0.04m (40mm) to the south over a distance of 70m.

Please look at location plan or scheme drawings for relative positions.

The proposed cottage will be the middle of three cottages, which are then flanked by two taller houses, making five properties along the eastern street frontage.

Behind and above this line, there is another house set high up on the steeply rising ground, such that the proposed cottage sits in the centre of a group of houses and cottages.

This arrangement we have called a 'cluster'.

The Cluster

The Village Design Statement describes this in 'Pattern and Layout':

The settlement [has] developed in a linear pattern, with buildings arranged in irregular clusters on either side of the road and following the flow of the stream, and many of the cottages hugging its banks. Small groups of buildings are interspersed with gardens, open fields and paddocks, which in the central and lower part of the village rise to tree-clad hillsides beyond.

Brook House

Brook House is furthest to the north and is set back from the street, with the softness of a rounded ridge of thatch roof (ridge height 97.20m) to main part, and to the fore a tile ridge of 95.26m over garage and bedroom projection.



Brook House

This is a three-bedroom house with a frontage width of 12m, where the closest dimension to Reads Cottage is within 8m.

Reads Cottage

Reads Cottage has four bedrooms and is set close to the street with frontage width of 16m, along which is the distinctive south-west facing veranda that enjoys the afternoon sun and views across the street to the valley beyond.



View to south west from Reads Cottage front garden and veranda

To the rear is a bedroom and living room, with the first floor opening out onto the retained rising valley side, and then garden and deck spaces stepping up the slope.



View from upper lawn of Reads Cottage garden with the higher Brook House to right



The sunny afternoon veranda to Reads Cottage – proposed cottage will be beyond hazel hedge

The cottage has a ridge height of 94.39m and a ground floor level recorded at 88.00m, which allows the entrance and veranda to be at 1.3m above pavement level.

Sylvan (proposed)

Rather than face the street with a veranda, the proposed cottage looks to the side and south, allowing a natural plateau in the hillside to form a garden.

The proposed internal floor area is 155m², with a ground floor level of 88.06 and a proposed ridge height of 96.10m.

As the building is orientated end on to the street, the frontage width is 6.8m.

The ground floor level is therefore very similar to Reads Cottage at 1.36m above pavement level.

This is to be a three-bedroom dwelling.

Corrindale

Corrindale has a ground floor level recorded at 87.69 and so is 1m above pavement level, with a ridge of 95.91m.

This three-bedroom cottage currently has an internal floor area of 114m². However, it has planning permission to convert the garage which, when completed, will make it a four-bedroom cottage with an internal area of 156m².

Corrindale's frontage is 13.7m including the garage, with gables set close to the plot boundaries to either side.



Corrindale, with recent entrance walls – the ridge of proposed cottage sits 8 inches above Corrindale's ridge

The Birches

This four-bedroom house has a prominent chimney, but otherwise a rather defensive stone wall facing the street, behind which a steep hipped roof rises to a ridge with recorded height of 97.81m.



The Birches – presenting a prominent chimney and high roof behind

This house has the highest ridge of the four properties currently set along the road frontage and to the south of Corrindale. Corrindale is its immediate neighbour to north.

Orchard House

The land survey used for this application did not record heights for Orchard House, but it is situated to the east of the site and, as the land rises significantly such that the ground level is in excess of 96m or 10m above the road level, consequently it benefits from long views to the west, and looks over the roofs of properties on the valley floor.

The cover photograph shows this relationship seen from the street.

Relative Heights of Roof and Floors

The ridge heights of both Brook House and The Birches are higher than Corrindale by 1.29 and 1.9m respectively.

The ridge proposed at Sylvan will be 0.19m or 190mm (8 inches) above the ridge of Corrindale.

For comparison purposes, it may be helpful, when observing or assessing from vantage points along the street or from adjacent gardens, to note that the new hipped ridge will be just above Corrindale's existing ridge and below its chimney caps.

The forward and older part of Reads Cottage is comparatively narrow in plan and so consequently the roof is lower. The ridge is 2.81m below the existing Brook House and will be 1.71m lower than the proposed cottage roof.

Internal floor levels are comparable with Reads Cottage, which has an internal ground floor level 0.06m or 60mm (3 inches) below ground floor level of the proposed cottage.

Frontage Widths

Brook House has a frontage width of 12m, Reads Cottage of 16m and Corrindale of 13.7m, whereas the width of proposed new cottage is only 6.8m.

Whereas the other properties in the cluster have tended to fit between their boundaries, we did not consider it appropriate to repeat this convention.

The new dwelling embraces advice from the Village Design Statement to maintain green spaces between properties, and engender a more relaxed and interesting diversity in design approaches and patterns.

Solar Section

Please refer to Drawing 1689 P.03.

The occupants of Reads Cottage have expressed concern over the amount of daylight and sunlight falling in the rear courtyard, and the view and light to south. We have followed the British Research Establishment (BRE) Guidelines to ensure their light amenity "is unlikely to be significantly affected" and this is demonstrated in the referenced drawing.

The plan and section show separation distances and heights, the 'daylight sky' projecting out from an observation point set at the French windows in the rear section of Reads Cottage and sun angles cast in from the south towards Reads Cottage's rear courtyard. The section is cut north/south through the site as seen from the east and may be seen as a worst daylight case.

We have chosen the centre of the French window of the ground floor living room of Reads Cottage, taking a convention eye level at 1.6m as the observational viewpoint.

The line of section drawn runs due south, therefore cutting through the rear extension of Reads Cottage showing the profiles of Brook House and Corrindale.

Due south should provide the line and angle of sun at midday in winter, (in British summer time this will be at 1.00pm).

Looking South and Separation Distance

Please refer to Drawing 1689 P.03.

An observer looking due south from the observation point at Reads Cottage French window will see a retaining wall currently, with oil tank in foreground before the boundary fence.



View from upper garden terrace of Reads Cottage looking south west

Beyond the fence on this line there is an existing holly tree that is shown as retained on the proposed scheme. Currently and in future, therefore, it will cast a noonday shadow on this line and hence towards the French window.

It is along this line that the proposed cottage falls and, although slightly twisted, the heights and distances are true to elevation.

The face of proposed cottage wall measured horizontally is to be 16.5m away and the ridge 20m away.

The eye line elevated from horizontal at 18 degrees passes over ridge (line C).

Daylight and Sky Exposure

Please refer to Drawing 1689 P.03

Line A on Drawing P.03 is the 'rule of thumb' projection line employed by designers and planners adopted from the Building Research Establishment Guidelines as a baseline assessment for daylight amenity impact. If at 25 degrees from the observational viewpoint to the ridge of the new proposal or under then the daylight amenity for Reads Cottage "is unlikely to be significantly affected".

Line C demonstrates that from the established observational viewpoint the proposed cottage subtends an angle of 18 degrees, which is significantly below the 25 degree limit.

Objects existing below this line are conventionally considered unlikely to significantly affect light amenity as it is the more general dome of sky that provides daylight.

The incoming light at the observational view-point is impacted to the east by land and trees and to the west by the walls and roof of Reads Cottage itself.

Sunlight Projection/Shadow

Please refer to Drawing 1689 P.03.

As shown by Line D, the angle of the sun at noon on 21st March is approx 38.5 degrees. This casts a shadow well within the proposed cottage garden and does not reach into Reads Cottage.

B shows a line cast at noon from the proposed cottage's ridge to strike the top of Reads Cottage's existing courtyard fence and the top of their courtyard retaining wall. As this line is generated by the existing retaining wall the existing shadow cast is unchanged.

Reads Cottage has additional gardens to both the front and the rear of the property. The front (west facing) receives afternoon/evening sunlight unaffected by the proposed cottage.

Privacy and Overlooking

Through its orientation, the proposed cottage only has windows to south, east and west.

For good practical and safety reasons, there is a glazed panel to utility door. However, no windows look to the north and therefore to Reads Cottage.

It is proposed that a new hedge is planted to boundary between cottages, and one can see from drawing 1989 P.03 that a typical, manageable garden hedge will not add shade to Reads Cottage terrace, nor restrict sunlight. It will, however, provide privacy for activity within both gardens.

The Gap Becomes the Garden

We do not think it appropriate to repeat the adopted frontage infill pattern.

Reads Cottage may once have been orientated to look across the valley to the afternoon sun from the elevated veranda, over what would then have been a quiet country lane.

Older village houses and farm buildings may have been orientated to the stream and would have derived their character from the needs and uses they had at the time.

These factors played their part in creating the diversity, layering, delight and complexity of the village.

We agree with the Village Design Statement that designing a home should demonstrate more than simply reflection and a contextual or visual exercise.

The suggested convention has been to place a cottage facing the street, with a garden to rear and parking area to the front.

The difficulty with this approach is that it requires significant excavation, as the cottage will become a visual barrier set on the level land behind the frontage garden.

Visually therefore, this could be seen as infilling a gap to the street frontage, and we do not consider it would be appropriate or a successful move to repeat this strategy.

Instead, we have turned the cottage so that the end faces towards the street and 'the gap becomes the garden'.

This approach thereby generates separation that is greater than the convention, pulling the elevations away from neighbours' boundaries. Most importantly, it removes the need to excavate or create a then shaded garden to the rear.

The steep upper slope can now be left as a wildlife garden, with views past the cottage being created.

To be a Family Home

The Applicant has requested a family home providing real support and delight.

The garden as a child's play space or a recreational sunny area will now lie between Sylvan and Corrindale, and not at the shaded rear, cut into the bank.

The gap between these cottages will then engage with the village and be sunlit so that, after working or school hours, it is a safe and bright area.

The roof projection and shade produced will create a space between inside and out, making it a useful, attractive place that responds to the request for a practical and active family home.

To the north and between the proposed cottage and Reads Cottage is now found a wide buffer space, providing privacy for the neighbouring occupants.

Overall

Concerns have been raised regarding the design, height, position and scale of the proposed cottage.

Appearance.

The design is reminiscent of the village's rural past, oriented end-on to reduce impact in the street scene and to the Grade II listed building opposite. The materials are of a traditional palette and expression, locally inspired, with a timber building on stone walls.

Height.

We have confirmed here the cottage will have a similar ground floor level and height to the adjacent properties in this "cluster".

Position and Scale.

We have advised that the cottage will have the least elevation width presented to the street and the smallest overall floor area of the cluster.

The orientation allows for important gaps either side, giving breathing spaces and reducing any impact in the street. We have demonstrated ample space, separation and lack of overlooking of Reads Cottage.

The Village Design Statement under 'Guidelines for Development':

[When any development takes place, we wish to encourage the best of the new, both in design and materials, and challenge architects and designers to create buildings which are not mere pastiches of the past or repetitive 'executive' style buildings.](#)

[Good quality and interesting design really will enhance the surroundings.](#)

In conclusion, we have responded to the topography, taken the advice of the Village Design Statement, and applied the needs of a working family home to the design to generate this proposal.

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Planning application 17/06709/FUL Construction of a new house and vehicular access

I believe that it is very important for the committee to understand the lack of support for this proposal.

Teffont is a beautiful small village within a Conservation area and part of the Cranborne Chase and West Wiltshire Downs area of outstanding natural beauty. The Teffont Village Design Statement was adopted by Salisbury City council in 2015.

- This is an overly tall building squeezed into one of the last remaining green gaps on the street.
- The Teffont Village Design Statement insists on sensitive scale and proportions to not overwhelm neighbouring dwellings; enclosure by natural boundaries and building heights limited to single or two storeys - the proposed building has four levels!
- It does not meet housing needs as referenced by the AONB and the conservation officer.
- Teffont Parish council have been elected to represent the views of the village and have objected twice to this proposal.
- A previous application was refused. This is just a piecemeal version of the same thing with fewer trees.
- Despite minor adjustments this proposal still sits forward of neighbouring houses obscuring Reads cottage from view in the street scene.
- Wiltshire Core Strategy (Core policy 2) states “Teffont is identified as a small village and is therefore considered to be open countryside where there is a general presumption against development.”
- Core Policy 2 also states that “at small villages such as Teffont, development will be limited to infill within the existing built area where it seeks to meet the housing needs provided that the development: 1) Respects the existing character and form of the settlement. 3) Does not consolidate an existing sporadic loose knit area of development related to the settlement.” This application fails to meet either of these criteria.
- The NPPF states that “Development should respond to local character and history... make a positive contribution to their setting.”

What greatly concerns me is that the VDS, AONB, Conservation officer, Parish Council and local residents have largely been disregarded. There is no support for this application within Teffont other than the applicant and her immediate family.

I do appreciate that there is an enormous pressure on planning officers to approve new housing applications. I am not insisting that there should be no development in Teffont but what is permitted should fit in harmoniously with the conservation area in terms of scale so that they do not overwhelm the old houses in the village. Overly Large houses are continuing to be built on smaller and smaller plots in Teffont as it has proven to be very lucrative in the second homes market. There are more and more houses that are occupied only part time. Right now, there are at least four houses stood completely empty even of furniture. I have counted at least 15 new builds since 2000 and there are always several on the market at any one time. If this particular trend continues there will be nothing left of the conservation area to conserve.

Comments from the AONB Partnership include:

- It should be recognised that ‘presumption in favour of sustainable development’ does not automatically apply within AONBs.
- Local government (including planning authorities), individual councillors and holders of public office have a statutory duty to have regard to purposes of AONB designation, namely conserving and enhancing natural beauty.
- This proposal appears to be a single property being squeezed in between existing properties. As you know, the AONB Management plan identifies affordable housing as a primary need within the AONB. There is no indication that the current proposal would fall into that category.
- It appears that the architect has not taken account of AONB guidance.

Relevant comments from the Conservation officer include:

- I expressed concerns at preapp about the scale and design of this proposed new dwelling. A previous refusal (S/2002/2436) is relevant, as of course is the VDS, and we should be mindful that the CA is not one of continuous built form, there are several green or treed gaps, of which this is one, that contribute to its rural character
- There is a level of concern at the loss of the undeveloped treed section from the street scene, and the coalescence of the eastern side of the village. This is certainly reasonable in CA terms and could be defended if necessary.
- Perhaps the strangest element of the design is the integral car port, as this pushes the ‘ground’ floor upward and creates internal level changes.
- The integral garage forces the building to be wider and taller than otherwise necessary.
- There would be no public benefit outweighing the harm (NPPF 134)

Planning history

A previous refused scheme (S/2002/2436) was for demolition of Reads Close (now Reads Cottage) and redevelopment with 3 dwellings on the site along with outbuildings. That application was refused for the following reason:

‘The proposed development by reason of its number, massing and scale of dwellings would adversely impact upon the character of the conservation area and housing restraint area.

Extract of street scene elevation of refused scheme positioned for a correct comparison with the new scheme below.

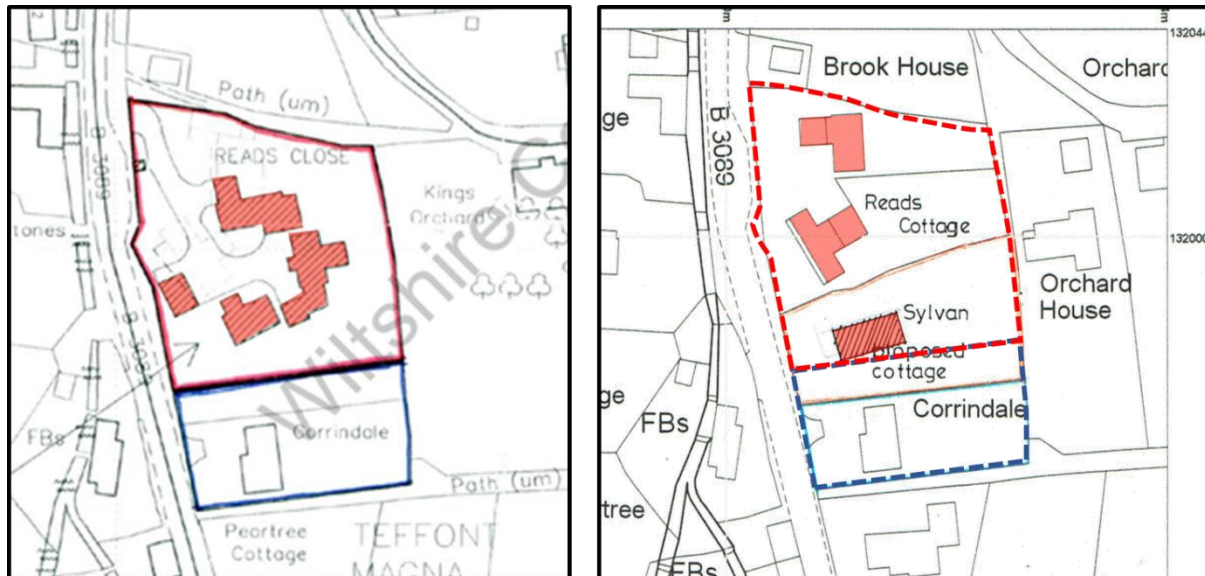


Note how if the new scheme were to go ahead it would fulfil the applicant's original intention of having three houses on the same piece of land. Only this time there would be fewer green open spaces and trees.

Despite this the planning officer has the view that:

"It is not considered that this automatically means the current scheme should be refused, as can be seen from the extract taken from the street scene elevation of the refused scheme; the issue was the overall number, massing and scale of dwellings proposed."

For further comparison: a view of the layout of both schemes



Another attempt was made to demolish Reads Close by the applicant (s/2003/0084). This too was refused as **Reads Close was "considered to represent a positive contribution to the appearance and character of the Teffont Conservation Area." And was an "important element of the Teffont street scene and Conservation Area"**

Reads Cottage (originally Reads Close) has stood on this site for about 200 years and was considered one of the historically important buildings in Teffont Magna. The house is the birth place, home and work place of the painter Harry Fidler and his brother Gideon, who were born here in the mid-19th century. Harry Fidler is now internationally renowned for his impressionistic paintings depicting village and farm life. Many of his paintings included local characters who lived in Teffont at the time. Both Harry and Gideon exhibited at many prestigious institutions including the Royal Academy. Their sisters Fanny and Lucy were also celebrated painters. Gideon and Lucy are buried in the garden of Reads Close (now part of Corrindale, the graves are expected to remain in the garden of the new building). They had no descendants and the house was left to the applicant's family.

The present view northwards of the historic street scene. The orange shows the patch of garden where the new build is proposed directly in front of Reads Cottage

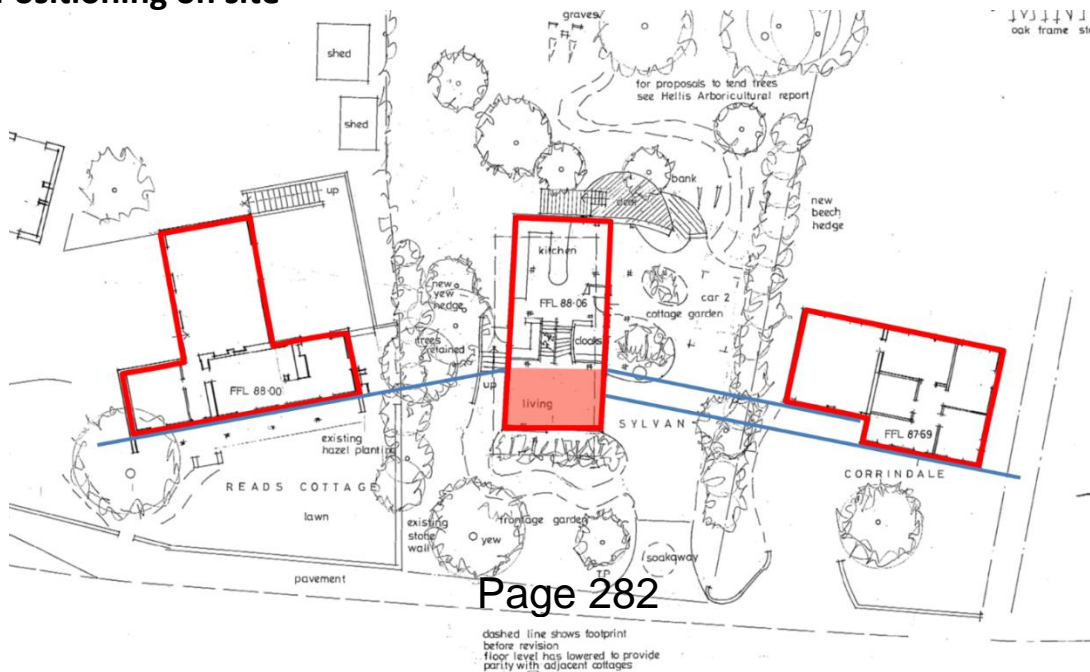


The proposal for this application sites Sylvan several feet forward of both Reads cottage and Corrindale this was criticised by the conservation officer:

“both of the neighbouring properties are angled as if part of a crescent, yet the proposed building juts forward of the middle, giving it more prominence than desirable”

With the revised plans this was pushed back slightly but a quarter of the bulk of Sylvan would still protrude forwards of Reads Cottage. Travelling northwards through the village any view of Reads Cottage will be lost to the street scene forever if Sylvan were to be built in its present form.

Positioning on site



In conclusion

The VDS, AONB, Conservation officer, Parish Council and local residents have largely been ignored.

I understand that there is an enormous pressure on planning officers to approve new housing applications and the NPPF promotes a presumption in favour of sustainable development. This presumption does not automatically apply within the AONB however and the greater emphasis must be to conserve and enhance the outstanding natural beauty.

The AONB identifies affordable housing as a primary need but this proposal does not fall into this category. (a 3 bed. architect designed house in Teffont would be in excess of £400,000). There are already many second homes in the village, at least four houses stood completely empty at the moment and four up for sale.

The report states that there are 13 letters of support for this application and 14 objecting. This gives a very misleading picture. All the support letters come from those living in the applicant's house or close family members & friends, none of whom live anywhere near the proposed house and most not even in the village. Those objecting have a genuine stake as residents of the village and most are immediate neighbours who will have to live with the results of this decision.

The house is proposed to be significantly forward of neighbouring houses obliterating Reads Cottage from view as one travels northwards up the street.

It is unfairly positioned closer to Reads Cottage than the applicants house blocking much of the sunlight to the southern side which is at its most critical during the winter months.

It has four levels: an under-croft; a living space, a bedroom level and an enormously tall attic space. This makes it significantly taller than Reads Cottage exacerbating the overshadowing.

This is the last opportunity to revisit the design of this proposal. If approved, it will change our historic street scene forever. If refused, the applicant could propose a shorter building that would sit better within its space, be less dominating of the street scene, be more considerate to neighbouring properties and still bring the desired profit that the applicant is aiming for when it is sold as a building plot along with Corrindale.

Thank you for your consideration,

Rowena Taylor

Reads Cottage, Teffont

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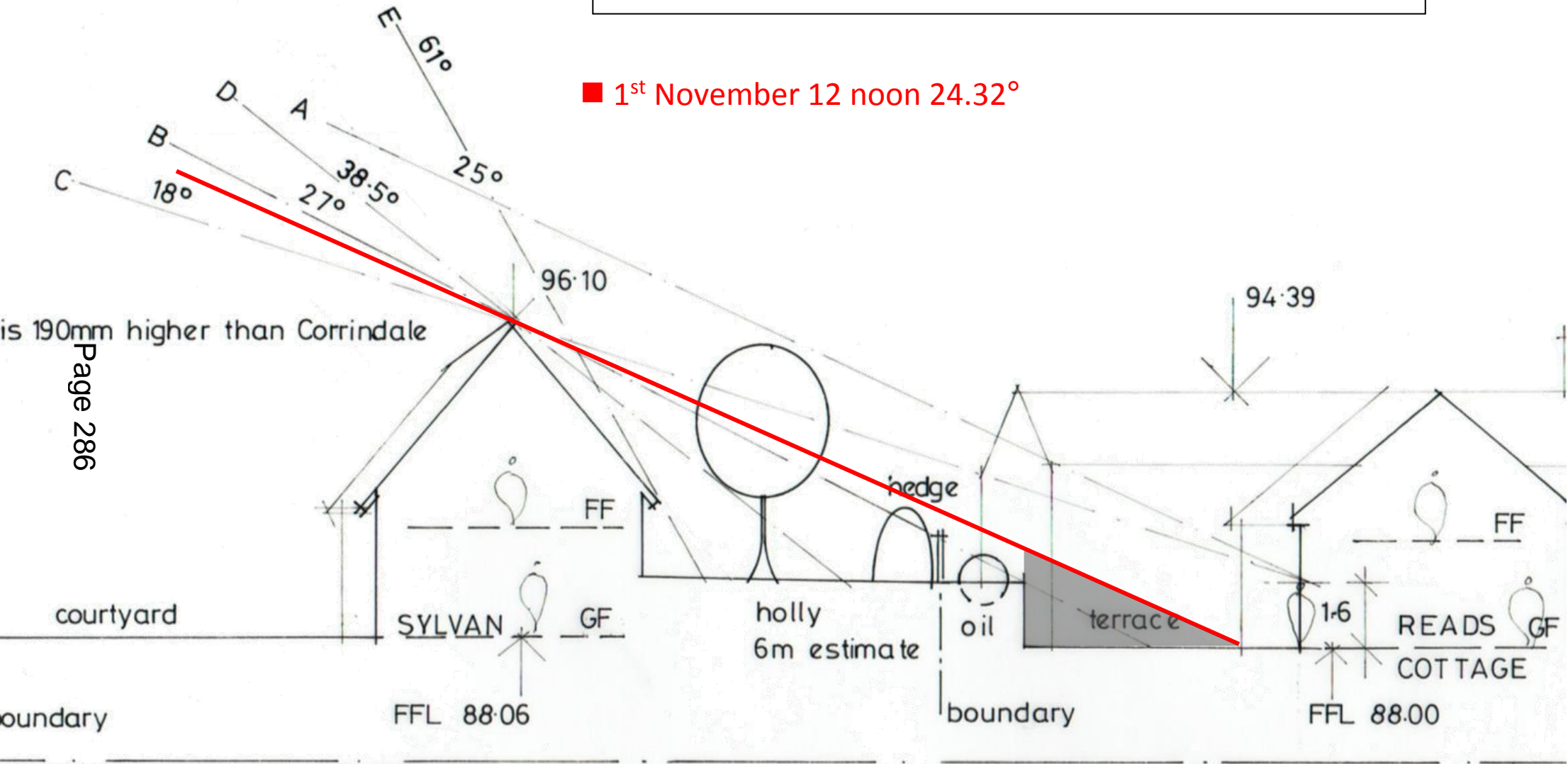
Teffont's Historic Street Scene and actual sunlight plots



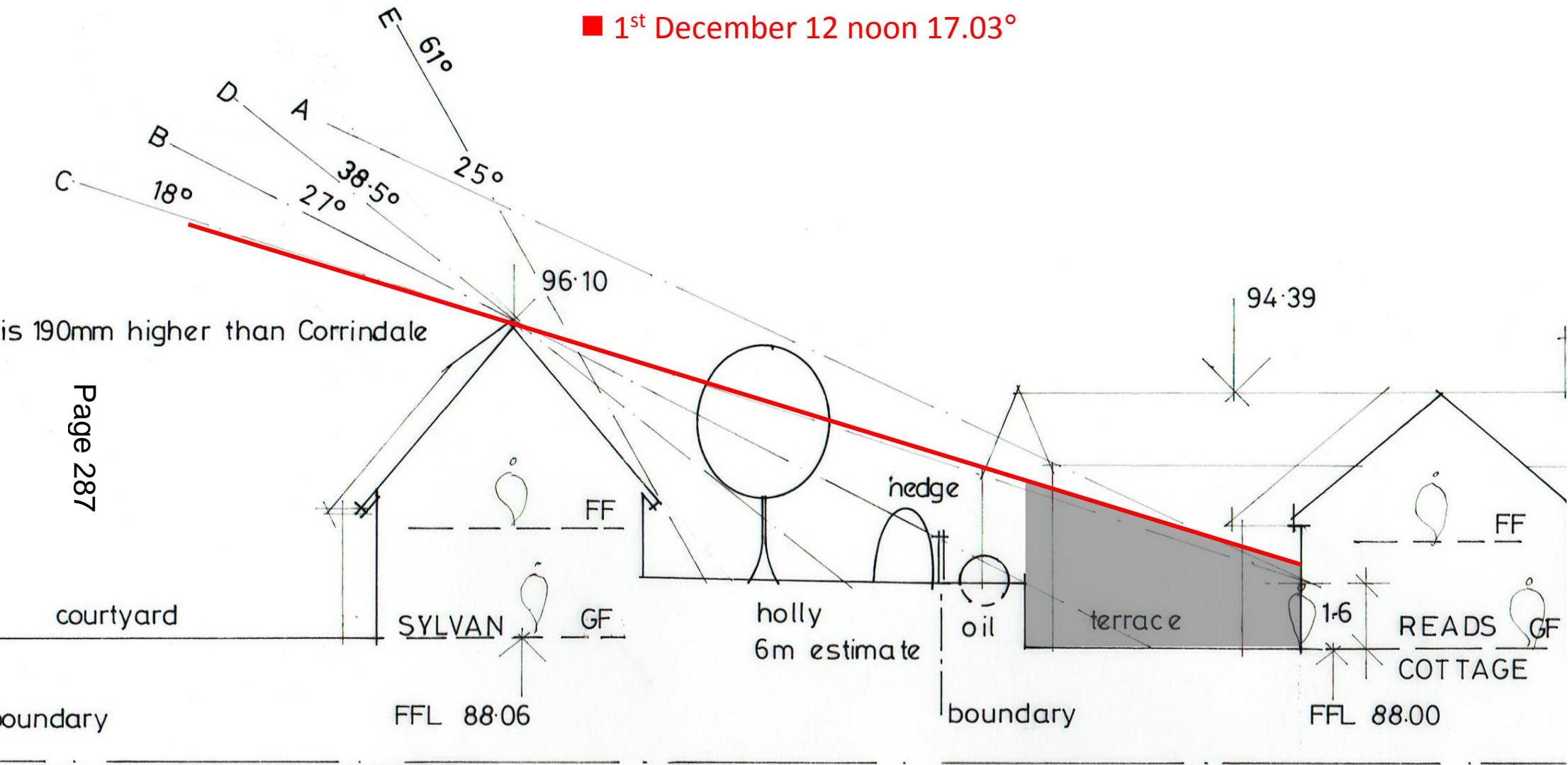
The historic Reads Cottage will be completely obscured by this new build which sits in front of and nearly 2 meters taller.

The effect the structure will have on the Winter Sunlight to the living room and outside living area of Reads Cottage

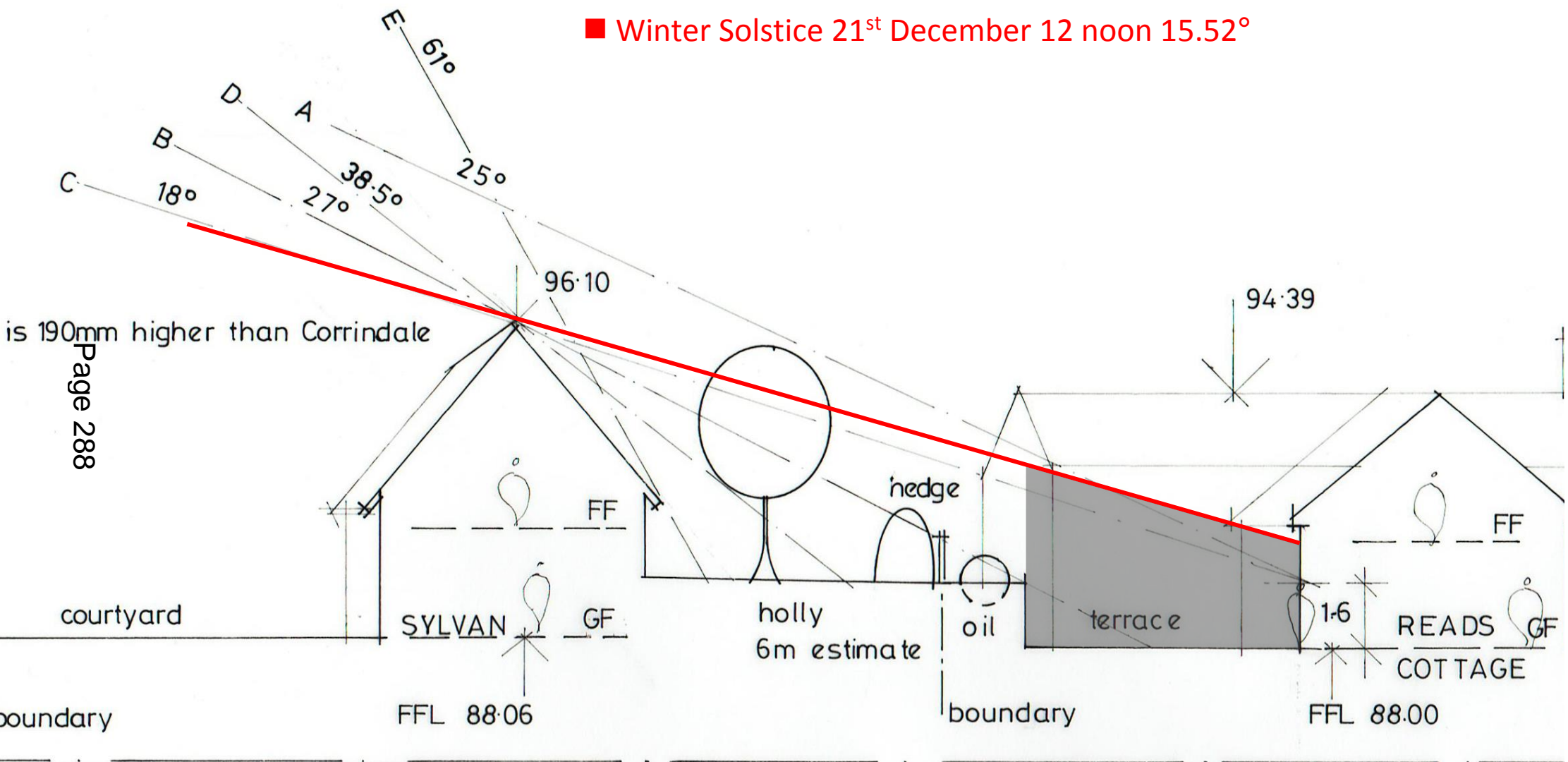
■ 1st November 12 noon 24.32°



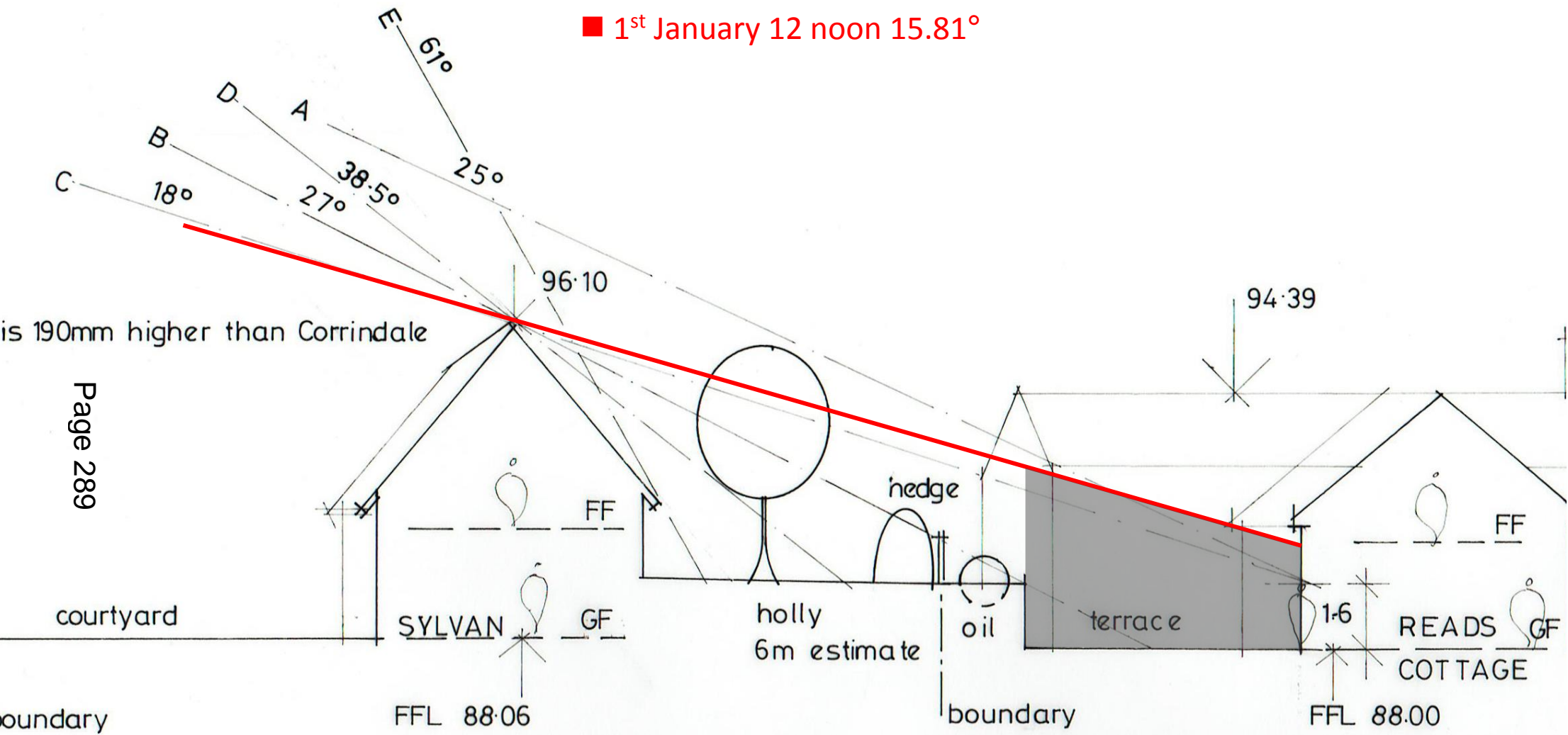
1st December 12 noon 17.03°



■ Winter Solstice 21st December 12 noon 15.52°



■ 1st January 12 noon 15.81°



is 190mm higher than Corrindale

Page 289

courtyard

SYLVAN

GF

FFL 88.06

holly
6m estimate

hedge

oil

boundary

terrace

1.6

READS
COTTAGE

FFL 88.00

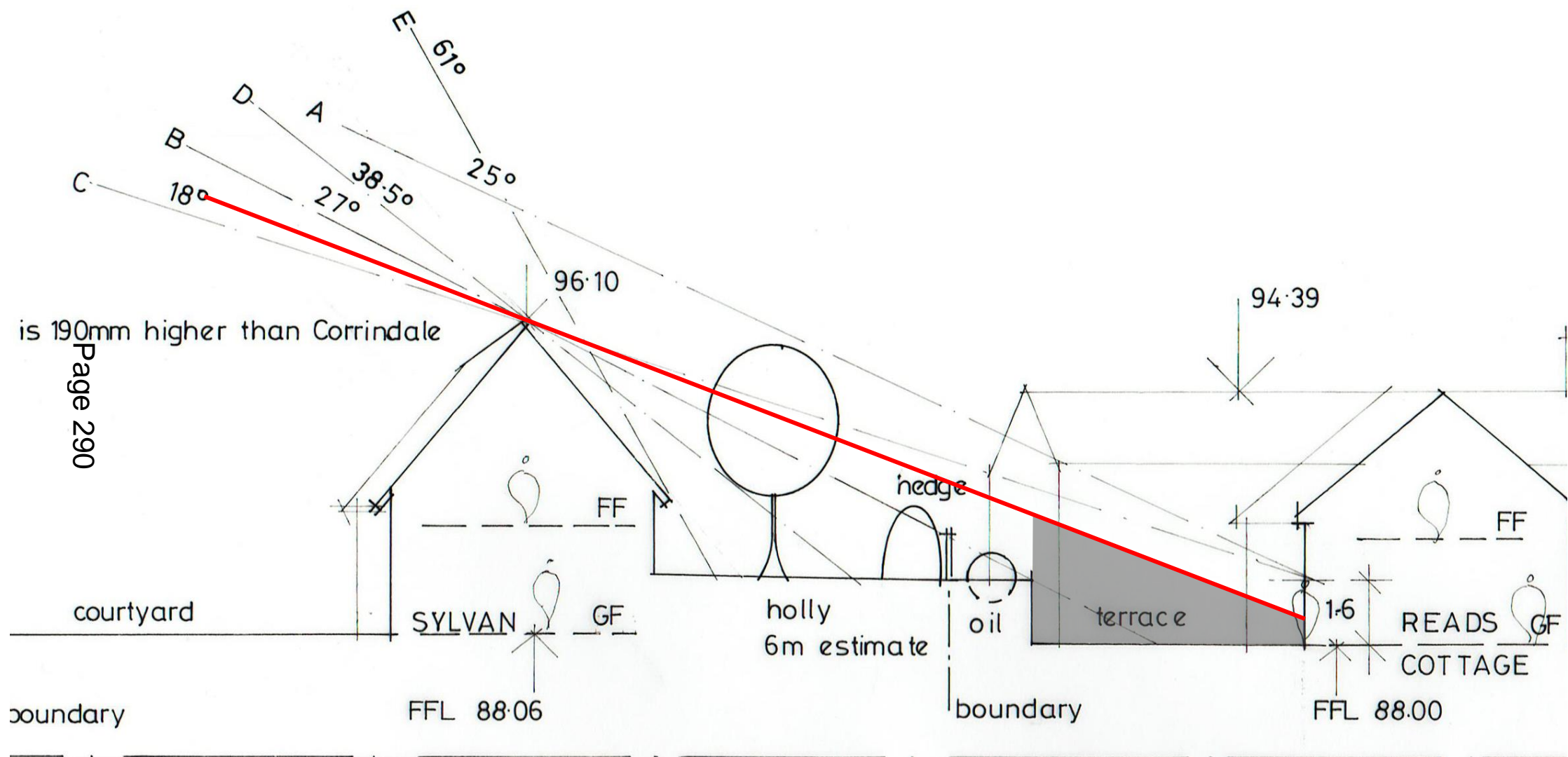
boundary

FF

FF

GF

1st February 12 noon 21.48°



REPORT OUTLINE FOR AREA PLANNING COMMITTEES Report No.

Date of Meeting	8 th March 2018
Application Number	17/11250/FUL
Site Address	Little Manor Nursing Home, Manor Farm Road, Milford, Salisbury, SP1 2RS
Proposal	External and internal alterations/refurbishments of the historic part of a 24 bed residential care home. Demolition of the recent extensions to the rear, and construction of a Care Quality Commission (CQC) compliant replacement extension, increasing capacity to 30 beds and alteration to existing access. Demolition of 2 ancillary buildings and associated landscape works.
Applicant	Wessex Care Ltd
Town/Parish Council	Salisbury City Council
Electoral Division	Salisbury St Martins and Cathedral, Cllr S Hocking
Grid Ref	
Type of application	Full (and associated 17/11681/LBC)
Case Officer	Mrs. Becky Jones

Reason for the application being considered by Committee:

Cllr. Hocking has called the application to committee to be determined if recommended for refusal by officers, on the following grounds:

- The need for the development

1. Purpose of Report

To consider the above application and the recommendation of the Area Development Manager that planning permission be refused.

2. Report Summary

The main planning issues to consider are:

1. Principle and need for the development
2. Impact on the character of the area and the character and setting of the listed building.
3. Neighbouring amenity, noise and public protection
4. Ecology and Archaeology
5. Highway safety
6. Drainage and Flooding
7. Community Infrastructure Levy
8. Waste, Recycling & Energy Efficiency
9. Public Open Space
10. Conclusion

The application in its original form generated 1 letter of support from Salisbury City Council (with concerns about lack of car parking), 7 letters of concern/objection and one letter of support.

3. Site Description and Proposal

The site lies within the settlement boundary for Salisbury in an Area of Special Archaeological Significance, within Flood Zone 1. Little Manor is a Grade II listed building. A Grade II listed wall extends east from Milford Manor which is south of the site, to Milford Mill Road. Manor Farm Road is an unclassified highway and a public right of way (footpath SALS 74, maintainable by Wiltshire Council) runs to the south of the site along Milford Hollow.

The applicant is proposing to:

- Demolish 2,136sqm of the red brick building erected in 1980 at the rear/west of the site.
- Provide a replacement rear wing extension to the listed building to increase capacity from 24 to 30 beds. Net additional gross internal floorspace of 751 sqm. 3 storeys with flat roof. Contemporary style with contrasting materials to each floor.
- Extension would have external walls finished in red brick at ground level, concrete block (flush joint with Bath stone colour) at first floor and concrete blockwork (raked joint) at second floor level. Painted timber doors and dark grey powder coated metal windows to extension. Directional angled bay windows to 1st and 2nd floor residents' rooms, with smaller of the two panes on each bay obscure glazed for privacy. Cassette type green roof with powder coated metal details.
- Provide 2 additional parking spaces (4 increased to 6) and 10 cycle spaces and 1 disability space.
- New red brick dwarf wall to enclose courtyard to front of period building. Reinstatement of wrought iron gates at pedestrian entry to main entrance
- Galvanised steel escape stairs with mesh enclosure
- Refurbishment works to existing original listed building using matching materials.
- Removal of garage and landscaping works. Provision of sensory garden
- Bollard lights to entrance courtyard and parking area
- Increase employees from 5 full time to 7.

Documents submitted:

- Planning Statement – including background to Wessex Care nursing and residential homes
- Design and Access Statement
- Heritage Impact Assessment
- Care Accommodation Assessment
- Tree Survey and Arboricultural Impact Assessment
- Ecological Appraisal - Bat and Nesting Bird Survey
- Schedule of Works to Listed Building

Planning History (a selection below from full list since 1949):

1949/3894 Change of use from dwellinghouse to guest home for aged people AC

1974/385 Nursing staff quarters Refused 26.6.74. Appeal allowed 29.8.75

76/847 Residential staff quarters AC 15.2.77

S/1987/0909 and 910 1st floor extension and internal alterations AC

S/1991/1496 Change of use from private dwelling (bungalow) to nursing accommodation. AC

S/1996/0607 and 0608 Alterations and extension to ground floor to provide individual bedrooms and bathroom AC

S2004/1359 and 1360 Addition of residential bed unit and ensuite. AC

4. National and Local Planning Policy

National Planning Policy Framework (NPPF) Para 17, 23, 128, 135 and the NPPG

Wiltshire Core Strategy (WCS):

Core Policy 1: Settlement Strategy

Core Policy 2: Delivery Strategy

Core Policy 3: Infrastructure Requirements

Core Policy 20: Spatial Strategy for the Salisbury Community Area

Core Policy 41: Sustainable Construction and low Carbon Energy

Core Policy 46: Meeting the Needs of Wiltshire's Vulnerable and Older People

Core Policy 50: Biodiversity and Geodiversity

Core policy 51: Landscape

Core Policy 57: Ensuring high quality design and place shaping

Core Policy 58: Ensuring the conservation of the historic environment

Core Policy 60: Sustainable Transport

Core Policy 61: Transport and Development

Core Policy 62: Development Impacts on the Transport network

Saved Policy R3 Public Open Space (annexe D of WCS)

The Community Infrastructure Levy Regulations 2010 (as amended)

The Conservation of Habitats and Species Regulations 2010,

EC Habitats Directive when as prescribed by Regulation 3(4) of the Conservation (Natural Habitats, &c.) Regulations 1994 (as amended).

Circular 06/2005

Planning (Listed Building and Conservation Areas) Act 1990

Section 66: Special considerations affecting planning functions

Waste Core Strategy Policy WCS6.

Related: The State of Health Care and Adult Social Care in England 2015/2016, The Care Quality Commission, 2016.

5. Summary of consultation responses

Conservation: objection

Historic England: no comment

Waste: No comment

Public Protection – no objection subject to conditions

Highways: No objection subject to conditions

Ecology: No objection subject to condition

Public Protection: No objection subject to conditions

Archaeology: No objection subject to condition

Rights of Way – no objection subject to Informative

Wiltshire Council Commissioning: Support

Housing: *Little Manor Nursing Home is classified as C2 "Residential Institutions," for which no affordable housing provision would be sought provided as there are no individual tenancy agreements.*

6. Publicity

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

The application generated **7 letters of concern/objection on the following grounds:**

- Detail of proposed south west corner unclear
- Light pollution from glass link and 6 sky lights - currently have curtains and blinds.
- Overlooking from glass link, loss of seclusion and privacy from proposed windows.
- Glass link would appear incongruous and unsympathetic with listed building.
- During demolition and construction – dust and noise.
- Temporary closure of walkways and footpath and obstruction of narrow highway from construction vehicles
- Insufficient parking for no of beds and visitors. Employees park off site. No provision for large delivery vehicles. Danger to other users near busy, dangerous junction. Rat run. Need to prohibit parking on the road north of the properties on the east of Manor Farm Road.
- Obstructed visibility for neighbouring accesses from parked vehicles and the planned perimeter wall, which should be slanted back.
- Noise impact from inside the development will be increased by more glazing replacing existing brick construction.
- Dominance. Existing pitched roof and brick elevations with minimal windows are sympathetic with surroundings and blend well, with minimal intrusion to neighbours. *"Replace with three storey fully windowed flat roofed commercial style block that will tower over Milford Hollow and gardens."*

and one letter of support from the Milford Preservation Group:

The Milford Preservation Group (MPG) has studied the proposed development of Little Manor Care Home, and fully agrees with the planned work. Not only will an expanded care home provide additional care facilities, but also the proposed work at the site will create better access for service vehicles and visitors; this will alleviate the present parking problems at the junction of Manor Farm Road and Milford Mill Road. Furthermore, the proposed refurbishment of the listed building should restore its appearance to its former glory.

7. Planning Considerations

Planning permission is required for the development. The applications must be determined in accordance with the development plan unless material considerations indicate otherwise. (Section 70(2) of the Town and Country planning Act and Section 38(6) of the Planning and Compensation Act 2004). The NPPF is also a significant material consideration and due weight should be given to the relevant policies in existing plans according to their degree of consistency of the framework. (Paragraph 215 at Annex 1).

7.1 Principle of the development and need

Core Policy 1 outlines the settlement strategy for Wiltshire and identifies the settlements where sustainable development will take place. Salisbury is listed as a Principle Settlement within the Salisbury Community Area. **Core Policy 2** addresses the issue of development within settlement boundaries:

Within the limits of development, as defined on the policies map, there is a presumption in favour of sustainable development at the Principal Settlements, Market Towns, Local Service Centres and Large Villages.

The proposed development would affect an existing residential institution within the settlement boundary is therefore acceptable *in principle*. The proposal is also subject to the other policies and provisions set out in the development plan and NPPF.

Core Policy 46, Meeting the needs of Wiltshire's vulnerable and older people, states:

The provision, in suitable locations, of new housing to meet the specific needs of vulnerable and older people will be required. Wherever practicable, accommodation should seek to deliver and promote independent living.

Specialist accommodation

The provision of sufficient new accommodation for Wiltshire's older people will be supported, including:

- i. Nursing accommodation*
- ii. Residential homes and*
- iii. Extra care facilities.*

[Proposals for extra care accommodation to be sold or let on the open market are not considered exempt from the need to provide affordable housing. Therefore proposals for extra care accommodation will be expected to provide an affordable housing contribution in line with Core Policy 43.]

Members will note that the proposed accommodation is affects a residential institution and not open market housing. The new housing team have commented regarding need:

Need

The Care Accommodation Assessment looks at quantitative need for additional care in the local area, including projected levels of need in 5 and 10 years' time, and a qualitative assessment of accommodation currently on offer in the home and benefits from the development. In summary:

- The population of people aged 65 plus within the catchment area is set to increase from 26,200 persons in 2016 to 30,790 by 2026, an increase of 4,590 in the next ten years.
- There are 3,780 people aged 85 years or over within the catchment area as at 2016 and this is set to increase to 5,320 by 2026. This age group has the highest likelihood to require long term residential care.
- The numbers of people aged 65 years plus identified as requiring care will increase from 1,036 in 2016 to 1,359 by 2026
- The data shows that there is currently a supply of 1136 care bed spaces in the catchment area

- Of the existing care accommodation within the catchment area approximately 135 of bed spaces are in shared rooms and additionally a number of single bedrooms are not en-suite or less than 12 square metres in area, which are no longer supported for new registrations under current care home accommodation standards (the regulations state that when a space becomes available in a shared room the remaining occupant should have the choice of whether or not to continue sharing, so many shared rooms are in fact occupied as singles). If double rooms are changed to single rooms in the future, and/or rooms that do not meet the standards in order areas fall out of use there is likely to be a growing shortfall in accommodation over time.
- By 2026, assuming no other developments come forward, there is a projected potential shortage of at least 295 bed spaces in the area.
- The actual shortfall of care accommodation is likely to be even higher, because the above figures reflect need for long term care accommodation, and do not take account of respite and rehabilitation care, on which there is increasing emphasis.
- The additional bedrooms proposed to be provided at Little Manor can contribute towards addressing this projected shortfall in care accommodation.

The Housing Team provided the following details:

There are currently 672 bed spaces across 17 care homes providing a range of residential and nursing care in the Salisbury Community Area. The Older People's Accommodation Development Strategy [2010] sets out the need for an additional 80 bed nursing home and a 64 bed care home for people with dementia in the Salisbury community area. There is and will be significant demand for older people's accommodation in the Salisbury area [as with the whole county] with the projected population figures showing a steep increase in older people with the percentage of the population in Wiltshire aged 65 or over reaching 22.6% by 2021. This represents a 32% increase in the number of people over 65 in Wiltshire from 2011. The number of Wiltshire's residents aged over 85 years is projected to increase from around 12,000 in 2011 to over 17,000 by 2021 (42.4%).

Wiltshire Council Commissioning team support the proposal and stated:

Wessex Care have a 5-year development plan to rebuild their services to ensure they are fit for purpose for the next 20-30 years, and the alterations at Little Manor are part of this overarching plan.

Adult Social Care currently has a significant block contract with this provider for the provision of care home beds, and, on behalf of the Council and the Wiltshire Clinical Commissioning Group, also currently commissions a number of intermediate care beds, to support people who have had an acute hospital admission, or who may otherwise be admitted to hospital unnecessarily.

The Council's ability to provide care for Wiltshire residents should benefit from this re-provision and expansion of beds in Salisbury.

The development would therefore comply with Core Policy 46.

7.2 Impact on the character of the area and the character and setting of the listed building.

Core Policy 57 considers design and place shaping and requires a high standard of design 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.*

The Little Manor is a Grade II listed building and the development would affect its curtilage and setting.

There is a duty placed on the local planning authority under section 66 of the Planning (Listed Building and Conservation Areas) Act 1990, in considering whether to grant planning permission for development which affects a listed building or its setting to have special regard to the desirability of preserving the building and its setting.

Paragraphs 129, 132 and 134 of the NPPF state:

Local planning authorities should identify and assess the particular significance of any heritage asset that may be affected by a proposal (including by development affecting the setting of a heritage asset) taking account of the available evidence and any necessary expertise. They should take this assessment into account when considering the impact of a proposal on a heritage asset, to avoid or minimise conflict between the heritage asset's conservation and any aspect of the proposal

When considering the impact of a proposed development on the significance of a designated heritage asset, great weight should be given to the asset's conservation. The more important the asset, the greater the weight should be. Significance can be harmed or lost through alteration or destruction of the heritage asset or development within its setting.

Where a development proposal will lead to less than substantial harm to the significance of a designated heritage asset, this harm should be weighed against the public benefits of the proposal, including securing its optimum viable use.

Public benefits may include heritage benefits, such as:

- sustaining or enhancing the significance of a heritage asset and the contribution of its setting
- reducing or removing risks to a heritage asset
- securing the optimum viable use of a heritage asset in support of its long term conservation

Core Policy 58 aims to ensure that Wiltshire's important monuments, sites and landscapes and areas of historic and built heritage significance are protected and enhanced in order that they continue to make an important contribution to Wiltshire's environment and quality of life. Heritage assets include listed buildings and conservation areas. Development should protect, conserve and where possible enhance the historic environment. Designated heritage assets and their settings will be conserved, and where appropriate enhanced in a manner appropriate to their significance.

The submitted Heritage Impact Assessment concludes:

3.1 Section 66(1) of the Planning (Listed Buildings and Conservation Areas) Act 1990 confers a strong presumption for development to preserve the setting of listed building, and the courts have reminded that this must be given considerable importance and weight in the planning

balance. In exceptional cases, however, the presumption may be overridden in favour of development which is desirable on the grounds of public interest.

3.2 Aside from other potential public benefits that may accrue as a result of the development, there would be heritage benefits through the removal of the unsympathetic additions to the building and the restoration of the building's frontage.

3.3 However, it is acknowledged the proposals would result in some loss of spaciousness within the site that contributes to the setting and in turn the significance of the listed building.

3.4 Overall, however, the proposals would cause 'less than substantial harm' to the listed building under the terms of the NPPF. As such, and in accordance with paragraph 134 of that document, the harm should be weighed against the public benefits of the proposals, including rectifying some of the harmful interventions of the past while securing the building in its optimum viable use.

Historic England has made no comment on the proposal. The Conservation officer has stated:

Having now viewed my colleague's comments on the preapp submission, and made my own site visit (external only), I'm afraid that I'm of the opinion that none of the fundamental issues previously raised has been adequately addressed. Without doubt, while there are elements of heritage gain, or at least neutrality, with demolition of the garage and C20 extensions, the sheer scale of extension is much too ambitious for the site and its principal building. The listed building, despite its relatively poor quality extensions, is preeminent on the site and the extensions are very much secondary and partially obscured from view. The same cannot be said of the proposal, with a substantial three-storeyed cranked range occupying a footprint significantly more than double that of its host; even if reduced to two storeys, I consider that the scale of extension would be too great for the listed building. The D&A seems to demonstrate that nothing other than three-storeyed options were considered. The appearance of the extension does nothing to complement the site and seems to have been imposed irrespective of the existing character of the site and its surroundings.

Although there is a detailed 'Schedule of works to listed building', I can find nothing that assesses the heritage impact of the internal works to the historic core of the listed building. For instance, removal of the ensuite partition in room 2 (gd flr) would clearly be a benefit, but removal of masonry walls to the rear of room 3 and the kitchen appear to incur the permanent loss of original historic fabric. Mention is made of replacement windows, I think solely of the existing (presumably unauthorised) upvc windows; this is welcomed but we must see full details of these if consent is to be granted. The replacement dormers are fine (and appear only to replace C20 replacements), and the new steps to the front door entirely appropriate in materials and detail.

I consider that the proposed extension, by virtue of its height and footprint, would cause substantial harm to the character and setting of the listed building, contrary to section 16 and 66 of the Act and para 133 of the NPPF, and the aims of CP58; and that alterations to the historic core of the listed building would cause 'less than substantial harm' and are inadequately justified in public benefit terms as per NPPF 134.

In conclusion, the proposed scheme is perceived to be very institutional in character and appearance, and although the existing buildings and extensions on the site are somewhat ramshackle in appearance, they have managed to retain the setting of the main building and are relatively unobtrusive within their surroundings and the streetscene. This is probably because they are mainly subservient, and of a simplistic, traditional design approach, with pitched roof details and matching brick and tile materials. This is a sentiment echoed by several third parties.

The proposed extension presents a very strident, contemporary design, which is more institutional in appearance and will create more prominent building than the existing listed building, particularly due to its different, perhaps discordant materials and colours, and its rather uniform scale and design. This would be at odds with the existing modest character of the listed building, to the detriment of its setting. The scale of the proposed building would not seem to reflect the simple, small scale of existing development in the immediate area. The existing outbuildings are simply designed, subservient and they manage to retain the setting of the main building. The proposals would impact on the predominantly modest residential nature of the area, the character of which contributes to the existing informal setting of the listed building.

For these reasons, officers consider that the proposal would therefore be contrary to CP57, CP58, the NPPF para 133 and S16 and 66 of the 1990 Act.

7.3 Neighbouring amenity, noise and public protection

The proposal has generated 7 letters of concern/objection and the case officer has visited some of the properties immediately adjacent to the site. Some neighbours are concerned about the impact of light pollution from the skylights, angled windows and glazed link at night and also potential noise disturbance from windows. There are also concerns about the impact of the development on privacy, including the increase in the numbers of “dormer” windows from 2 to 6 (south elevation), and the dominant appearance of the flat roof, three storey extension when viewed from properties adjoining the site to the south and west.

Core Policy 57 sets out the general principles for the design of development, including impacts on neighbours. It states:

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

vii. Having regard to the compatibility of adjoining buildings and uses, the impact on the amenities of existing occupants, and ensuring that appropriate levels of amenity are achievable within the development itself, including the consideration of privacy, overshadowing; vibration; and pollution (such as light intrusion, noise, smoke, fumes, effluent, waste or litter).

The public protection officer has considered the scheme in relation to neighbouring properties and commented as follows.

I note a floor to ceiling glass walkway is proposed as the connecting link between the listed building and the new three storey extension. It is very likely that lights in corridors will be on at all times during hours of darkness to allow safe passage of staff and residents around the

building. The glass link is directly opposite, and within close proximity of existing nearby residential properties. I have concerns regarding the potential for loss of amenity as the result of light intrusion from any lights positioned in the glass walkway, particularly if the lights will be on during all hours of darkness. I therefore request that a lighting scheme is submitted by the applicant to the local planning authority for approval, to clearly demonstrate what lighting will be installed, and how artificial light from the site, and in particular light in the glass walkway will be controlled to minimise the impact of light intrusion on nearby residential properties. You may wish to condition this, if this information is not readily available at this stage.

The application also states the kitchens will primarily be used for the storage and regeneration of pre-prepared meals, using a re-heat operation that does not require a commercial extraction / ventilation system be installed, and there are no plans to install commercial extraction/ ventilation system as a result. Should this position change in the future, I recommend that a condition for a scheme of works to control and disperse atmospheric emissions (ie dust, odours, fumes and noise etc) is applied to any approval of this application. Conditions relating to burning of materials, hours of construction and submission of a dust management plan are also recommended.

The impact of the development in terms of dominance and loss of privacy have also been considered in relation to CP57 (vii):

East – Meadow View, Bourne Cottage and Corner Cottage

These properties face towards the site (see impression below) and have access onto Manor Farm Road. These dwelling would be sited more than 40 metres from the north east corner of the development and so the occupiers would not be adversely affected in terms of dominance or overlooking. The revised site access would be in close proximity to these properties, but the highways team have raised no objections and therefore, it would be unreasonable to raise an objection on amenity grounds related to the revisions to the access for the site.

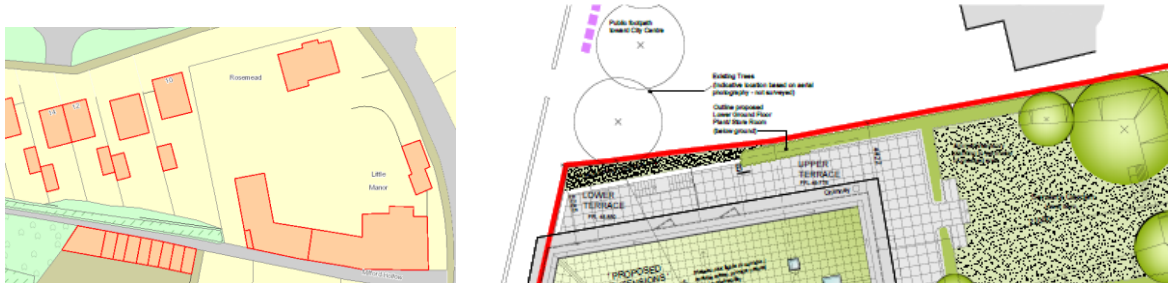


North – Rosemead

This property (shown above in relation to the extension) is a single storey bungalow with an access to the side of the nursing home. The corner of the proposed extension would be less than 4 metres from the bungalow. This bungalow has one west facing dormer, which would face obliquely towards the proposed Upper Terrace for the lounge/dining rooms. This relationship would enable some direct/oblique overlooking into the dormer from users of the terrace. However, most of the private spaces for this property are apparently sited away from the development, to the front of the bungalow and to the north corner. Therefore, whilst the extension will appear dominant when viewed from this bungalow, the relationship is considered to be acceptable, on balance.

The occupiers of Rosemead have responded to the consultation with a request for the east boundary wall to be pulled back, to give them better sight lines. However, the highways officer has re-checked the sight lines and is satisfied that Rosemead will have more than sufficient sight lines for their access (see below).

West - 10-14 Westbourne Close



The development would increase the present scale and bulk of development along the west boundary with No 10, in particular. The private areas of this property, including the garden, small patio area and french doors to the lounge face directly towards the proposed north elevation of the development, and the proposed west elevation would run parallel and in close proximity to the garden wall boundary between the properties. The existing nursing home currently presents modest elevations towards this property.



Existing views from bedroom



and living room French doors/patio



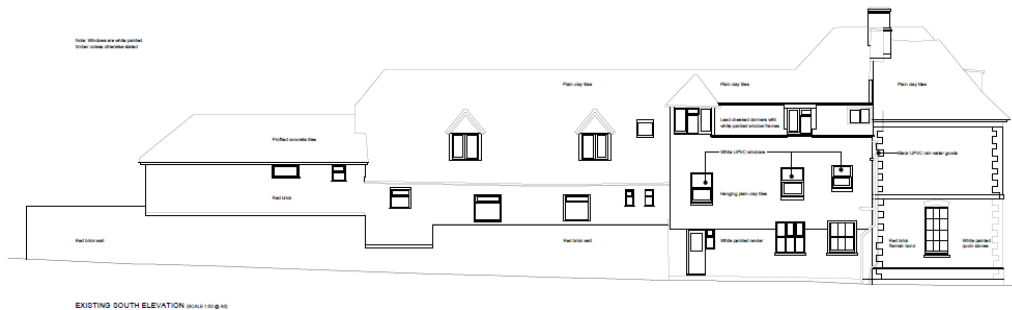
The proposed development, in increasing from a single storey bungalow with a pitched roof to a vertical structure with at least two storeys being visible above the wall, is likely to appear dominant when viewed from No 10 and officers are not satisfied that appropriate levels of privacy for the occupiers can be achieved by the development, as presented. The inter-relationship between the existing rear elevation of No 10 and the proposed dining room (double sets of French doors) and terraced areas of the development is likely to be particularly close and overbearing, and also resulting in a loss of privacy for nursing home residents.

South – The Corner House, White Lodge, Milford Grove

The north elevations of these dwellings are approximately 12m, 35m and 34m from the south boundary wall of the nursing home. The Corner House is oriented in such a way that the development is unlikely to have a detrimental impact on the occupiers. Its garden and living areas are sited to the south, away from the development. Two windows and a garage/parking area only would be affected, but whilst the development would be visible, no likely harm to amenity is perceived.

Concerns have been expressed regarding the change in the appearance and character of the development, which is presently visible at the end of the gardens for White Lodge and Milford Grove. Concerns centre on the change from a large expanse of a tiled pitched roof to provision of a third storey with a flat roof, the increase in the number of windows (noise and privacy), the glazed link (loss of privacy, overlooking) and light intrusion from the skylights and glazed link.

Existing south:



Proposed south:



Current views looking north from White Lodge and Milford Grove gardens



Officers consider that the change in the roof shape from a sloping pitch to a vertical wall with a flat roof is likely to result in a significant increase in the dominance of the nursing home in relation to these properties. Presently, there are four dormer windows on a sloping roof facing the gardens. This would be replaced with six oblique windows, on a vertical elevation.

Whilst the smaller of the two panes would be obscure glazed for privacy, the increase in windows and their position on a vertical wall and the proposed glazed link is likely to increase the perception of and actual overlooking of the properties and gardens to the south of the development.

The adverse impacts of the development on amenity are considered to be contrary to CP57 for the reasons described and the harm that would be caused to residents in amenity terms is not considered to be outweighed by the need for this development in its *current* architectural form.

7.4 Ecology and Archaeology

Ecology

The NPPF para 118 states: *When determining planning applications, local planning authorities should aim to conserve and enhance biodiversity by applying the following principles:*

- *if significant harm resulting from a development cannot be avoided (through locating on an alternative site with less harmful impacts), adequately mitigated, or, as a last resort, compensated for, then planning permission should be refused;*
- *development proposals where the primary objective is to conserve or enhance biodiversity should be permitted;*
- *opportunities to incorporate biodiversity in and around developments should be encouraged*

The NPPG also sets out guidance. **Core Policy 50** seeks to ensure that all development proposals incorporate appropriate measures to avoid and reduce disturbance of sensitive wildlife species and habitats throughout the lifetime of the development.

A bat and nesting bird survey has been submitted and concludes that:

- No evidence was found for use of any of the buildings by bats during the daytime survey/assessment.
- The site does not otherwise appear suitable for material use by bats for foraging or commuting.
- No bats were seen to emerge from, enter or show any particular interest in any of the buildings during any of the dusk/dawn watches.
- Local bat activity during the dusk/dawn watches was limited to a small number (<10 passes per watch) of foraging or commuting passes by individual Common pipistrelle bats, mostly along the adjacent lane (to the southwest) or over neighbouring gardens (to the west).
- No evidence was found for birds having nested recently within or upon any of the buildings.
- There is a low risk of common birds nesting within various shrubs in the formal garden area.
- No other evidence was found for use or likely significant use of the site or immediately adjacent land by protected species. In this regard we note that:

- i. the location is suburban – there are no adjoining ‘natural’ or semi-natural habitats;
- ii. there are no ponds present upon the site or apparent in the immediate vicinity.

Recommendations: ***i. any removal of shrubs/trees be carried out between October and February inclusive (so as to avoid the nominal bird nesting season) or otherwise only following a thorough check to confirm that no active birds nests are present at the time. Should birds start to nest within or upon the buildings at any time then all works liable to impact upon such nests should be delayed until the nests are no longer occupied.***

Other than the above, the applicant's surveyor saw no need for any further ecological survey in relation to the proposed works. The Council's ecologist has considered the report and raised no objection, subject to the development being implemented in accordance with the above recommendation, by condition.

In conclusion, on the basis of the survey recommendations, the development is considered to pose a negligible threat to protected species and no objection is raised to the development and the proposed mitigation, in accordance with Core Policy 50, the NPPF, guidance in the NPPG and the ODPM circular 06/2005.

Archaeology

Core Policy 58 aims to ensure that Wiltshire's important monuments, sites and landscapes and areas of historic and built heritage significance are protected and enhanced in order that they continue to make an important contribution to Wiltshire's environment and quality of life. Heritage assets include Listed Buildings and Conservation Areas.

The Archaeologist has considered para 128 of the NPPF and stated:

The desk based assessment (DBA) which accompanies the application recognises that there is archaeological potential for the site, but also does a good job of explaining the later land use which has affected that potential.

The National Planning Policy Framework (NPPF) states that an application should describe the significance of heritage assets affected by an application. NPPF policy 128 states that 'Where a site on which development is proposed includes or has the potential to include heritage assets with archaeological interest, local planning authorities should require developers to submit an appropriate desk-based assessment and, where necessary, a field evaluation.' I consider that the DBA fulfils the first part of this paragraph. It also explains why field evaluation before the determination of the application may be problematic.

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

It is therefore recommended that a programme of archaeological works is carried out as part of any development, secured by a condition. These works may be phased, with elements of watching brief and evaluation included in order to inform any mitigation works.

In conclusion, no objection is raised under CP58 and the NPPF provisions, subject to a condition requiring a written programme of archaeological investigation.

7.5 Highway Safety and Public Right of Way

The development would provide 2 additional parking spaces, 10 cycle spaces and 1 additional disability space. Several third parties have objected to the proposal on the grounds that the site and surrounding areas are already congested with vehicles and that these cause an obstruction to existing accesses and are a danger to highway users, close to a dangerous junction. The proposed expansion of the care home will only exacerbate this problem. One resident feels that parking restrictions should be imposed and another suggested amending the alignment of the proposed external wall to improve visibility to their access.

The NPPF The NPPF sets out the criteria for new transport related development:

32. All developments that generate significant amounts of movement should be supported by a Transport Statement or Transport Assessment. Plans and decisions should take account of whether:

- *the opportunities for sustainable transport modes have been taken up depending on the nature and location of the site, to reduce the need for major transport infrastructure;*
- *safe and suitable access to the site can be achieved for all people; and*
- *improvements can be undertaken within the transport network that cost effectively limit the significant impacts of the development.*

Development should only be prevented or refused on transport grounds where the residual cumulative impacts of development are severe.

Core Policy 57, 60, 61 and 62 are also relevant and the highways officer has responded:

I note the proposal seeks the refurbishment and extension of the existing 24 bed care home, to a 30 bed care home, including a revised access and parking area from Manor Farm Road. The existing care home is substandard in terms of parking provision, with only 4 no. parking spaces available. The proposal will increase the number of spaces available to 7, including one dedicated disabled space and whilst overall parking provision for the care home would remain substandard, the increase in spaces is adequate to accommodate the modest extension of 6 bedrooms.

Alterations to the existing access will be relatively significant and I am satisfied with the visibility splays shown on plan, on the basis that the site is within a 20mph zone. I also feel that the new access and parking arrangement will improve highway safety on a section of Manor Farm Road that narrows, as a result of onsite vehicle turning now being provided. This will also benefit any delivery vehicles accessing the care home. I also note that new cycle parking is proposed, which is welcomed.

As a result of the above, I do not believe the modest extension and alterations will have a detrimental impact upon highway safety and as such, I recommend that no Highway objection is raised, subject to conditions and an informative being added to any consent granted.

With specific reference to Rosemead, the highways officer considered the proposed wall:

I have double checked this & the wall is set sufficiently back from the edge of the road so as not to obstruct visibility. We require visibility to be measured from a point 2.4m back from the edge of the road & the wall does not create an obstruction when measuring visibility in this way from the adjacent property's access.

A minimum visibility splay of 2.4m x 25m is required in this location and despite the wall, the property would appear to have at least 35m visibility to the south, when measured from 2.4m back.

Its potentially worth highlighting that the wall is not the redline but is actually set back from the redline boundary. The wall would also appear to be in a similar position to the existing fence.

The applicant has produced land registry evidence to show that their ownership extends to the centre of Milford Hollow, and this reflects the presence of the overhanging jetties on the original building over the right of way. The rights of way officer has raised no objection and feels that the right of way would not be affected by the development: *“This part of Milford Hollow (public footpath SALS74) is maintainable by Wiltshire Council as highway authority. I have no objection.”*

An informative would be added to any permission to advise the developer that the right of way must not be obstructed at any time during construction.

7.6 Drainage and Flood Risk

The site lies within Flood Zone 1. The drainage team have raised no objection to the proposals relating to the discharge of surface and foul water from the site (soakaway and mains drainage).

7.7 Community Infrastructure Levy

The Community Infrastructure Levy (CIL) is a charge that local authorities in England and Wales can put on new development in their area to raise funds to help deliver the infrastructure necessary to support this development. The Wiltshire Community Infrastructure Levy May 2015 Charging Schedule states that new C2 floorspace would be charged at a rate of £85 per square metre in Zone 1. Therefore, an informative would be added to any permission to bring to the applicant's attention the requirement for the levy to be paid on commencement of development.

Table 2.1 – Rates of CIL to be charged on new development

Development Type ¹		CIL charge £/ sq m	
		Charging Zone 1 (settlement categories 1, 2 and 3)	Charging Zone 2 (settlement category 4 ²)
Residential development	Residential development (excluding strategically important sites as set out in the Wiltshire Core Strategy) Planning Use Classes: C2, C2A, C3 and C4	£85	£55

7.8 Waste, Recycling and Energy Efficiency

As the scheme is classified as a major development (over 1,000sqm), the applicant has prepared a waste Audit, which seeks to ensure the maximum recycling of existing materials on the site and the minimisation and segregation of any waste arising from the proposed redevelopment. Waste team have raised no objection, in accordance with Waste Core Strategy **Policy WCS6**.

For new build development exceeding 1,000sqm gross, a condition would normally be applied under **Core Policy 41** requiring evidence that the “very good” BREEAM standard (or any such equivalent national measure of sustainable building which replaces that scheme) has been achieved for the development. This is normally achieved through the building regulations procedure.

7.9 Public Open Space:

The proposals also need to comply with saved **Policy R3**:

R3 The recreational open space requirement for new development providing accommodation for the elderly will be reduced to 0.8 hectares per 1000 population. Additional amenity open space within the site will be sought as appropriate.

Development proposals for nursing homes will be required to provide on-site amenity space. In both cases, on-site amenity space should be of a sufficient size and appropriately landscaped to provide informal sitting out areas, and should be located to maximise the south and south western aspects of the site and the outlook from it.

The Local Planning Authority recognises that certain developments, such as nursing home accommodation for the elderly, generate different open space needs because of the greater reliance which their occupants have on on-site amenity space and the very limited demand for recreational facilities. On-site amenity space is, however, important in these types of development, providing pleasant views from habitable rooms within the development and as sitting out areas for residents. Amenity space has been provided for this development, including a new sensory lawn/garden and a separate garden and seating to the front of the site. This would enable residents to enjoy interaction with one another and would satisfy Policy R3.

7.10 Conclusion

The proposal seeks to extend an existing nursing home from 24 to 30 beds, within the Salisbury settlement boundary and the development is acceptable in policy principle.

The development seeks to remove modern extension and then extend a Grade II listed building and make various internal and external alterations to the original building. Officers consider that the proposals would cause substantial harm to the setting of the listed building and that alterations to the historic core of the listed building would cause ‘less than substantial harm’ and are inadequately justified in public benefit terms as required by NPPF para 134.

Neighbours immediately adjacent to the site (south and west) have objected to the development on the grounds of dominance, loss of privacy and overlooking and light intrusion. Officers feel that these objections are justified and have given reasons for the amenity objections under CP57 in this report. The public protection officer feels that the glazed link is also likely to give rise to light intrusion, in the absence of lighting details.

There are no objections to the development on parking and access grounds, as the development would see a modest increase in parking provision and an improvement in the site access.

RECOMMENDATION: REFUSE for the following reasons:

1. The development seeks to remove modern extensions and to extend and alter a Grade II listed building comprising a 24 bed nursing home. The proposed extension and alterations would add six new bedrooms and other facilities, to create a modern, 30 bed nursing home facility. The listed building, despite its relatively poor quality extensions, is pre-eminent on the site and the present extensions are very much secondary and partially obscured from view from Manor Farm Road. The proposed extension is a substantial three-storeyed cranked range occupying a footprint that is significantly disproportionate to its host.

Whilst there are some elements of heritage gain within the proposals (such as the proposed stairs to the front door) and neutrality by removing the poor quality modern extensions and refurbishment works to the original building, the alterations to the historic core of the listed building (such as removal of masonry walls to the rear of room 3 and the kitchen) appear to result in the loss of historic fabric and are inadequately justified in public benefit terms as required by NPPF para 134.

Therefore, the proposed extension, by virtue of its overall design, height and footprint, would cause “substantial” harm to the character and setting of the listed building, contrary to section 16 and 66 of The 1990 Act and paragraph 133 of the NPPF and the aims of Wiltshire Core Strategy Core Policy 58; and alterations to the historic core of the listed building would cause “less than substantial” harm and are inadequately justified in public benefit terms, contrary to NPPF paragraph 134.

2. The site lies adjacent to No 10 Westbourne Close, Milford Grove and White Lodge. The proposed 3 storey extension to the listed building, by virtue of its design, scale, massing and proximity to boundaries would result in an unacceptable level of actual and perceived overlooking towards neighbouring residential properties, is likely to give rise to unwanted light intrusion and would appear unduly dominant, to the detriment of the neighbouring occupiers, contrary to Wiltshire Core Strategy Core Policy 57 (vii) and paragraphs 9, 56 and 64 of the NPPF.

REPORT OUTLINE FOR AREA PLANNING COMMITTEES **Report No.**

Date of Meeting	8 th March 2018
Application Number	17/11681/LBC
Site Address	Little Manor Nursing Home, Manor Farm Road, Milford, Salisbury, SP1 2RS
Proposal	External and internal alterations/refurbishments of the historic part of a 24 bed residential care home. Demolition of the recent extensions to the rear, and construction of a Care Quality Commission (CQC) compliant replacement extension.
Applicant	Wessex Care Ltd
Town/Parish Council	Salisbury City Council
Electoral Division	Salisbury St Martins and Cathedral, Cllr S Hocking
Grid Ref	
Type of application	LBC (and associated 17/11250/FUL)
Case Officer	Mrs. Becky Jones

Reason for the application being considered by Committee:

Cllr. Hocking has called the application to committee to be determined if recommended for refusal by officers, on the following grounds:

- The impact on the listed building.

1. Purpose of Report

To consider the above application and the recommendation of the Area Development Manager that planning permission be refused.

2. Report Summary

The main planning issues to consider are:

1. Impact on the character and setting of the listed building.
2. Conclusion

The application in its original form generated 1 letter of support from Salisbury City Council.

3. Site Description and Proposal

Little Manor is a Grade II listed building. The applicant is proposing to:

- Demolish 2,136sqm of the red brick building erected in 1980 at the rear/west of the site.
- Provide a replacement rear wing extension to the listed building to increase capacity from 24 to 30 beds. Net additional gross internal floorspace of 751 sqm. 3 storeys with flat roof. Contemporary style with contrasting materials to each floor.
- Extension would have external walls finished in red brick at ground level, concrete block (flush joint with Bath stone colour) at first floor and concrete blockwork (raked joint) at second floor level. Painted timber doors and dark grey powder coated metal windows to extension. Directional angled bay windows to 1st and 2nd floor residents' rooms, with smaller of the two panes on each bay obscure glazed for privacy. Cassette type green roof with powder coated metal details.

- New red brick dwarf wall to enclose courtyard to front of period building. Reinstatement of wrought iron gates at pedestrian entry to main entrance
- Galvanised steel escape stairs with mesh enclosure
- Refurbishment works to existing original listed building using matching materials.

Documents submitted:

- Planning Statement – including background to Wessex Care nursing and residential homes
- Design and Access Statement
- Heritage Impact Assessment
- Care Accommodation Assessment
- Tree Survey and Arboricultural Impact Assessment
- Ecological Appraisal - Bat and Nesting Bird Survey
- Schedule of Works to Listed Building

Planning History (a selection below from full list since 1949):

1949/3894 Change of use from dwellinghouse to guest home for aged people AC

1974/385 Nursing staff quarters Refused 26.6.74. Appeal allowed 29.8.75

76/847 Residential staff quarters AC 15.2.77

S/1987/0909 and 910 1st floor extension and internal alterations AC

S/1991/1496 Change of use from private dwelling (bungalow) to nursing accommodation. AC

S/1996/0607 and 0608 Alterations and extension to ground floor to provide individual bedrooms and bathroom AC

S2004/1359 and 1360 Addition of residential bed unit and ensuite. AC

4. National and Local Planning Policy

National Planning Policy Framework (NPPF) Para 133, 134, 135 and the NPPG

Wiltshire Core Strategy (WCS):

Core Policy 58: Ensuring the conservation of the historic environment

Planning (Listed Building and Conservation Areas) Act 1990

Section 66: Special considerations affecting planning functions

5. Summary of consultation responses

Conservation: objection

Historic England: no comment

6. Publicity

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

7. Planning Considerations

Planning permission is required for the development. The applications must be determined in accordance with the development plan unless material considerations indicate otherwise. (Section 70(2) of the Town and Country planning Act and Section 38(6) of the Planning and Compensation Act 2004). The NPPF is also a significant material consideration and due weight should be given to the relevant policies in existing plans according to their degree of consistency of the framework. (Paragraph 215 at Annex 1).

7.1 Impact on the character and setting of the listed building.

The Little Manor is a Grade II listed building and the development would affect its curtilage and setting.

There is a duty placed on the local planning authority under section 66 of the Planning (Listed Building and Conservation Areas) Act 1990, in considering whether to grant planning permission for development which affects a listed building or its setting to have special regard to the desirability of preserving the building and its setting.

Paragraphs 129, 132 and 134 of the NPPF state:

Local planning authorities should identify and assess the particular significance of any heritage asset that may be affected by a proposal (including by development affecting the setting of a heritage asset) taking account of the available evidence and any necessary expertise. They should take this assessment into account when considering the impact of a proposal on a heritage asset, to avoid or minimise conflict between the heritage asset's conservation and any aspect of the proposal

When considering the impact of a proposed development on the significance of a designated heritage asset, great weight should be given to the asset's conservation. The more important the asset, the greater the weight should be. Significance can be harmed or lost through alteration or destruction of the heritage asset or development within its setting.

Where a development proposal will lead to less than substantial harm to the significance of a designated heritage asset, this harm should be weighed against the public benefits of the proposal, including securing its optimum viable use.

Public benefits may include heritage benefits, such as:

- sustaining or enhancing the significance of a heritage asset and the contribution of its setting
- reducing or removing risks to a heritage asset
- securing the optimum viable use of a heritage asset in support of its long term conservation

Core Policy 58 aims to ensure that Wiltshire's important monuments, sites and landscapes and areas of historic and built heritage significance are protected and enhanced in order that they continue to make an important contribution to Wiltshire's environment and quality of life. Heritage assets include listed buildings and conservation areas. Development should protect, conserve and where possible enhance the historic environment. Designated heritage assets and their settings will be conserved, and where appropriate enhanced in a manner appropriate to their significance.

The submitted Heritage Impact Assessment concludes:

3.1 Section 66(1) of the Planning (Listed Buildings and Conservation Areas) Act 1990 confers a strong presumption for development to preserve the setting of listed building, and the courts have reminded that this must be given considerable importance and weight in the planning balance. In exceptional cases, however, the presumption may be overridden in favour of development which is desirable on the grounds of public interest.

3.2 Aside from other potential public benefits that may accrue as a result of the development², there would be heritage benefits through the removal of the unsympathetic additions to the building and the restoration of the building's frontage.

3.3 However, it is acknowledged the proposals would result in some loss of spaciousness within the site that contributes to the setting and in turn the significance of the listed building.

3.4 Overall, however, the proposals would cause 'less than substantial harm' to the listed building under the terms of the NPPF. As such, and in accordance with paragraph 134 of that document, the harm should be weighed against the public benefits of the proposals, including rectifying some of the harmful interventions of the past while securing the building in its optimum viable use.

Historic England has made no comment on the proposal. The Conservation officer has stated:

Having now viewed my colleague's comments on the preapp submission, and made my own site visit (external only), I'm afraid that I'm of the opinion that none of the fundamental issues previously raised has been adequately addressed. Without doubt, while there are elements of heritage gain, or at least neutrality, with demolition of the garage and C20 extensions, the sheer scale of extension is much too ambitious for the site and its principal building. The listed building, despite its relatively poor quality extensions, is preeminent on the site and the extensions are very much secondary and partially obscured from view. The same cannot be said of the proposal, with a substantial three-storeyed cranked range occupying a footprint significantly more than double that of its host; even if reduced to two storeys, I consider that the scale of extension would be too great for the listed building. The D&A seems to demonstrate that nothing other than three-storeyed options were considered. The appearance of the extension does nothing to complement the site and seems to have been imposed irrespective of the existing character of the site and its surroundings.

Although there is a detailed 'Schedule of works to listed building', I can find nothing that assesses the heritage impact of the internal works to the historic core of the listed building. For instance, removal of the ensuite partition in room 2 (gd flr) would clearly be a benefit, but removal of masonry walls to the rear of room 3 and the kitchen appear to incur the permanent loss of original historic fabric. Mention is made of replacement windows, I think solely of the existing (presumably unauthorised) upvc windows; this is welcomed but we must see full details of these if consent is to be granted. The replacement dormers are fine (and appear only to replace C20 replacements), and the new steps to the front door entirely appropriate in materials and detail.

I consider that the proposed extension, by virtue of its height and footprint, would cause substantial harm to the character and setting of the listed building, contrary to section 16 and 66 of the Act and para 133 of the NPPF, and the aims of CP58; and that alterations to the

historic core of the listed building would cause 'less than substantial harm' and are inadequately justified in public benefit terms as per NPPF 134.

In conclusion, the proposed scheme is perceived to be very institutional in character and appearance, and although the existing buildings and extensions on the site are somewhat ramshackle in appearance, they have managed to retain the setting of the main building and are relatively unobtrusive within their surroundings and the streetscene. This is probably because they are mainly subservient, and of a simplistic, traditional design approach, with pitched roof details and matching brick and tile materials. This is a sentiment echoed by several third parties.

The proposed extension presents a very strident, contemporary design, which is more institutional in appearance and will create more prominent building than the existing listed building, particularly due to its different, perhaps discordant materials and colours, and its rather uniform scale and design. This would be at odds with the existing modest character of the listed building, to the detriment of its setting. The scale of the proposed building would not seem to reflect the simple, small scale of existing development in the immediate area. The existing outbuildings are simply designed, subservient and they manage to retain the setting of the main building. The proposals would impact on the predominantly modest residential nature of the area, the character of which contributes to the existing informal setting of the listed building.

For these reasons, officers consider that the proposal would therefore be contrary to CP57, CP58, the NPPF para 133 and S16 and 66 of the 1990 Act.

8.0 Conclusion

The proposal seeks to extend an existing nursing home, within the Salisbury settlement boundary and the development is acceptable in policy principle.

The development seeks to remove modern extension and then extend a Grade II listed building and make various internal and external alterations to the original building. The extension would create a 30 bed nursing home facility. Officers consider that the proposals would cause substantial harm to the setting of the listed building and that alterations to the historic core of the listed building would cause 'less than substantial harm' and are inadequately justified in public benefit terms as required by NPPF para 134.

RECOMMENDATION: REFUSE for the following reasons:

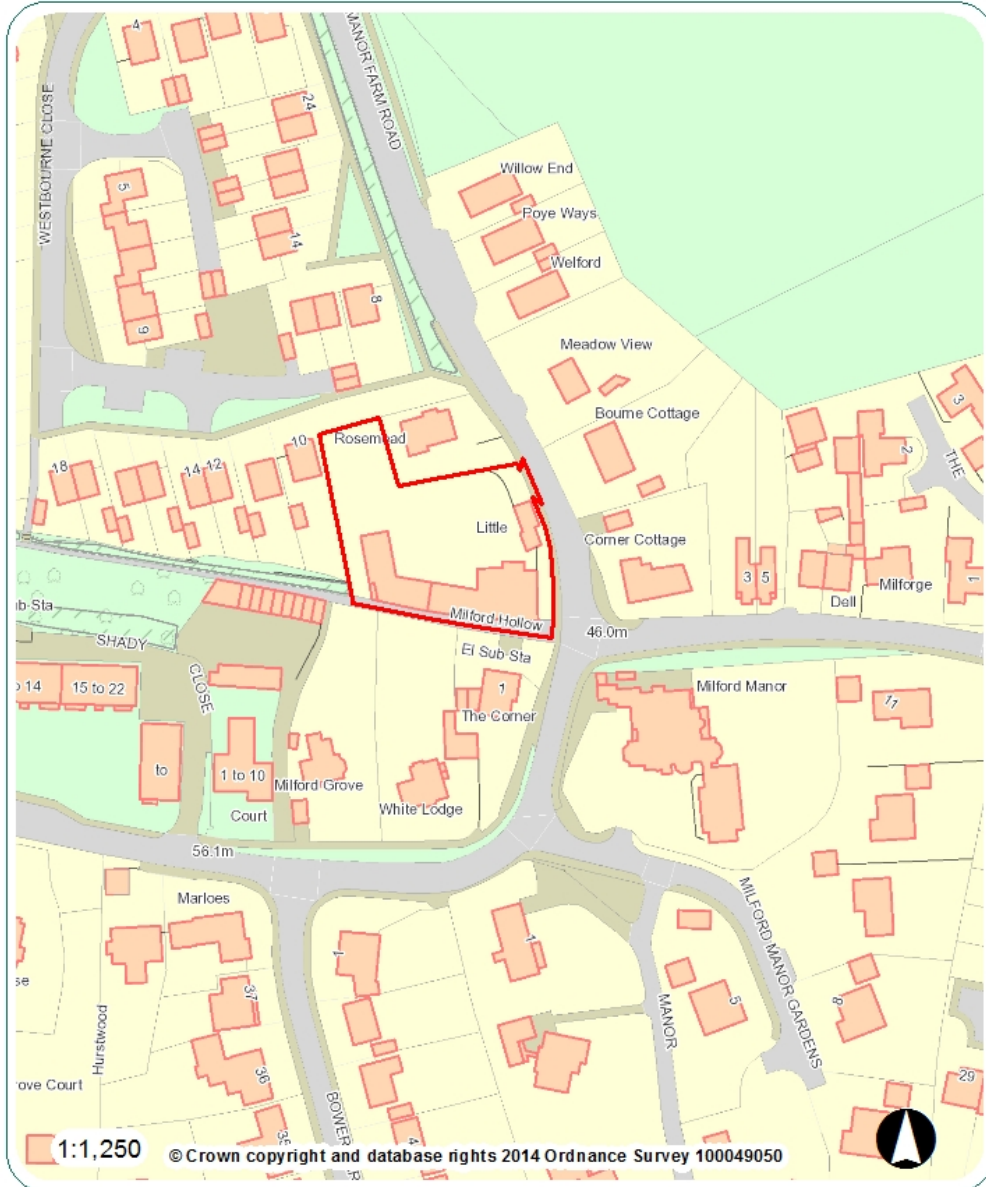
1. The development seeks to remove modern extensions and to extend and alter a Grade II listed building comprising a 24 bed nursing home. The proposed extension and alterations would add six new bedrooms and other facilities, to create a modern, 30 bed nursing home facility. The listed building, despite its relatively poor quality extensions, is pre-eminent on the site and the present extensions are very much secondary and partially obscured from view from Manor Farm Road. The proposed extension is a substantial three-storeyed cranked range occupying a footprint that is significantly disproportionate to its host.

Whilst there are some elements of heritage gain within the proposals (such as the proposed stairs to the front door) and neutrality by removing the poor quality modern extensions and refurbishment works to the original building, the alterations to the historic core of the listed building (such as removal of masonry walls to the rear of room 3 and the kitchen) appear to result in the loss of historic fabric and are

inadequately justified in public benefit terms as required by NPPF para 134.

Therefore, the proposed extension, by virtue of its overall design, height and footprint, would cause “substantial” harm to the character and setting of the listed building, contrary to section 16 and 66 of The 1990 Act and paragraph 133 of the NPPF and the aims of Wiltshire Core Strategy Core Policy 58; and alterations to the historic core of the listed building would cause “less than substantial” harm and are inadequately justified in public benefit terms, contrary to NPPF paragraph 134.

17/11250/FUL & 17/11681/LBC
Little Manor Nursing Home
Manor Farm Road
Milford
Salisbury
Wiltshire
SP1 2RS



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REPORT OUTLINE FOR AREA PLANNING COMMITTEES

Report No.

Date of Meeting	08 March 2018
Application Number	17/10559/OUT
Site Address	34 Park Lane Salisbury Wiltshire SP1 3NP
Proposal	Outline planning application for demolition of existing five bedroom detached bungalow and replacement with two detached chalet style dwellings and a single block containing four apartments.
Applicant	Mr R Job
Town/Parish Council	SALISBURY CITY
Electoral Division	ST FRANCIS AND STRATFORD – Cllr Mary Douglas
Grid Ref	414165 131522
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 Mary Douglas citing concerns in respect of visual impact upon the surrounding area, relationship to adjoining properties and design – bulk, height and general appearance.

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 outline planning consent be APPROVED subject to the Conditions set out at the conclusion of the report.

2. Report Summary

The main considerations in the determination of this application include:

- Principle of the proposed development
- Indicative scale, design & layout
- Access, parking and Highways considerations
- Impact on the amenity of neighbours
- Impact on the character and appearance of the surrounding area
- Impact on protected trees

Salisbury City Council object to the application on the grounds of loss of trees and habitat, over development, and loss of neighbour amenities and privacy.

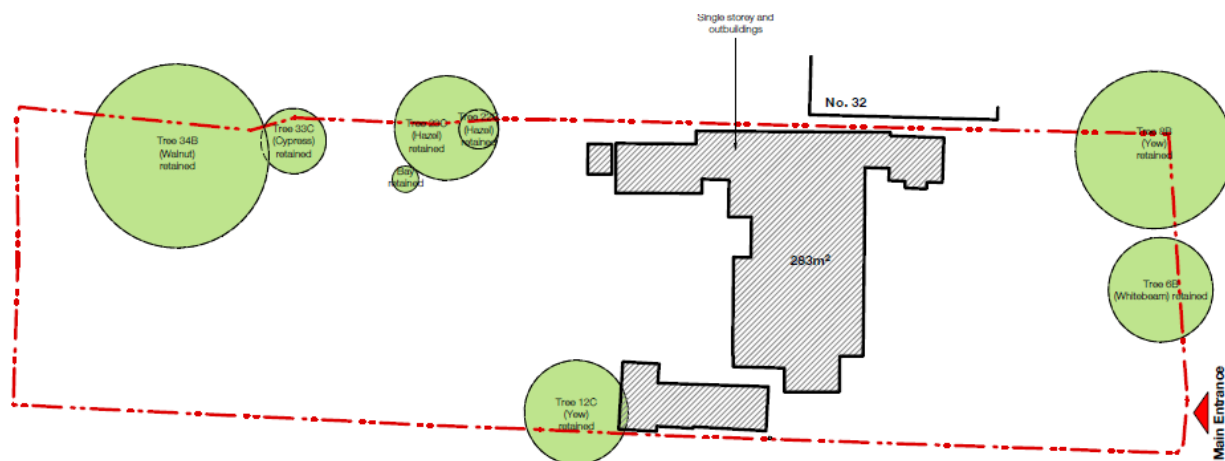
Four representations were received from third parties, each were in objection to the proposed development. Grounds for objection included unsuitable access, insufficient detail of proposals, design/scale of buildings out of keeping, loss of trees, traffic increase, adverse impact on the amenity of neighbours and overdevelopment.

3. Site Description

The application site consists of the residential curtilage of number 34 Park Lane, Salisbury. The site is occupied by an extended, detached single-storey dwellinghouse with vehicular access off Park Lane. The existing property has a relatively long rear garden extending to the North West – the area of the application site is approximately 2000 square metres.



Existing bungalow indicated with red arrow



Existing site plan

4. Relevant Planning History

None relevant

5. The Proposal

The application is for outline planning consent with all matters reserved and proposes the redevelopment of the land by the demolition of the existing detached dwelling and the erection of two detached chalet style dwellings and a single two storey block containing four apartments.

The application therefore seeks to establish ONLY the principle of the residential redevelopment of the site for the specified number and type of dwellings (2 x detached chalet style dwellings and a single two storey block comprising of four apartments). All submitted proposed drawings are indicative only in terms of layout, scale and design.

6. Planning Policy

Wiltshire Core Strategy Core Policies CP1 (Settlement Strategy), CP2 (Delivery Strategy), CP20 (Spatial Strategy: Salisbury Community Area), CP50 (Biodiversity and Geodiversity), CP57 (Ensuring high Quality Design and Place Shaping), CP58 (Ensuring the Conservation of the Historic Environment), CP63 & CP64 (Demand Management)

Saved SDLP policy H8 (as saved at Appendix D of the WCS)

NPPF & NPPG

7. Summary of consultation responses

WC Highways – No Highway objection, subject to Conditions

WC Housing Officer – No affordable housing provision or contribution required

WC Public Protection – No objection, subject to Conditions

Tree officer – No objection to revised scheme (subject to Condition)

WC Ecology – No objections

WC Archaeology – No objections

Salisbury City Council – Object to the application on the grounds of loss of trees and habitat, over development, and loss of neighbour amenities and privacy.

8. Publicity

The application was publicised via neighbour notification letters and a site notice. Four representations were received from third parties, each were in objection to the proposed development. Grounds for objection included

- unsuitable access
- insufficient detail of proposals
- design/scale of buildings out of keeping
- loss of trees
- traffic increase
- adverse impact on the amenity of neighbours and overdevelopment.

9. Planning Considerations

9.1 Principle of the proposed development

The National Planning Policy Framework does not change the statutory status of the development plan as the starting point for decision making. Proposed development that accords with an up-to-date Local Plan should be approved, and proposed development that conflicts should be refused unless other material considerations indicate otherwise (NPPF para.12). The NPPF also makes it clear that planning should be genuinely plan-led, providing a practical framework within which decisions on planning applications can be made with a high degree of predictability and efficiency (para.17).

In this respect the proposed development is considered against the policies of the WCS below:

Core Policy 1 of the WCS identifies the settlements where sustainable development will take place to improve the lives of all those who live and work in Wiltshire.

In line with CP1, CP2 (the delivery strategy) seeks to deliver future development in Wiltshire between 2006 and 2026 in the most sustainable manner by making provision for new employment land and new homes.

Within the limits of development, as defined on the policies maps, there is a presumption in favour of sustainable development at the Principal Settlements, Market Towns, Local Service Centres and Large Villages.

Sustainable growth with employment development alongside new housing is therefore needed in Salisbury whilst ensuring that no harm comes to the natural and built environment.

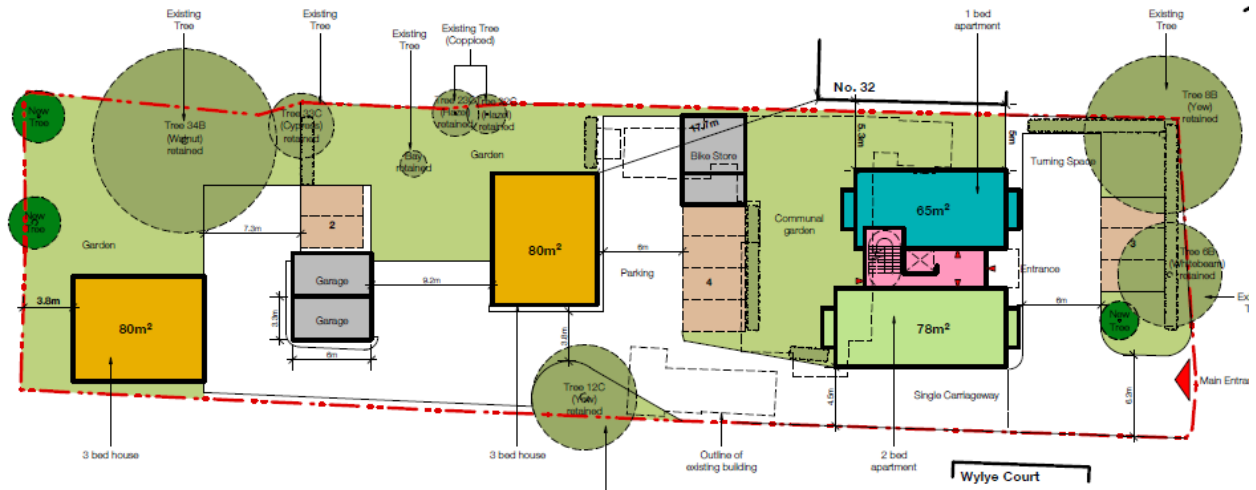
The proposed development constitutes residential re-development within the defined limits of development and is therefore considered acceptable in principle (within the broadest planning policy context).

Additionally, saved SDLP local plan policy H8 states *'Except as provided by the other policies of the Local Plan, residential development will be permitted within the Housing Policy Boundary of Salisbury.'*

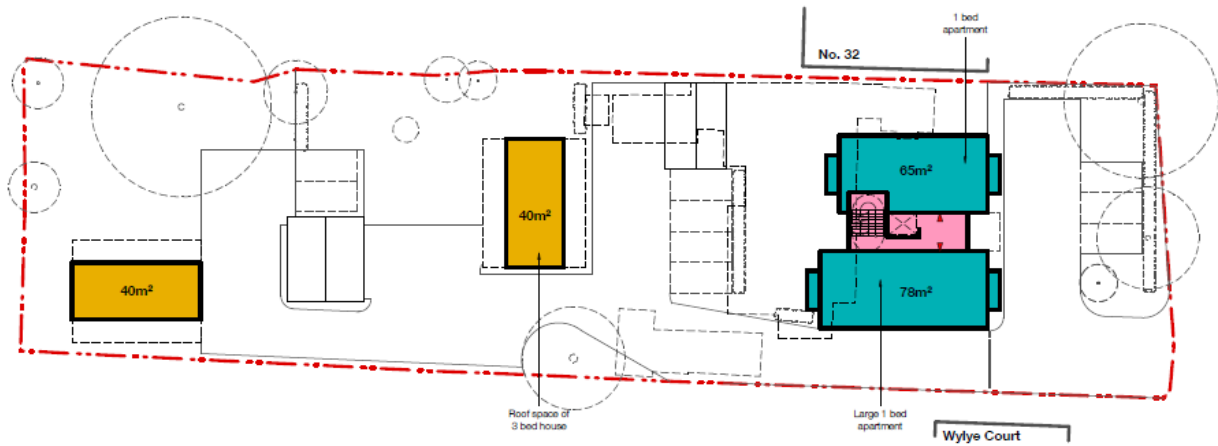
The proposed development is below the threshold for triggering requirements in respect of the provision of affordable housing, education, waste or recreational open space contributions.

9.2 General design matters

The application proposes a pair of detached chalet style dwellings and a two storey block containing four apartments. Park Lane comprises a varied mix of housing types, including detached, semi-detached, multi-storey apartments and single storey dwellings. The proposed two storey block indicatively situated towards the front of the site (approximately following the front building line of existing neighbouring properties) is considered appropriate in terms of its scale, mass and positioning within the street scene. The proposed two detached chalet style dwellings are indicatively set back within the site and by reason of their modest scale and position to the rear of the two storey apartment block, would not be prominent in views within the street scene.



Indicative site layout (ground floor & first floor)



Generally the proposed dwellings are considered to be of appropriate scale and form. Taking into consideration the proportions and scale of nearby existing dwellings and developments (and their relative plot sizes), the proposed development is considered to be reasonably and appropriately proportioned. In officers' opinion the overall redevelopment of the site for 6 dwellings would be difficult to justify as an overdevelopment of the site, given that many of the adjacent properties have been redeveloped for multiple units of accommodation. As the application before the Council is in outline only with ALL matters reserved, a refusal of the scheme based on concerns regarding the indicative suggested layout would be difficult to justify, in officers' opinion.

However, notwithstanding the above, whilst officers consider that some form of development similar to the four apartments (in a single two storey block) as shown on the indicative plan is likely to be acceptable, officers remain somewhat concerned about the provision of two detached chalet style dwellings positioned as shown on the indicative plan, with particular regard to neighbour amenity. This matter is covered elsewhere in this report.

Impact on the amenity of neighbours

Whilst the application is outline with all matters reserved, concerns have been raised by immediate neighbours that the proposed development would lead to undue impacts on the amenity of neighbours via overlooking and overshadowing and the generation of noise and disturbance.

Taking into consideration the application is for outline planning consent (and that details for of the final layout and design of the dwellings would form part of a subsequent reserved matters application, whereby a suitable design and additional Conditions can be imposed on any consent granted to control windows serving the accommodation at first floor level within the proposed dwellings), Officers consider there to be no reason **in principle** to conclude that the residential redevelopment of the site for the specified type and number of dwellings would necessarily result in undue impacts on the amenity of neighbours.

However, without detailed designs and elevations to the contrary, officers do consider that the proposed development as indicatively set out may possibly result in the undue overlooking of neighbouring properties, with particular regard to the proposed chalet bungalows, and in particular, the proposed dwelling located to the rear of the site, close to the boundaries with adjacent established properties in Waters Road. It appears to officers that this dwelling may be able to be repositioned away from these boundaries, together with a rearrangement of the proposed parking areas.

Consequently, an approval of this outline scheme would not be approving the indicating layout. These design matters would be addressed at the reserved matters stage, at which point if undue overlooking was considered likely from the detailed proposals put forward at the time, the reserved matters application could be suitably amended or refused consent at that time. Thus a refusal of this current outline application on the basis of the likely impact of the indicative scheme layout, may well be difficult to justify at appeal.

Access, parking and Highways considerations

The proposed development has been indicatively demonstrated to provide an acceptable access and a suitable level of off-street parking provision for each of the proposed dwellings. Consequently the WC Highways officer raises no Highway objection to the proposal, and indicated that:

“.....I understand that the above matters can be considered in more detail at the full application stage. I confirm that I do not object in principle to an access onto Park Lane and I am of the opinion that the site could accommodate the required parking, turning and access arrangement necessary to accommodate up to 6 dwellings..”

Tree protection

The Council's Tree Officer has visited the application site and raises no objection to the revised indicative drawings which make provision for the retention of important trees within the site. The protection of the trees is ensured through the provision of the existing Tree Protection Order and can additionally be secured by a Condition requiring that works are carried out in accordance with the submitted Tree Protection plan/report. It will therefore be for any future applicant to convince the Council that a suitable scheme for residential

development can be adequately accommodated on the site, without having a detrimental impact on the protected trees, or neighbouring amenity in general.

Archaeology

The Council's Archaeologist has assessed the proposal and raises no objection.

Ecology

The Council's Ecologist has assessed the proposal and makes no comment.

10. Conclusion

This is a large elongated site located within the housing policy boundary, and adjacent to other similar sites which have been developed over the years for multiple residential units. In principle, the development of the site for 6 dwellings is therefore considered to be acceptable.

The concerns of the third parties are noted and have been taken into account. However, the Council's highways officers have no issues with the scheme, and in terms of issues arising from overall design matters, the issues and concerns raised by the various third parties are noted and understood. However, as this scheme is in outline only, with all matters reserved, it is possible that general amenity issues will be able to be resolved at a future reserved matters stage. Thus, a refusal of this current scheme on the basis of the hypothetical impacts arising from the indicative layout would be difficult to justify.

Consequently, the proposed development is considered accordant with relevant local plan and national planning policy guidance.

RECOMMENDATION

It is recommended the application be approved, subject to the following Conditions:

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

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

2. No development shall commence on site until details of the following matters (in respect of which approval is expressly reserved) have been submitted to, and approved in writing by, the Local Planning Authority:
 - (a) The external appearance of the development;
 - (b) The landscaping of the site;
 - (c) The scale of the development;

- (d) The layout of the development;
- (e) The means of access to the site.

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

REASON: The application was made for outline planning permission and is granted to comply with the provisions of Section 92 of the Town and Country Planning Act 1990 and Article 3(1) of the Town and Country Planning (General Development Procedure) Order 1995.

- 3. An application for the approval of all of the reserved matters shall be made to the Local Planning Authority before the expiration of three years from the date of this permission.

REASON: To comply with the provisions of Section 92 of the Town and Country Planning Act 1990.

- 4. The development shall be limited to a maximum of 6 dwellings only, and in terms of the access and parking arrangements and protection of existing trees only, the scheme shall be carried out in general accordance with the following plans:

Drawing number 1710-SK002 revision E dated 01.02.18, as deposited with the local planning authority on 06.02.2018, and
Drawing number 1710-SK003 revision E dated 01.02.18, as deposited with the local planning authority on 06.02.2018, and

REASON: The proposal is only acceptable in terms of the number of dwellings, the general parking, turning and access provisions, and in terms of how the mature trees on the site would be retained and protected.

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

REASON: To ensure that the development can be adequately drained

- 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 / driveway), incorporating sustainable drainage details together with permeability test results to BRE365 with location of ground water levels, 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. Development shall be carried out in strict accordance with the submitted Arboricultural Impact Statement and Method Statement (Woodland & Countryside Management Ltd, 2nd February 2018) and associated submitted documentation.

REASON: To ensure the retention and protection of important trees.

8. 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, unless an alternative layout arrangement is otherwise agreed in writing by the local planning authority as part of a future consent. The areas and spaces so agreed shall be maintained for those purposes at all times thereafter.

REASON: In the interests of public safety.

9. No development shall commence on site (including any works of demolition), until a Construction Method Statement, which shall include the following:
- the parking of vehicles of site operatives and visitors;
 - loading and unloading of plant and materials;
 - storage of plant and materials used in constructing the development;
 - the erection and maintenance of security hoarding including decorative displays;
 - wheel washing facilities;
 - measures to control the emission of dust and dirt during construction;
 - a scheme for recycling/disposing of waste resulting from demolition and construction works;
 - measures for the protection of the natural environment.
 - hours of construction, including deliveries;
- has been submitted to, and approved in writing by, the Local Planning Authority. The approved Statement shall be adhered to throughout the construction period. The development shall not be carried out otherwise than in accordance with the approved construction method statement without the prior written permission of the Local Planning Authority.

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

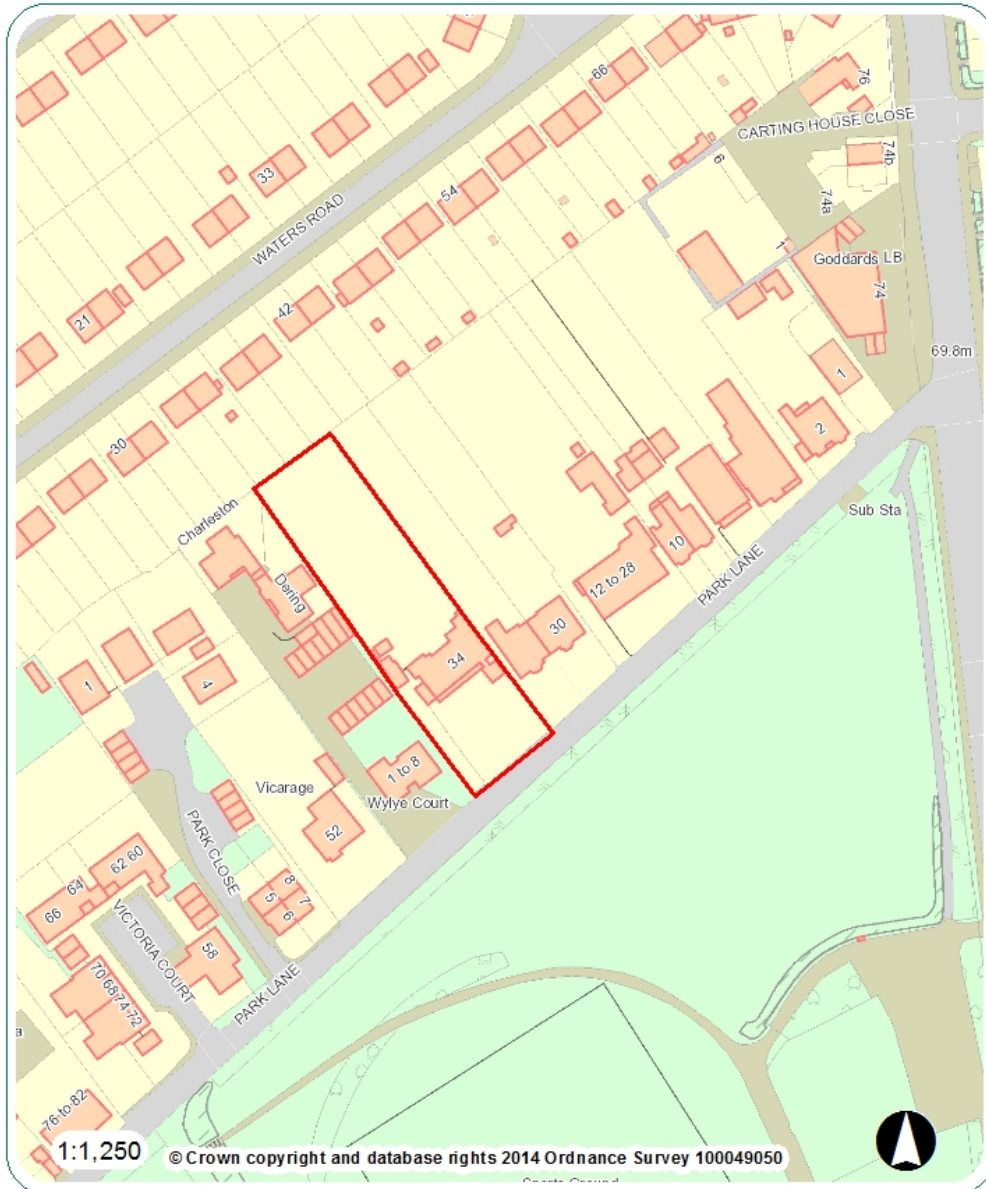
10. No construction or demolition work shall take place on Sundays or Public Holidays or outside the hours of 07:30 to 18:00 Monday to Friday and 08:00 to 13:00 on Saturdays. No burning of waste or other materials shall take place on the development site during the demolition/construction phase of the development.

Reason: In the interests of amenity

INFORMATIVE

The Council considers that the overall design and positions of the two suggested chalet bungalows shown on the indicative plans may need further consideration prior to the submission of a future reserved matter or full application, so that the impacts of the scheme on neighbouring amenity can be limited as far as possible, whilst retaining adequate parking and turning areas and protecting/retaining existing trees on site. It is recommended that any future scheme is discussed with officers prior to any future application being submitted.

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