

AGENDA

Meeting: Western Area Planning Committee
Place: Council Chamber - County Hall, Trowbridge BA14 8JN
Date: Wednesday 30 May 2018
Time: 3.00 pm

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

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

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Membership:

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

Substitutes:

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

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Public Participation

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

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

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

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

AGENDA

Part I

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

1 **Apologies**

To receive any apologies or substitutions for the meeting.

2 **Minutes of the Previous Meeting** (*Pages 5 - 24*)

To approve and sign as a correct record the minutes of the meeting held on 7 March 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 **22 May 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 **24 May 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 **Planning Appeals and Updates** *(Pages 25 - 26)*

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

7 **Planning Applications**

To consider and determine the following planning applications.

7a **17/04707/FUL: Land at Whaddon Lane, Hilperton, BA14 6NR**
(Pages 27 - 52)

7b **18/01841/FUL: Land Adjoining Hatch House, Up Street, Upton Lovell, BA12 0JP** *(Pages 53 - 64)*

7c **18/01851/FUL: Barney Lodge Day Nursery, 5 Westbury Road, Warminster, BA12 0AN** *(Pages 65 - 80)*

7d **17/12066/FUL: Land to the Rear of 1 Frome Road, Trowbridge, BA14 0DB** *(Pages 81 - 94)*

7e **18/01371/FUL: Yew Tree House, Brokerswood, BA13 4EG** *(Pages 95 - 102)*

8 **Urgent Items**

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

Part II

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

WESTERN AREA PLANNING COMMITTEE

MINUTES OF THE WESTERN AREA PLANNING COMMITTEE MEETING HELD ON 7 MARCH 2018 AT COUNCIL CHAMBER - COUNTY HALL, TROWBRIDGE BA14 8JN.

Present:

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

Also Present:

Cllr David Halik, Cllr Tony Jackson and Cllr Graham Payne

1 **Apologies**

There were no apologies.

2 **Minutes of the Previous Meeting**

The minutes of the meeting held on 11 January 2018 were presented.

Resolved:

To approve as a correct record and sign the minutes of the meeting held on 11 January 2018.

3 **Declarations of Interest**

In relation to application 17/05669/FUL Councillors Peter Fuller, Edward Kirk and Stewart Palmen declared non-pecuniary interests by virtue of being members of Trowbridge Town Council.

4 **Chairman's Announcements**

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

5 **Public Participation**

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

The rules of public participation and the procedure to be followed at the meeting were noted.

6 **Planning Appeals and Updates**

A planning appeals update report was received, along with a report from the Head of Development Management regarding a December 2017 Supreme Court ruling (under Dover District Council v CPRE Kent) pursuant to a decision made by Dover District Council on a hybrid planning application and its implications. In referencing the published information report, the reporting officer reminded members of the legal duties imposed on decision makers to state material planning reasons when making decisions on planning applications. The officer also informed the committee of the importance attached to seeking officer guidance and advice prior to voting on a motion to deviate from an officer recommendation.

Resolved:

To note the Planning Appeals Update Report and the legal update from the Head of Development Management.

7 **Planning Applications**

The Committee considered the following applications:

8 **17/05669/FUL - Former West Wiltshire District Council Office site, Bradley Road, Trowbridge, BA14 0RD**

Public Participation

Nigel Urch spoke in objection to the application

Julia Urch spoke in objection to the application

Anthony Barber spoke in objection to the application

Chris Beaver, agent, spoke in support of the application

Eileen Medlin, Senior Planning Officer, presented a report which recommended that authority be delegated to the Head of Development Management to grant full planning permission subject to planning conditions and informatives and following the completion of a draft s106 Agreement to cover the necessary developer obligations, as summarised within section 10 of the report and as stipulated at condition 23 and to approve planning permission for the erection of 79 dwellings and associated works, following the demolition of existing buildings.

Updates to the report were explained, which included the recommendation of imposing an additional condition to bind any consent to prevent development being commenced until the planning obligations in a form annexed to the planning permission has been completed by all parties with an interest in the development land and approved in writing by the Council. The officer also reported a correction to the report relative to the number of trees that would be removed from the site which currently have Tree Protection Orders (TPO).

Key issues included the principle of development, impact upon trees, highways and parking and education provision.

Members of the Committee then had the opportunity to ask technical questions of the officer. In response to question relating to the reported education objection, the reporting officer advised members that earlier in the day, a meeting had taken place involving service directors and senior officers from development management as well as the education and estates team. Committee members were informed of the adopted methodology used to calculate future school places by the education service and their appraisal of existing school capacities.

The reporting officer informed the committee that following a detailed inspection of the latest shared calculations, several applications documented by the education team as being ahead in the application registration queue that would generate school space demand, had been recently refused by the planning authority; whilst others had appeals withdrawn or were considered to be undeliverable.

In the case of the projected strategic development at Ashton Park members were informed that the indicative housing trajectories and subsequent school demands to be generated by the development is likely to be delayed by several years at least. Members were further advised that planning officers had properly weighed up the education objection, had recognised the reasons behind the objection, but argued that the application must be appraised in light of current spare school infrastructure provision and be fully mindful of the evolving status of planning applications and appreciate that once an application is refused and appeal is dismissed or withdrawn, the associated calculated school needs should be deleted and in terms of the current application, there is a need to apply the appropriate NPPF and WCS policy tests in terms of supporting sustainable housing development proposals.

As a result, and in light of the above, planning officers reported that the application should be approved having due regard to the particular set of circumstances that apply at this time.

Additional detail and commentary was sought on the parking provision, the demolition of the former driving centre building and how the nuclear bunker underneath would be dealt with. There were additional questions raised about the existing trees and the proposed landscaping. It was confirmed that one of the recommended conditions would remove permitted development rights for the proposed garages which were necessary to provide allocated parking on the site, which would mean that future occupiers seeking to convert the garaging, would require planning permission to do so.

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

The local unitary division member, Councillor Graham Payne, then spoke in opposition to the application, drawing attention to the density of housing, education capacity concerns, the removal of significant and TPO'd trees. Cllr Payne furthermore argued that in the event permission is granted the quoted developer obligation for off-site play equipment should be utilised at the nearby Queen Elizabeth Field rather than in the more generic 'local vicinity', as recommended. The neighbouring unitary division member, Councillor David Halik, also spoke in opposition to the application.

A debate followed, where members discussed whether the proposed parking provision for the site was adequate. The consultation response provided by the Council's tree officer was subject to debate in terms of appreciating the argued merits for agreeing to some TPO'd trees to be felled. The design of the houses and layout of the site was also debated, along with further questions being asked about education needs and provision.

During debate a motion was moved from Councillor Jonathon Seed to delegate authority to the Head of Development Management to grant permission in accordance with the officer's recommendation, with an amendment to stipulate that the Queen Elizabeth field should be the specified recipient of the financial contribution for off-site play provision to be enshrined within the s106 Agreement, and to also include two additional informatives to be drafted by officers relating to liaising further with the applicant to ascertain whether there was any provision for additional screen planting along the site boundary shared with the Halfords site and to include reference to a s38 agreement to secure on-street car parking restriction along part of the main road into the site from Wiltshire Drive, should problems develop near the site access. The motion was seconded by Councillor Pip Ridout.

At the conclusion of discussion, it was,

Resolved

That the committee delegates authority to the head of development management to grant full planning permission subject to the planning conditions and informatives listed below; and, following the completion of a draft s106 Agreement to cover the developer obligations as summarised within section 10 above and as stipulated by condition 23.

CONDITIONS

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

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

2. No 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. The approved programme of archaeological work shall be carried out in accordance with the approved details.

REASON: To enable the recording of any matters of archaeological interest.

NOTE: The work should be conducted by a professional archaeological contractor to which there will be a financial burden for the applicant.

3. No development shall commence on site until a scheme for the discharge of foul water from the site, and abandonment of existing sewers within site not being re-used, has been submitted to and approved in writing by the Local Planning Authority in consultation with the sewerage undertaker. 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

4. No development shall commence on site until a scheme for the discharge of surface water from the site (including surface water from the access / driveway), incorporating sustainable drainage details and appropriate attenuation measures, limiting the runoff to a maximum of 47.7 l/s and relevant permission for diversion of existing storm sewers, has been submitted to and approved in writing by the Local Planning Authority in consultation with the sewerage undertaker. The development shall not be first occupied until surface water drainage, including diversions of existing storm sewers has been constructed in accordance with the approved scheme.

REASON: To ensure that the development can be adequately drained

5. No development shall commence on site (other than that required to be carried out as part of a scheme of remediation approved by the Local Planning Authority under this condition), until steps (i) to (iii) below have been fully complied with. If unexpected contamination is found after development has begun, development must be halted on that part of the site affected by the unexpected contamination to the extent specified by the Local Planning Authority in writing until step (iv) has been complied with in full in relation to that contamination.

Step (i) Site Characterisation:

An investigation and risk assessment must be completed to assess the nature and extent of any contamination (including asbestos) on the site, whether or not it originates on the site. The investigation and risk assessment must be undertaken by competent persons and a written report

of the findings submitted to and approved in writing by the Local Planning Authority. The report of the findings must include:

- A survey of the extent, nature and scale of contamination on site;
- The collection and interpretation of relevant information to form a conceptual model of the site, and a preliminary risk assessment of all the likely pollutant linkages;

If the preliminary risk assessment identifies any potentially significant pollutant linkages a ground investigation shall be carried out, to provide further information on the location, type and concentration of contaminants in the soil and groundwater and other characteristics that can influence the behaviour of the contaminants;

- An assessment of the potential risks to
- human health,
- property (existing or proposed) including buildings, crops, livestock, pets, woodland and service lines and pipes,
- adjoining land,
- groundwater and surface waters,
- ecological systems,
- archaeological sites and ancient monuments;

This must be conducted in accordance with DEFRA and the Environment Agency's "Model Procedures for the Management of Land Contamination, CLR 11" and other authoritative guidance.

Step (ii) Submission of Remediation Scheme:

If any unacceptable risks are identified as a result of the investigation and assessment referred to in step (i) above, a detailed remediation scheme to bring the site to a condition suitable for the intended use must be prepared. This should detail the works required to remove any unacceptable risks to human health, buildings and other property and the natural and historical environment, should be submitted to and approved in writing by the Local Planning Authority. The scheme must include all works to be undertaken, proposed remediation objectives and remediation criteria, a timetable of works and site management procedures.

Step (iii) Implementation of Approved Remediation Scheme:

The approved remediation scheme under step (ii) must be carried out in accordance with its requirements. The Local Planning Authority must be given at least two weeks written notification of commencement of the remediation scheme works.

Step (iv) Reporting of Unexpected Contamination:

In the event that contamination is found at any time when carrying out the approved development that was not previously identified it should be reported in writing immediately to the Local Planning Authority. An investigation and risk assessment should be undertaken in accordance with the requirements of step (i) above and where remediation is necessary, a

remediation scheme should be prepared in accordance with the requirements of step (ii) and submitted to and approved in writing by the Local Planning Authority.

Step (v) Verification of remedial works:

Following completion of measures identified in the approved remediation scheme a verification report must be produced. The report should demonstrate the effectiveness of the remedial works.

A statement should also be provided by the developer which is signed by a person who is competent to confirm that the works detailed in the approved scheme have been carried out (The Local Planning Authority can provide a draft Remediation Certificate when the details of the remediation scheme have been approved at stage (ii) above).

The verification report and signed statement should be submitted to and approved in writing of the Local Planning Authority.

Step (vi) Long Term Monitoring and Maintenance:

If a monitoring and maintenance scheme is required as part of the approved remediation scheme, reports must be prepared and submitted to the Local Planning Authority for approval at the relevant stages in the development process as approved by the Local Planning Authority in the scheme approved pursuant to step (ii) above, until all the remediation objectives in that scheme have been achieved.

All works must be conducted in accordance with DEFRA and the Environment Agency's "Model Procedures for the Management of Land Contamination, CLR 11" and other authoritative guidance.

REASON: To ensure that risks from land contamination to the future users of the land and neighbouring land are minimised, together with those to controlled waters, property and ecological systems, and to ensure that the development can be carried out safely without unacceptable risks to workers, neighbours and other offsite receptors.

6. No development shall commence on site until details of the estate roads, footways, footpaths, cycle bollards, verges, junctions, street lighting, sewers, drains, retaining walls, service routes, surface water outfall, vehicle overhang margins, embankments, visibility splays, accesses, carriageway gradients, drive gradients, car parking and street furniture, including the timetable for provision of such works, have been submitted to and approved by the Local Planning Authority. The development shall not be first occupied until the estate roads, footways, footpaths, verges, junctions, street lighting, sewers, drains, retaining walls, service routes, surface water outfall, vehicle overhang margins, embankments, visibility splays, accesses, carriageway gradients, drive gradients, car parking and street furniture have all been constructed and laid out in accordance with the approved details, unless an alternative timetable is agreed in the approved details.

REASON: To ensure that the roads are laid out and constructed in a satisfactory manner.

7. No development shall commence on site until visibility splays have been provided between the edge of the carriageway and a line extending from a point 2.4m metres back from the edge of the carriageway, measured along the centre line of the access, to the points on the edge of the carriageway 43m in both directions from the centre of the access in accordance with the approved plans 'External Works Layout' (1 of 3) 750-141-1 Rev B received on the 15th February 2018. Such splays shall thereafter be permanently maintained free from obstruction to vision above a height of 0.6m above the level of the adjacent carriageway.

REASON: In the interests of highway safety.

8. No development shall commence on site (including any works of demolition), until a Construction Method Statement, which shall include the following:
- a) the parking of vehicles of site operatives and visitors;
 - b) loading and unloading of plant and materials;
 - c) storage of plant and materials used in constructing the development;
 - d) the erection and maintenance of security hoarding including decorative displays and facilities for public viewing, where appropriate;
 - e) wheel washing facilities;
 - f) measures to control the emission of dust and dirt during construction;
 - g) a scheme for recycling/disposing of waste resulting from demolition and construction works; and
 - h) measures for the protection of the natural environment.
 - i) hours of construction, including deliveries;
- has been submitted to, and approved in writing by, the Local Planning Authority. The approved Statement shall be complied with in full throughout the construction period. The development shall not be carried out otherwise than in accordance with the approved construction method statement.

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

9. No development shall commence on site until a waste audit regarding the construction of the site (part a – g) of Policy WCS6 of the Waste Core Strategy) has been submitted to and approved in writing by the Local Planning Authority. The development shall then be carried out in accordance with the approved details.

REASON: The application contained insufficient information to enable this matter to be considered prior to the grant of planning permission.

10. No development shall commence on site above ground floor slab level until 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: In the interests of visual amenity and the character and appearance of the area.

- 11.** All demolition, site clearance and development works shall be carried out in strict accordance with the approved details contained in the Arboricultural Report containing: Arboricultural Constraints, Arboricultural Impact Assessment (AIA), Tree Protection and Arboricultural Method Statement prepared by Silverback Arboricultural Consultancy and received by the council on 8th December 2017.

The Tree Protection Fencing shown on Tree Protection Plan Phase 1 included in the above report shall remain in place until a full 'No-Dig' specification for works within the root protection area/canopies of protected and retained trees has been submitted and approved in writing by, the Local Planning Authority. The construction of the surface shall be carried out in accordance with approved details and thereafter retained.

REASON: In order that the Local Planning Authority may be satisfied that the trees to be retained on and adjacent to the site will not be damaged during the construction works and to ensure that as far as possible the work is carried out in accordance with current best practice and section 197 of the Town & Country Planning Act 1990.

- 12.** No dwelling shall be occupied until the means of site/plot enclosures as shown on the approved plans have been provided in accordance with the approved plans.

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

- 13.** No dwelling shall be occupied until the associated car parking spaces outlined on the approved plans and Parking Allocation schedule (750-106 Rev C received 16th February 2018) have been consolidated, surfaced and laid out in accordance with the approved details. This area shall be maintained and remain available for this use at all times thereafter.

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

- 14.** No dwelling shall be occupied until a public art scheme for the site and a timetable for its subsequent installation have been submitted to and approved in writing by the local planning Authority. The development shall then be carried out in accordance with the approved details.

REASON: The application contained insufficient information to enable this matter to be considered prior to the grant of 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 the proposal complies with the relevant public art policies.

15. The roads, including footpaths and turning spaces, shall be constructed so as to ensure that, before it is occupied, each dwelling has been provided with a properly consolidated and surfaced footpath and carriageway to at least base course level between the dwelling and existing highway.

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

16. No dwelling shall be first occupied until the approved refuse storage for that dwelling has been completed and made available for use in accordance with the approved details and it shall be retained in accordance with the approved plans thereafter.

REASON: To ensure adequate facilities are in place upon occupation of the development

17. No dwelling shall be first occupied until the cycle parking facilities as shown on the approved plans have been provided in full and made available for use. The cycle parking facilities shall be retained for use in accordance with the approved details at all times thereafter.

REASON: To ensure that satisfactory facilities for the parking of cycles are provided and to encourage travel by means other than the private car.

18. No dwelling shall be first occupied until the works comprised in the scheme for mitigating the effects of noise for that dwelling as set out in the Noise Impact Assessment prepared by Matrix Acoustic Design Consultants received by the council on the 16th February 2018 have been completed.

REASON: To minimise the disturbance which that could otherwise be caused to incoming occupiers by noise from the nearby noise sources.

19. No dwelling shall be first occupied until the mitigation measures set out in The Extended Phase 1 Ecology Report prepared by Stark Ecology received by the Council on the 7th December 2017 are implemented. The mitigation measures shall be retained on site thereafter.

REASON: To ensure adequate ecological mitigation for the development for foraging and roosting bats and nesting sparrows.

20. 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 buildings or the completion of the development whichever is the sooner; All shrubs, trees and hedge planting shall be maintained in accordance with the 10 Year Maintenance Programme prepared by Peter Quinn Associates, received by the Council on the 20th December 2017. 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.

21. Notwithstanding the provisions of the Town and Country Planning (General Permitted Development) (England) Order 2015 (or any Order revoking or re-enacting or amending that Order with or without modification), no garage hereby approved which is required to satisfy on-plot parking standards (as identified Parking Allocation schedule - 750-106 Rev C received 16th February 2018) shall be converted to ancillary habitable accommodation without first obtaining planning permission.

REASON: To safeguard the amenities and character of the area and in the interest of highway safety and to ensure there is adequate car parking provision.

NOTE: Future PD rights to convert garaging into additional ancillary habitable accommodation would still apply to plots that can accommodate the requisite parking provision on-site. This condition would only apply for plots/properties that rely on the garaging for off-street car parking

22. The development hereby permitted shall be carried out in accordance with the approved plans contained within the plan list schedule set out in the letter received from Planning Sphere and dated 22 February 2018.

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

23. Development shall not be commenced until a planning obligation requiring compliance with the obligations set out in the draft form of deed annexed hereto has been completed by all parties with an interest in the land and accepted in writing by the Council.

INFORMATIVES:

1. This permission shall be read in conjunction with an agreement made under Section 106 of the Town and Country Planning Act, 1990 (and to be dated).
2. Bats have been found roosting in the former Driving Test Centre and a licence from Natural England is required before its demolition. Please note that this consent does not override the statutory protection afforded to any such species. All British bat species are protected under The Conservation of Habitats and Species Regulations 2010 (as amended) which implements EC Directive 92/43/EEC in the United Kingdom, and the Wildlife and

Countryside Act 1981 (as amended). This protection extends to individuals of the species and their roost features, whether occupied or not.

- 3. 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

- 4. The applicant is encouraged to liaise further with officers to review the potential for more screen planting along the site boundary shared with Halfords.**
- 5. The applicant and highways authority should liaise further to enshrine traffic regulation order provisions within a s38 agreement to restrict car parking along the main road into the site off Wiltshire Drive.**

9 17/04647/VAR - Land Between 1a Mill House & 1 Lower Road, Bratton, Westbury, BA13 4RG

Public Participation

David Tombleson spoke in objection to the application.

Colin Tagg spoke in objection to the application.

Neil Brawn spoke in objection to the application.

Peter Grist, agent, spoke in support of the application.

Mr Pratt, applicant, spoke in support of the application.

Councillor Jeff Ligo, Chairman of Bratton Parish Council, spoke in objection to the application.

Steven Vellance, Planning Officer, presented a report which recommended that permission be granted for a variation to condition 14 of planning permission W/12/02101/S73 to allow for minor material alterations and additions to the previously approved dwelling that had been partially constructed on site. Key issues included the principle of the development, reflecting upon the minor material changes that had been undertaken and comparing these with what had been previously approved in 2012.

The officer explained why the planning team had registered and processed the application under s73 of the Town and Country Planning Act; and had, after visiting the site, taken physical measurements of the building to firstly obtain accurate plans from the applicant; and secondly, to allow officers to make a full and proper assessment of the modifications made and proposed on the site.

The officer advised members of the receipt of two late public representations which were verbally reported along with an officer response to each point raised.

The committee was advised of the inspections carried out by the Council's conservation officer who, in addition to the case officer, made a site inspection and reported that the works which had been undertaken (included within the submitted regularised retrospective application submission) was acceptable in terms of adopted and legislative standards and policies. In addition to heritage asset and planning policy interests, expert input was obtained in terms of highway safety and flood risk impacts, and the responses were also reported.

Members of the Committee then had the opportunity to ask technical questions of the officer. Detailed questions were asked about the roofing material used on the 'as built' house compared to what was previously approved; and about the extent of the physical amendments made to the site and house compared to the consented scheme.

Officers reported the physical measurements which had been taken on site and with the fixed datum point of Mill Lane that had not changed since 2012 officers reported that the 'as built' house had a lower ridgeline compared to what was previously consented. The fenestration changes were reported as being minor material changes the s73 application could adequately appraise as well as the minor amendments made to the site. It was also reported that under the separate building arrangement process, the Council's building control surveyors had visited the site and had checked drawings and had found them to be accurate.

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

A statement from the local unitary member, Councillor Jerry Wickham, citing opposition to the application was presented by Councillor Jonathon Seed, which included an appraisal of the site history and the different house that had been built retrospectively and also referenced detrimental impacts the 'as built' house has, to which local residents raised representation about.

A debate followed, which led to further questions being asked of officers, with some members expressing concern about the retrospective nature of the application and the extent of the changes that had been undertaken and questioned whether a s73 application was the appropriate type of application. At the request of the committee chairman, the Council's planning lawyer was asked whether or not the application could be determined under a s73 application. In response, the committee was advised that it was a matter of planning judgement to what degree the material changes were minor and that the committee was

being advised in this case that the 'as built' house was subject to minor material changes - which planning officers had verbally explained during the presentation and through responding to member's technical questions.

The committee was then advised that if members were convinced the 'as built' house constituted more than minor material amendments from the approved drawings in the original planning permission it would amount to development without permission. Members would therefore not be able to vary the original planning permission by way of a s73 planning application. In these circumstances, it was within the committee's remit to defer the application and to seek the applicant to resubmit a full planning application.

During debate a motion to approve the application in accordance with the officer's recommendation was moved by Councillor Andrew Davis, seconded by Councillor Trevor Carbin. At the conclusion of discussion, it was,

Resolved

That planning permission be granted subject to the following conditions:

- 1 The development hereby permitted shall be carried out in accordance with the following approved plans: Proposed site location and block plan rev. B received on 24.01.2018; Proposed elevations and section received on 12.02.2018; Proposed floor plans received on 22.08.2017.**

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

- 2 No part of the development hereby approved shall be first occupied until the parking and turning area shown on the approved plans has been laid out in accordance with the approved details. This area shall be maintained and remain available for this use at all times thereafter. The access area shall be formed of a properly consolidated surface (not loose stone or gravel).**

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

- 3 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 and south elevations.**

REASON: In the interests of residential amenity and privacy.

- 4 The development hereby permitted shall not be occupied until the area between the nearside carriageway edge and a line drawn 2 metres parallel thereto over the entire site frontage to the north from the centre of the access has been cleared of any obstruction to visibility at and above a height of 900mm above the nearside carriageway level. In addition, a visibility splay being provided between the edge of the carriageway and a**

line extending from a point 2 metres back from the edge of the carriageway, measured along the centre line of the access, to the point on the edge of the carriageway 25 metres to the south. These areas shall be maintained free of obstruction at all times thereafter.

REASON: In the interests of highway safety.

Planning Informatives:

1. The applicant is advised that separate land drainage consent is required for any operational development works within 8 metres of the watercourse.
2. Whilst it is acknowledged that the dwellinghouse is not on flood zone 2 or 3 land, the applicant is nevertheless advised to incorporate flood proofing measures respecting the proximity to the watercourse and flood zones 2 and 3.
3. 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

Councillor Ernie Clark requested that his vote in opposition to the resolution be recorded.

Following this item Councillor Christopher Newbury left the meeting at 1755. Councillor Jonathon Seed thereafter took over as Chairman.

10 **17/05359/FUL - Land at Boreham Road, Rear of 10 Rock Lane, Warminster, BA12 9JZ**

Public Participation

Margaret Donald spoke in objection to the application.

Chris Dance, agent, spoke in support of the application.

Councillor Sue Fraser, on behalf of Warminster Town Council, spoke in objection to the application.

Katie Yeoman, Planning Officer, presented a report which recommended planning permission be granted for the erection of a dwelling. Key issues included the principle of development, highway safety matters, landscape and trees, drainage, and impacts on neighbouring amenity.

Members of the Committee then had the opportunity to ask technical questions of the officer. Details were sought about the adjoining site's planning history and officers were asked about previously refused developments based on highway safety and loss of a hedgerow and roadside embankment. Ecology and tree impacts were discussed as well the implications relative to a nearby bus-stop and the reported need for it to be relocated.

Members were also advised that the historic refusals relating for a neighbouring plot dated back to 1999, 2007 and 2008 and since then, local and national planning policy had evolved, although it still remained the case that that the hedgerow and embankment could be removed without planning permission. No highway safety concern had been raised by the Council's highways officer and members were reminded of the Council's and NPPF policy relative to highway safety and that there was no evidence the proposed development would result in harm to justify a refusal.

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

The local unitary member, Councillor Andrew Davis, then spoke in opposition to the application, and also considered further information was required and sought to have a highway officer present.

A debate followed where the design and nature of the proposed dwelling was considered in relation to the neighbouring area, along with further discussion of the practicalities of moving the bus-stop.

During debate a motion to defer the application for a site visit and to request additional information was moved by Councillor Andrew Davis, seconded by Councillor Pip Ridout. Following a vote the motion was defeated.

A motion was then moved by Councillor Trevor Carbin, seconded by Councillor Sarah Gibson, to approve the application in accordance with the officer's recommendation.

At the conclusion of discussion, it was,

Resolved

That planning permission be granted, subject to the following conditions:

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

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

2. The development hereby permitted shall be carried out in accordance with the following approved plans: Location plan – received on 15/12/2017; Existing and proposed sections - received on 15/12/2017; Existing and proposed street scene - received on 15/12/2017; Proposed site plan and roof plan - received on 15/12/2017; Parking Plan Space 1 - received on 15/12/2017; Parking Plan Space 2 - received on 15/12/2017; Proposed elevations - received on 15/12/2017; Proposed floor plans - received on 15/12/2017; Proposed landscaping plan - received on 15/12/2017; 3D view from Boreham Road - received on 15/12/2017; 3D south west view - received on 15/12/2017; 3D south east view - received on 15/12/2017; Birds eye view from north east - received on 15/12/2017; North west birds eye view - received on 15/12/2017; Tree survey – drawing no. 16 – dated 05/01/2016; Tree protection plan – drawing no. 17 – dated 20/02/2018; Topographical survey – drawing no. 1 – dated April 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. All hard landscaping shall 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.

5. The existing boundary hedgerow to the southern boundary of the application site shall be retained in accordance with the approved landscaping plan

(proposed landscaping plan – received on 15/12/2017) and maintained at all times thereafter unless otherwise agreed in writing by the local planning authority.

REASON: To ensure a satisfactory landscaped setting for the development and the protection of existing important landscape features.

6. 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.

7. The development hereby permitted shall not be first occupied until visibility splays have been provided on both its sides of the access to the rear of the existing footway based on co-ordinates of 2.4m x 2.4m. The splays shall be kept free of obstruction above a height of 600mm at all times.

REASON: In the interests of highway safety.

NOTE: This condition requires the applicant to obtain separate consent from the Council's highway Authority to re-locate the bus-stop. Planning informative no.2 refers.

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

REASON: In the interests of highway safety.

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

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

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

REASON: 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.

Planning 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 proposal comprises a proposed alteration to the public highway. The applicant is advised that a separate license is 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. Contact should be made with the vehicle access team on telephone 01225 713352 or email vehicleaccess@wiltshire.gov.uk for further details.**
- 3. No works should take place that would result in harming nesting birds from March to August inclusive. All British birds (while nesting, building nests and sitting on eggs), their nests and eggs (with certain limited exceptions) are protected by the Wildlife and Countryside Act 1981 (as amended). If birds are nesting within the proposed development, work should be undertaken outside the breeding season for birds to ensure their protection, i.e. works should only be undertaken between September and February. Further advice on the above can be sought from the Council Ecologists.**
- 4. The applicant should note that under the terms of the Wildlife and Countryside Act 1981 (as amended) and the Conservation of Habitats and Species Regulations 2010 (as amended) it is an offence to disturb or harm any protected species, or to damage or disturb their habitat or resting place. Please note that planning permission does not override the statutory protection afforded to any such species. In the event that your proposals could potentially affect a protected species and/or a suspected protected species is encountered during the works you should stop works immediately if applicable, and seek the advice of a suitably qualified and experienced ecological consultant who will advise of the appropriate course of action and consider whether a licence is required from Natural England prior to recommencing/commencing works.**

5. The applicant is advised that 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 the following 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.

Councillor Andrew Davis requested that his vote in opposition to the resolution be recorded.

11 **Urgent Items**

There were no Urgent Items.

(Duration of meeting: 3.00 - 6.40 pm)

The Officer who has produced these minutes is Kieran Elliott of Democratic Services, direct line 01225 718504, e-mail kieran.elliott@wiltshire.gov.uk

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

Wiltshire Council
Western Area Planning Committee
30th May 2018

Planning Appeals Received between 23/02/2018 and 18/05/2018

Application No	Site Location	Parish	Proposal	DEL or COMM	Appeal Type	Officer Recommend	Appeal Start Date	Overturn at Cttee
17/06040/FUL	Land at Staverton Trowbridge, Wiltshire BA14 6PB	STAVERTON	Change of use and extension of existing agricultural building to a dwellinghouse with residential curtilage and a new access.	DEL	Written Representations	Refuse	23/04/2018	No
17/06080/FUL	Magdalen Farm Rowden Lane Bradford on Avon Wiltshire, BA15 2AB	BRADFORD ON AVON	Retention of temporary log cabin approved under W/11/03319/FUL as a permanent workers dwelling	DEL	Written Representations	Refuse	02/05/2018	No
17/06864/FUL	Eddies Diner Lysander Road Bowerhill, SN12 6SP	MELKSHAM WITHOUT	Permanent Use of Site as Food Service Takeaway & Diner (Resubmission of 16/11512/FUL)	DEL	Written Representations	Refuse	23/04/2018	No

Planning Appeals Decided between 23/02/2018 and 18/05/2018

Application No	Site Location	Parish	Proposal	DEL or COMM	Appeal Type	Officer Recommend	Appeal Decision	Decision Date	Costs Awarded?
16/06413/OUT	Land at Bratton Road, Westbury Wiltshire	WESTBURY	Erection of up to 47 dwellings and associated works (Outline application in relation to access)	DEL	Inquiry	Refuse	Withdrawn	27/02/2018	None
16/11951/FUL	Land Between 215 and 78-81 Corsham Road Whitley, SN12 8QE	MELKSHAM WITHOUT	Erection of 1 self-build 3 bedroom dwelling	WAPC	Written Reps	Refuse	Dismissed	14/03/2018	None
16/12036/OUT	93 Bath Road Warminster Wiltshire, BA12 8PB	WARMINSTER	Residential development of land and formation of new vehicular and pedestrian access (outline application with some matters reserved)	DEL	Written Reps	Refuse	Dismissed	23/02/2018	None
17/04323/OUT	Land adjacent Orchard Cottage Norton Road Sutton Veny BA12 7AY	SUTTON VENY	Outline application with all matters reserved for erection of B+B and residential annexe	DEL	Written Reps	Refuse	Dismissed	13/03/2018	None
17/04649/FUL	Land South of 489A Semington Road Melksham Wiltshire SN12 6DR	MELKSHAM WITHOUT	Erection of 4 no. terraced dwellings	DEL	Written Reps	Refuse	Dismissed	01/03/2018	None
17/05792/TPO	Eton House 75A Hill Street Hilperton Trowbridge Wiltshire BA14 7RS	HILPERTON	T1 - Austrian Pine tree - fell	DEL	House Holder Appeal	Refuse	Dismissed	26/04/2018	None

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REPORT FOR WESTERN AREA PLANNING COMMITTEE

Report No. 1

Date of Meeting	30 May 2018
Application Number	17/04707/FUL
Site Address	Land at Whaddon Lane, Hilperton, Wiltshire BA14 6NR
Proposal	Siting of a temporary rural workers dwelling and access track
Applicant	Mr & Mrs S Yalland
Town/Parish Council	HILPERTON
Electoral Division	HILPERTON – Councillor Ernie Clark
Grid Ref	387960 160165
Type of application	Full Planning
Case Officer	Steven Sims

Reason for the application being considered by Committee

This application was reported to the Western Area Planning Committee on 13 December 2017. However, following the officers' presentation and a short debate, the committee resolved to **defer the application to enable officers to request more information from the applicants in terms of confirming the extent of the land which is available for their agricultural use and for the Council's agricultural consultant to review the information and evidence and provide a revised report and recommendation.**

A copy of the 13 December committee report is contained within Appendix and a copy of the agricultural consultant's revised report can be found in Appendix B.

The application is called to committee by Councillor Ernie Clark on the basis that officers are minded to approve the application, and the Planning Committee are invited to consider the following planning matters:

- The scale of development
- The visual impact upon the surrounding area
- The design - bulk, height, general appearance
- The environmental or highway impacts
- The financial viability of the proposed development.
- Areas of the 'rented land' seem to have only informal grazing rights at limited times of the year; and the amount of land owned by the applicant is not large enough to warrant any type of agricultural dwelling.

The Parish Council objects to the application proposal and requested Cllr Clark to call the application to committee for the elected members to determine.

1. Purpose of Report

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

2. Report Summary

The main issues to consider for this application are considered to be:

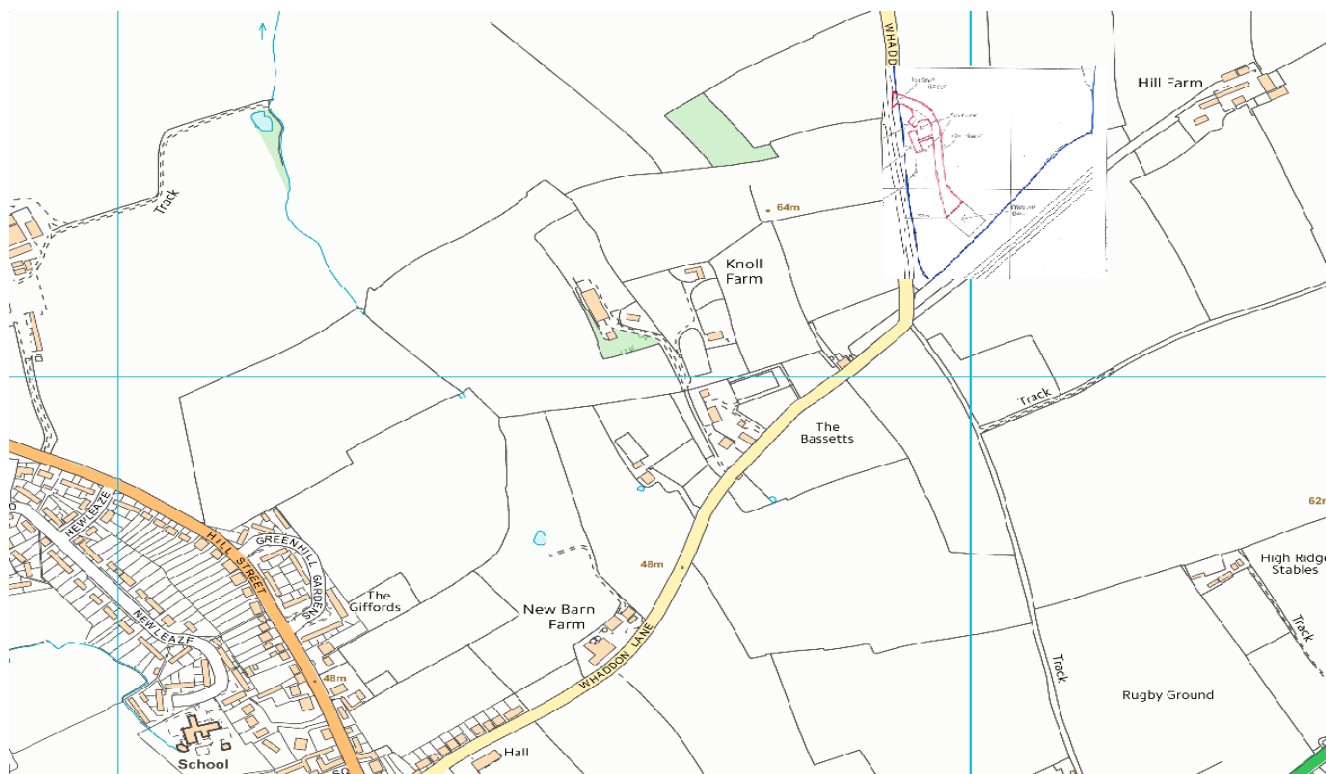
- The Principle of Development
- The Impact on the Character of the Area
- The Impact on the Living Conditions of Neighbouring Residents
- Highway Safety/Parking Issues
- Drainage Issues

3. Site Description

The site is located within the open countryside beyond any defined settlement and consists of a field located to the east of Whaddon Lane. The field is bordered by hedgerows and an existing agricultural barn is located on the site. The applicants currently live on site within a caravan which is positioned to the south of an existing barn. If members of the committee are minded to support the application for a temporary farm workers dwelling, the caravan would not be required and a condition is recommended to remove it from the site.

Officers have been advised that the applicants used the proceeds of the sale of their freehold dwelling to finance the purchase of the freehold land at Whaddon Lane.

The nearest residential dwellings are located at Hill Farm approximately 430 metres to the northeast, at Sharkays located off Whaddon Lane approximately 220 metres to the southwest and at Knoll Farm located approximately 260 metres to the west. The plan inserts below illustrate the application site being overlaid on a wider site plan of the local area followed by a more detailed site plan.



The Existing Farming Practice

The holding is run as a livestock breeding and rearing business. The core enterprise comprises the production of finished lambs from a ewe flock, the production of finished cattle from a small suckler herd and rearing and sale of cattle from purchased calves. In addition to the “conventional” livestock, the applicants also breed and sell pygmy goats.

The ewe flock comprises some 470 ewes. Lambing is split, with 100 Dorset mules due to lamb in September, a further part of the flock to be lambed in January and the main crop lambing from March to May. Finished lambs are sold to slaughter. The applicants advise that September lambing takes place outdoors, with all other lambing taking place at the farm building. In addition to the breeding flock the applicants also have some 750 head of sheep on tack over winter. Cattle are reared either

for sale as stores or as finished animals from a small suckler herd. The most recent batch of calves comprised 40 head with sales split 50/50 between weaned animals and 12 month stores. The pygmy goats comprise some 30 nannies, which are bred to produce offspring which are sold to private buyers as pets.

The farm enterprise is supported by a modern, recently constructed farm building on site with a covered yard, constructed with a four bay portal frame main span and lean-to. The building has fibre cement roofing, spaced timber wall boarding to the upper elevations and concrete panels to the lower elevations. The overall dimensions of the building are 24m x 18m including the 6m lean-to.

4. Planning History

16/06363/APD - General Purpose Agricultural Building – Refused 25.07.2016 for the following reason: *“The proposed development is not permitted development by Part 6, Class A.1 (i) because the development would be located within 400 metres of the curtilage of a protected building and the proposed building would be used for the accommodation of livestock”.*

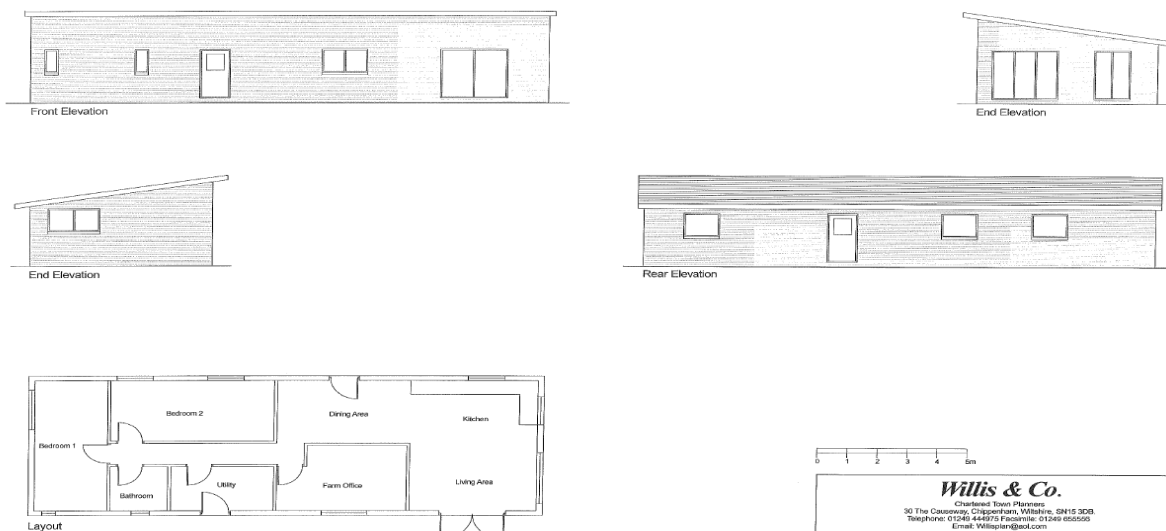
16/08376/AGD - Erection of agricultural building for the storage of agricultural vehicles, tools equipment, feed and fodder and the provision of an area of hardstanding – Approved 16.09.2016.

In addition to the above, and following the request made by a member of the committee back in December, the following section reports on the recorded planning enforcement action pursuant to the application site:

Enforcement proceedings led to the removal of an unauthorised caravan on the site in early 2017. As reported in the site description section of this report, in late 2017 following a change in personal circumstances, the applicants moved back on site and currently occupy a caravan on an unauthorised basis. The Council’s planning and enforcement team are fully aware of this breach of planning control, but the enforcement team have decided not to pursue formal enforcement action on the siting and occupation of the caravan until the current application has been determined by the planning committee. Should it be refused, formal proceedings would begin. If the application is approved, the suggested condition would be enforced to secure the removal of the unauthorised caravan within the stated timeframe.

5. The Proposal

This is a full application seeking temporary planning permission for a three year period for the siting and occupation of a timber clad mobile home to be used as a farm workers dwelling. As illustrated in the plan below, the proposed dwelling would be single storey and rectangular in shape measuring 6 metres wide and 17 metres long. The accommodation would comprise 2 bedrooms, an office, living room, dining room, kitchen and bathroom. 2 parking spaces would be provided on site with vehicle access being accommodated via an existing access off Whaddon Lane.



The Proposed Farming Practice

The applicant's agricultural statement sets out the intention to expand the enterprise over the next three years. The ewe flock would be expanded to approximately 600 head. The pygmy goat enterprise would be expanded to 100 head of nannies. A turkey rearing enterprise would also be introduced, with the applicants taking on a franchise arrangement under the "Kelly Bronze" brand. Some 500 poultts would be purchased and reared in the existing farm building. Under the franchise the franchiser takes a proportion of the finished animals with the balance sold by the applicant under the Kelly Bronze brand.

Following the December area planning committee, officers were alerted to the fact that the applicant had sold seven suckler cattle in late 2017 in order to allow the applicants to invest in a more commercial breeds. The applicants have confirmed that a new herd would be purchased to further support and diversify the applicant's farming aspirations.

6. Planning Policy

Wiltshire Core Strategy - CP1: Settlement Strategy; CP2: Delivery Strategy; CP48: Supporting Rural Life; CP51: Landscape; CP57: Ensuring High Quality Design and Place Shaping; CP60: Sustainable Transport; and CP61: Transport and new development

Saved Policies for the West Wiltshire District Local Plan (1st Alteration) - U1a Foul Water Disposal; the Wiltshire Local Transport Plan 2011- 2026; and the emerging Hilperton Neighbourhood Plan.

The National Planning Policy Framework (NPPF) – Chapter 6: Delivering a wide choice of high quality homes; Chapter 7: Requiring good design and Chapter 11: Conserving and enhancing the Natural Environment; and the National Planning Practice Guidance (NPPG) are also of material relevance to this application.

7. Summary of Consultation Responses

Hilperton Parish Council: Objects arguing that the '*...land in question is outside Village Policy Limits and the information on the application is insufficient, making it difficult for the Parish Council to make a reasoned judgement. However, we are not at all convinced that there is any justification for the proposal or any necessity for this dwelling for agricultural purposes.*'

Wiltshire Council's Agricultural Consultant: No objection – The consultant's detailed appraisal of the application proposal and recommendation is contained within section 9 of this report. For the avoidance of any doubt, following the terms of the Dec 2017 deferment, the Council's agricultural consultant was re-consulted on the submission of additional and amended information provided by the applicant in March 2018 which included confirmed land availability information as well as informing the consultant about the received objections.

Wiltshire Council's Local Highways Officer: If the committee is minded to approve the application, the highway officer recommends a series of conditions to improve the visibility splays and to ensure safe ingress and egress of vehicles using the access.

8. Publicity

The application was publicised via a site notice. Following the publicity, 8 letters of representation were received in total.

6 objection representations were received raising the following concerns:

- The applicants will not have use of Hill Farm Land in the future;
- There is no need for an essential rural worker to be located on the site. The applicants already live in the area;
- The proposal is not supported by a viable agricultural enterprise
- The application would adversely impact on open countryside and is contrary to policy
- There would be increased traffic and associated safety risks
- There would be unwelcome noise impacts
- Concerns are raised about the type of foundation of building
- Power supply concerns to the building
- Soakaways will not work at this site

3 letters of support were also received – which raised the following comments:

- There would be no increase in traffic movements
- By living on site, the applicants can continue to grow their business

9. Planning Considerations

9.1 The Principle of Development - Paragraph 49 of the National Planning Policy Framework (NPPF) states that housing applications should be considered in the context of the presumption in favour of sustainable development. Paragraph 55 of the NPPF advises that '*Local planning authorities should avoid new isolated homes in the countryside unless there are special circumstances such as the essential need for a rural worker to live permanently at or near their place of work in the countryside*' (Note – the emphasis has been added by officers).

9.1.1 WCS Core Policy 1 outlines the settlement strategy for Wiltshire and identifies the settlements where sustainable development will take place. Core Policy 2 addresses the issue of development outside of settlement boundaries and states that, other than in circumstances permitted by other policies within the plan (including supporting rural life), residential development will not be permitted outside the limits of development (unless it has been identified within the subsequent Site Allocations Development Plan Document and Neighbourhood Plan). Core Policy 48 states that proposals for residential development outside the defined limits of development will be supported where these meet the accommodation needs required to enable rural workers to live at or in the immediate vicinity of their place of work and such proposal should be supported by functional and financial evidence.

9.1.2 The Council's agricultural consultant has assessed the need for an agricultural workers dwelling at this site based upon the current farm practices and the proposed business plan to expand the farming enterprise. It is therefore firstly relevant to consider the requirements of the current enterprise and whether those requirements present an essential need for a worker to live at or near the farm enterprise. On this point, the Council's agricultural consultant concludes by saying (with paragraphs duly referenced) that:

'6.3 It is my view that the key aspects of essential need are lambing, calving, kidding and the close care of neonatal animals, including the turkey poults. The quantity and spread of births proposed across the year will in my view present a requirement for essential care at short notice across most of the year.

6.4 It is my view that the implementation of the business plan will result in an essential need for a presence on site at most times'.

9.1.3 The Council's agricultural consultant concludes that there is an essential need for a person to live on the site.

9.1.4 In cases such as this, it is necessary to assess the existing and proposed business as part of understanding the justification for the proposed rural dwelling. Such an assessment is critical to forming an opinion on an "essential need". In this case the essential need described and recognised above would only continue through the operation of the business. If the business does not operate on a profitable and viable basis then it will fail; and, in such cases the application for a temporary basis is considered the most appropriate mechanism and process to prove the viability of an agricultural business. Should the enterprise fail, the temporary building could be easily and quickly removed from the site and the land restored to avoid the site being left with a dwelling with no "essential need".

9.1.5 In assessing the applicant's business plan, the Council's agricultural consultant has made the following comments:

"7.1 There is no express reference in the NPPF to a financial assessment of either an existing or proposed business which will operate in association with the proposed rural dwelling. It is my opinion that such an assessment is [however] critical to forming an opinion on the continuation of the "essential need..."

7.2 *The applicant has submitted profit and loss accounts for the last four trading periods, together with a projected profit and loss for the three years of the business plan, along with a document which describes the current farming practice and sets out the proposed practice.*

7.3 *Whilst the recent accounts show a profit and salaries to the applicants there is also reliance on a large proportion of gross income from agricultural contracting off-site. In my view the historic profitability offers little value in assessing the business on site due to the extent of the income earned off site.*

7.4 *The projected accounts [however] show a very significant reduction in off-site income. It is my view that for profit and loss the business plan appears to be planned on a relatively sound basis. The capital accounts show that the business has a high level of gearing and a small proportion of net assets. In order to expand it is likely that the business will need further capital; I understand this is likely to be available from Director loans”.*

9.1.6 The Council's agricultural consultant concludes in the above paragraphs that the business plan has been planned on a relatively sound basis with a requirement for further capital in order to expand the business. The Council's agricultural consultant has raised some concern that there is a heavy reliance on use of third party land under short term agreements, which provides no long term security on use of the land. However, there is a recognition that there is a plentiful supply of land available on short term arrangements and there is no evidence to suggest that such supply is likely to significantly reduce in the short term and the availability of such land offers the means by which new farming start-up businesses such as that promoted by the applicants here, can gain quick establishment.

9.1.7 In terms of land availability, the applicant currently owns 12 acres of freehold land which comprises the field on which the temporary dwelling would be located. In addition the applicants have access to approximately 56 acres of land that is rented annually on a formal basis at Leigh Park Farm (see Appendix C for a copy of the license plan) dated from January 2018 onwards. Although not located adjacent the application site, it is common practice for modern farming operations based on having access to land that is both owned and rented, some of being detached from the main steading and farm holding. The Leigh Park farm land is relatively close to Hilperton and is used mainly during the spring and summer to graze sheep and cattle. It is clearly considered as being viable and attractive to the applicant. The applicants also had access to more than 700 acres of land rented over the 2017/18 winter period to graze sheep on an informal short term basis (see Appendix D for a list of sites where land was rented over the 2017/18 winter period); and as reported by the Council's agricultural consultant, there is no evidence to suggest that this or similar arrangements, will not continue over the application period.

9.1.8 Following the recent confirmation and assertion made by the owners of the farmland that previously rented it to the applicants at Hill Farm; the Council's agricultural consultant reports that:

“8.7 I have reviewed the overall composition of land held under agreement and on licence arrangements, shown on the composite plan supplied by the applicant. The plan shows freehold land yellow, land rented as green, land rented from autumn 2016 hatched green and land on licence from winter 16/17 hatched yellow. The Hill Farm land is very close to the freehold land; however there are other blocks on grazing licence which are also close. It is clear that the loss of the Hill Farm land will be significant as it is physically close to the farm buildings. However, there are other areas of land which are also apparently available on grazing licence. The plan serves to show the scattered nature of the land controlled by the applicant. Land closest to the farm buildings is clearly going to be more accessible for enterprises such as the goats whereas the off lying land will be better suited to the sheep on tack or the production of forage.”

9.1.9 In relation to the continued use of short term land and promotion of start-up farm businesses the Council's agricultural consultant states:

“8.8 The business proposition now is the same as that which was identified previously. It is a matter of fact that the business could not be conducted without the use of third party land. Clearly this is not a particularly satisfactory arrangement and certainly offers no long term security on the use of the land. There is, however, a supply of land available on short term arrangements and no evidence to suggest that such supply is likely to significantly reduce in the short term. The availability of such land

offers the means by which new farming businesses such as that promoted by the applicants can gain quick establishment, however that comes at a cost of a lack of security of tenure. As seen with the land at Hill Farm, the continued availability of short term cannot be guaranteed.”

9.1.10 Whilst it is recognised that there is a heavy reliance on the short term agreements, officers are fully mindful that this application seeks to establish temporary permission for an agricultural workers dwelling for three years; and during that period officers would expect the applicant to advance with his business plan and make more permanent plans for securing land under their ownership to gain more security and viability – which will be required should the applicants ever seek to propose a permanent dwelling. For the purposes of this application, it is considered that the applicants have access to sufficient land, either freehold or rented annually (extending to approximately 68 acres), to support the farming enterprise in the short term and to support the fledgling business.

9.1.11 It is noted that concerns have been raised that there is a heavy reliance on off-site contracting work. However the Council’s agricultural consultant has concluded that the business is planned on a sound financial basis and the applicant has confirmed that his income and time committed to the off-site agricultural contracting would diminish over the three year term. On this particular point, the Council’s agricultural consultant states that:

“5.2 The proposed expansion of the enterprises will present a labour requirement in excess of one full time unit; [and within paragraph] 9.0 The expansion of the business will present an essential need for a presence on site at most times”.

9.1.12 Based upon the information provided it is considered that there is an essential need for one agricultural worker to live on the site and that the farm enterprise is financially sustainable in the short term. The proposed development is for a temporary period and as such, there would be scope to re-assess the business and land availability following any re-submission in the future.

9.1.13 On the basis of the above and after extensive liaison with the Council’s agricultural consultant, the principle of siting a temporary dwelling for three years for an essential farm worker is supported by officers and is considered compliant with WCS CP48 and paragraph 55 of the NPPF.

9.2 Impact on the Character of the Area - Core Policy 51 of the Wiltshire Core Strategy states that development proposals should protect, conserve and where possible enhance landscape character and must not have a harmful impact upon landscape character and any negative impacts must be mitigated through sensible design and landscape measures. In particular development proposals must demonstrate that the local distinctive character of settlements and their landscape settings have been conserved and where possible enhanced. Core Policy 57 states application for new development must respond positively to the existing landscape to effectively integrate the building into its setting.

9.2.1 The proposed timber clad temporary dwelling would be relatively modest in size at approximately 3.7 metres to the eaves and 5 metres to the ridge; and 6 metres wide and 17 metres long. The building would be located within 6-8 metres of the western boundary of the field and adjacent to Whaddon Lane and would not appear as an incongruous or isolated form of development. Due to the height of the hedgerow adjacent to the highway the proposed dwelling would be sufficiently screened from Whaddon Lane.

9.2.2 When viewed from across the fields, in particular from the east, the proposed temporary dwelling would be seen against the back drop of the existing hedgerow. Due to the proposed position of the dwelling on site, its modest size and height and the exterior materials in its construction, it is not considered that the dwelling would have an adverse impact on the rural character of the area. The development is considered acceptable and would comply with Core Policies 51 and 57 of the Wiltshire Core Strategy.

9.3 Impact on the Living Conditions of Neighbouring Residents - Core Policy 57 of the Wiltshire Core Strategy requires a high standard of design in all new developments and that development has regard to the compatibility of adjoining buildings. The nearest residential dwellings are located at Hill Farm approximately 430 metres to the northeast, Sharkays, Whaddon Lane approximately 220 metres to the southwest and Knoll Farm located approximately 260 metres to the west. As such, the proposed temporary dwelling would be located a sufficient distance from neighbouring residents and

would have no material impact on their living conditions/amenities. The development therefore complies with Core Policy 57 of the Wiltshire Core Strategy and advice contained in the NPPF.

9.4 Highway Safety/Parking Issues - Paragraph 32 of the NPPF states that development should only be prevented or refused on transport grounds where the residual cumulative impacts of development are severe. Core Policy 61 furthermore advises that new development should be served by safe access to the highway network. In this particular case, the Council's highway officer states the existing access is substandard in terms of visibility however this issue can be addressed by requiring certain improvements along the site frontage on land owned and controlled by the applicants. Should the committee be minded to approve temporary planning permission, the condition should require visibility at the access to be improved before the development is brought into use.

9.4.1 Sufficient space is available on site to accommodate 2 off road parking spaces. As such the scheme complies with current council parking standards. The proposed development would therefore not result in severe or cumulative harm to highway safety and the scheme complies with the advice contained within the NPPF and policy CP61 of the WCS.

9.5 Drainage Issues - Paragraph 103 of the NPPF states when determining planning applications, local planning authorities should ensure flood risk is not increased elsewhere. In this case, the site is recognised as being flood zone 1 and there are no known land drainage constraints which cannot be addressed. The applicant proposes to deal with foul water drainage by an on-site septic tank. A condition is recommended requiring details of surface water drainage to be submitted before works on site commence.

9.6 Other Material Issues - Other issues have been raised by third parties pursuant to concerns about the proposed foundations of the building and a power supply. These matters don't raise any policy conflicts. The unwelcome noise impact concerns raised have not been substantiated and are also not considered defensible grounds to refuse planning permission. Any future statutory noise nuisance generated from and associated to the proposed dwelling would be handled under separate legislation, enforced by the Council's public protection service.

10. Conclusion (The Planning Balance) - The Council's agricultural consultant advises that the applicants business plan generates an essential need for on-site occupation at most times. The current farming business is considered to be viable. Whilst it is acknowledged that the projected accounts show a very significant reduction in off-site income, the business plan for the upcoming three year period appears to be planned on a sound basis. It is accepted that there is a large amount of land held by the applicant under temporary or short terms agreements. However, as reported, the agricultural consultant has concluded that there is no evidence to suggest that the supply will significantly reduce in the short term.

The siting of a temporary workers dwelling would not significantly or adversely affect the rural character of the area, the living conditions and amenities of neighbouring residents or highway safety interests. The application therefore complies with Core Policies 48, 51, 57 and 61 of the Wiltshire Core Strategy and the advice contained within the NPPF.

The application would however need to be subject to a series of rigorous planning conditions, which are set out within section 11 below.

11. RECOMMENDATION: Approve temporary planning permission subject to the following conditions:

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

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

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

Proposed Site Location Plan; Site plan scale 1:500 received 19 May 2017; Proposed Layout and Elevations Plan (dwg no. 2629/02) received 19 May 2017; Septic Tank details received 19 May 2017; Attenuation treatment details received 19 May 2017; Visibility splay details received 27 July 2017.

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

3. The occupation of the temporary dwelling hereby approved shall be limited to a person solely or mainly working, or last working, in the locality in agriculture or in forestry, or a widow or widower of such a person, and to any resident dependants.

REASON: The site is in an area where residential development for purposes other than the essential needs of agriculture or forestry is not normally permitted and this permission is only granted on the basis of an essential need for a new dwelling/residential accommodation in this location having been demonstrated.

4. The temporary dwelling hereby approved and all external residential paraphernalia associated with the residential unit shall be removed and the land restored to its former condition on or before 30 May 2021 in accordance with a scheme to be submitted to and approved by the Local Planning Authority.

REASON: Permission is granted on a temporary basis only to establish whether there is a functional need for permanent on site residential accommodation at this agricultural holding.

5. 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.

6. The development hereby permitted shall not be occupied until the means of foul water drainage for the temporary dwelling (i.e. the septic tank details received 19 May 2017) have been completed in accordance with the submitted details.

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

7. The development hereby approved shall not be first occupied until visibility splays have been provided between the edge of the carriageway and a line extending from a point 2.4 metres back from the edge of the carriageway, measured along the centre line of the access, to the points on the edge of the carriageway 90 metres in both directions from the centre of the access. Such splays shall thereafter be permanently maintained free from obstruction to vision above a height of 900mm above the level of the adjacent carriageway.

REASON: In the interests of highway safety.

8. The development hereby approved 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.

REASON: In the interests of highway safety.

10. Within 1 month of the occupation of the temporary agricultural workers dwelling hereby approved the existing unauthorised caravan shall be permanently removed from the site.

REASON: This site is in a position where the Local Planning Authority, having regard to the reasonable standards of residential amenity, access, and planning policies pertaining to the area, would not permit additional permanent residential accommodation in tandem with the approved.

INFORMATIVE TO APPLICANT:

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

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

REPORT OUTLINE FOR AREA PLANNING COMMITTEES **Report No.**

Date of Meeting	13 December 2017
Application Number	17/04707/FUL
Site Address	Land at Whaddon Lane, Hilperton, Wiltshire BA14 6NR
Proposal	Siting of a temporary rural workers dwelling and access track
Applicant	Mr & Mrs S Yalland
Town/Parish Council	HILPERTON
Electoral Division	HILPERTON – Councillor Ernie Clark
Grid Ref	387960 160165
Type of application	Full Planning
Case Officer	Steven Sims

Reason for the application being considered by Committee

Councillor Ernie Clark has requested that if officers are minded to approve the application, it should be reported to the Planning Committee for the consideration of the following:

- The Scale of Development
- Visual Impact upon the Surrounding Area
- Design - Bulk, Height, General Appearance
- Environmental or Highway Impact
- The Parish Council objects to the application proposal and have requested that it is call to committee for the elected members to determine.
- Financial viability of the proposed development (despite requesting the accounts nothing has been received)
- Areas of the 'rented land' seem to have only informal grazing rights at limited times of the year
- The land owned by the applicant is not large enough to warrant any type of agricultural dwelling

1. Purpose of Report

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

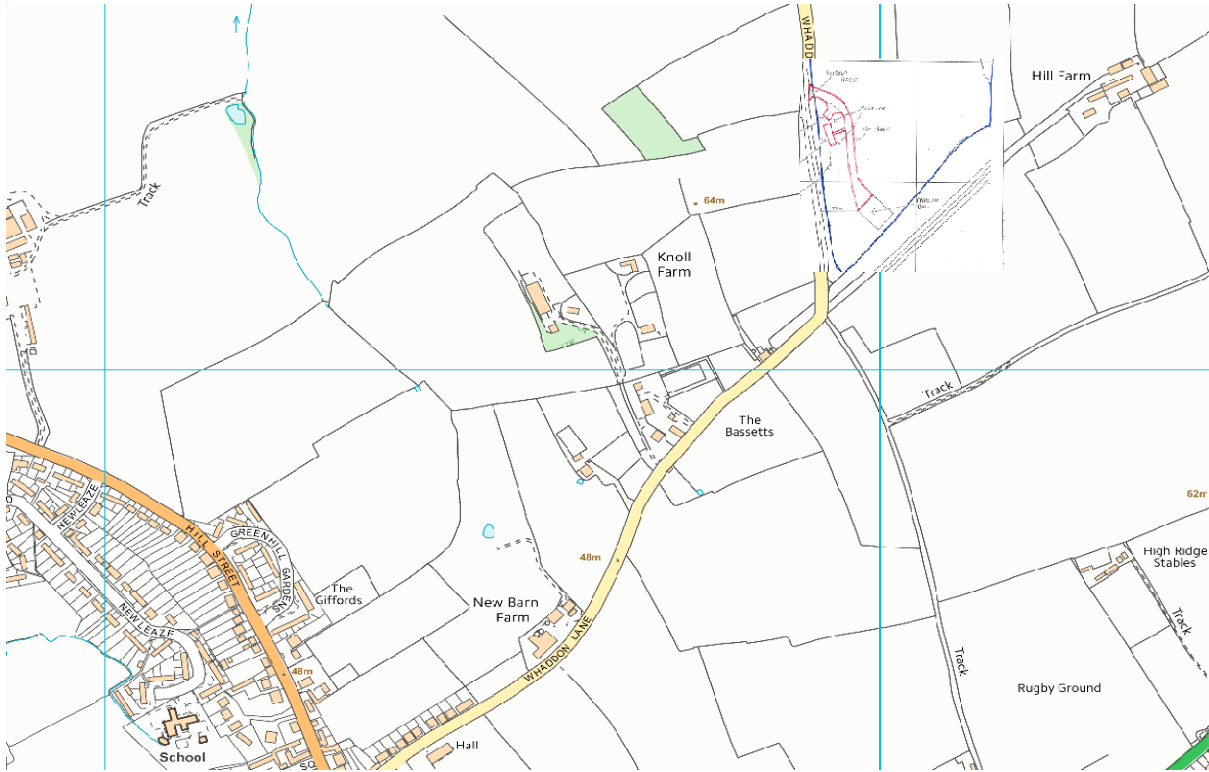
2. Report Summary

The main issues to consider for this application are considered to be:

- The Principle of Development
- The Impact on the Character of the Area
- The Impact on the Living Conditions of Neighbouring Residents
- Highway Safety/Parking Issues
- Drainage Issues

3. Site Description

The site is located within the open countryside beyond any defined settlement and consists of a field located to the east of Whaddon Lane. The field is bordered by hedgerows and an existing agricultural barn is located on the site. The applicants have recently advised that they now live on site within a touring caravan. Officers have been further advised that the applicants used the proceeds of sale from their freehold dwelling to fund the purchase of the freehold land. The touring caravan is located to the south of the aforementioned barn. The nearest residential dwellings are located at Hill Farm approximately 430 metres to the northeast, Sharkays, Whaddon Lane approximately 220 metres to the southwest and Knoll Farm located approximately 260 metres to the west. The plan insert on the following page illustrates the application site being overlaid on a wider plan of the local area followed by a more detailed site plan.



The Existing Farming Practice

The holding is run as a livestock breeding and rearing business. The core enterprises are the production of finished lambs from a ewe flock, the production of finished cattle from a small suckler herd and rearing and sale of cattle from purchased calves. In addition to the “conventional” livestock the applicants also breed and sell pygmy goats.

The ewe flock comprises some 470 ewes. Lambing is split, with 100 Dorset mules due to lamb in September, a further part of the flock to be lambed in January and the maincrop lambing from March to May. Finished lambs are sold to slaughter. The applicants advise that September lambing takes place outdoors, with all other lambing taking place at the farm building. In addition to the breeding flock the applicants also have some 750 head of sheep on tack over winter. Cattle are reared either for sale as stores or as finished animals from a small suckler herd. The most recent batch of calves comprised 40 head with sales split 50/50 between weaned animals and 12 month stores. The pygmy goats comprise some 30 head of nannies, which are bred to produce offspring which are sold to private buyers as pets.

The farm enterprise is supported by a sole building on site which is a covered yard, constructed with a four bay portal frame main span and lean-to. The building has fibre cement sheet to the roof, spaced timber boarding to the upper elevations and concrete panels to the lower elevations. At the time of the

Council's agricultural consultant's site visit in June, the building was recently constructed and close to completion. The overall dimensions of the building are 24m x 18m including the 6m lean-to.

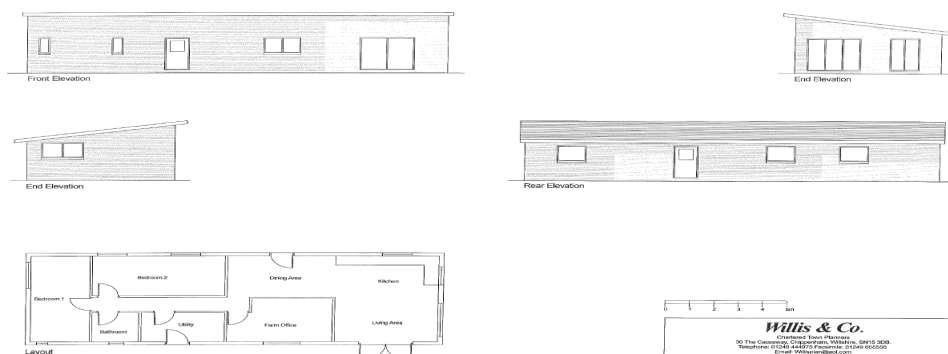
4. Planning History

16/06363/APD - General Purpose Agricultural Building – Refused 25.07.2016 for the following reason: *“The proposed development is not permitted development by Part 6, Class A.1 (i) because the development would be located within 400 metres of the curtilage of a protected building and the proposed building would be used for the accommodation of livestock”.*

16/08376/AGD - Erection of agricultural building for the storage of agricultural vehicles, tools equipment, feed and fodder and the provision of an area of hardstanding – Approved 16.09.2016.

5. The Proposal

This is a full application seeking temporary planning permission for a three year period for the siting and occupation of a timber clad mobile home to be used as a farm workers dwelling. As illustrated in the plan below, the proposed dwelling would be single storey and rectangular in shape measuring 6 metres wide and 17 metres long. Accommodation would comprise 2 bedrooms, office, living room, dining room and kitchen. It is noted the proposed study could form a third bedroom. 2 parking spaces would be provided on site with vehicle access being accommodated via an existing access off Whaddon Lane.



The Proposed Farming Practice

The proposal is to expand the enterprises over the next three years. The ewe flock will be expanded to approximately 600 head. The suckler herd is likely to stay at its current size. The pygmy goat enterprise will be expanded to 100 head of nannies. A turkey rearing enterprise will be introduced, with the applicants taking on a franchise arrangement under the “Kelly Bronze” brand. Some 500 poultts will be purchased and reared in the farm building. Under the franchise the franchiser takes a proportion of the finished animals with the balance sold by the applicant under the Kelly Bronze brand.

6. Planning Policy

Wiltshire Core Strategy - CP1: Settlement Strategy; CP2: Delivery Strategy; CP48: Supporting Rural Life; CP51: Landscape; CP57: Ensuring High Quality Design and Place Shaping; CP60: Sustainable Transport; and CP61: Transport and new development

Saved Policies for the West Wiltshire District Local Plan (1st Alteration) - U1a Foul Water Disposal; the Wiltshire Local Transport Plan 2011- 2026; and the Emerging Hilperton Neighbourhood Plan

The National Planning Policy Framework (NPPF) – Chapter 6: Delivering a wide choice of high quality homes; Chapter 7: Requiring good design and Chapter 11: Conserving and enhancing the Natural Environment; and The National Planning Practice Guidance (NPPG)

8. Summary of Consultation Responses

Hilperton Parish Council: Objects. *‘The land in question is outside Village Policy Limits and the information on the application is insufficient, making it difficult for the Parish Council to make a reasoned judgement. However, we are not at all convinced that there is any justification for the proposal or any necessity for this dwelling for agricultural purposes.’*

Wiltshire Council's Local Highways Officer: If the committee is minded to approve the application, the highway officer has recommended a series of conditions to improve the visibility splays and ensure safe ingress and egress of vehicles using the access.

8. Publicity

The application was publicised via a site notice. Following the publicity, 5 letters of objection were received raising the following concerns:

- Increased traffic and associated risk
- Adverse impact on open countryside
- Development out of character
- Unwelcome noise
- No need for an essential rural worker to be located on site
- Applicants already live in the area
- Contrary to policy
- Not a viable agricultural enterprise
- Concerns about type of foundation of building
- Power supply to building
- Soakaways do not work

3 letters of support were also received with the following comments:

- There would be no increase in traffic movements
- By living on site, the applicants can continue to grow their business

9. Planning Considerations

9.1 Principle of development - Paragraph 49 of the National Planning Policy Framework (NPPF) states that housing applications should be considered in the context of the presumption in favour of sustainable development. Paragraph 55 of the NPPF advises that '*Local planning authorities should avoid new isolated homes in the countryside unless there are special circumstances such as the essential need for a rural worker to live permanently at or near their place of work in the countryside*' (Note – the emphasis has been added by officers).

9.1.1 WCS Core Policy 1 outlines the settlement strategy for Wiltshire and identifies the settlements where sustainable development will take place. Core Policy 2 addresses the issue of development outside of settlement boundaries and states that, other than in circumstances permitted by other policies within the plan (including supporting rural life), residential development will not be permitted outside the limits of development (unless it has been identified within the subsequent Site Allocations Development Plan Document and Neighbourhood Plan). Core Policy 48 states that proposals for residential development outside the defined limits of development will be supported where these meet the accommodation needs required to enable rural workers to live at or in the immediate vicinity of their place of work and such proposal should be supported by functional and financial evidence.

9.1.2 The Council's agricultural consultant has assessed the need for an agricultural workers dwelling at this site based upon the current farm practices and the proposed business plan to expand the farming enterprise. It is therefore firstly relevant to consider the requirements of the current enterprise and whether those requirements present an essential need for a worker to live at or near the farm enterprise. On this point, the Council's agricultural consultant concludes by saying (with paragraphs duly referenced) that:

'6.3 It is my view that the key aspects of essential need are lambing, calving, kidding and the close care of neonatal animals, including the turkey poults. The quantity and spread of births proposed across the year will in my view present a requirement for essential care at short notice across most of the year.

6.4 It is my view that the implementation of the business plan will result in an essential need for a presence on site at most times'.

9.1.3 The Council's agricultural consultant therefore concludes there is an essential need for a person to live on or near the site.

9.1.4 In cases such as this, it is necessary to assess the existing and proposed business as part of understanding the justification for the proposed rural dwelling. Such an assessment is critical to forming an opinion on the “essential need”. In this case the essential need described and recognised above will only continue through the operation of the business. If the business does not operate on a profitable and viable basis then it will fail; and, in such cases the application for a temporary basis is considered most appropriate to proof the viability of the agricultural business. Should the enterprise fail, the mobile could be easily removed from the site and the land restored to avoid the site being left with a dwelling with no “essential need” for its presence.

9.1.5 In assessing the applicant’s business plan, the Council’s agricultural consultant has made the following comments:

“7.1 There is no express reference in the NPPF to a financial assessment of either an existing or proposed business which will operate in association with the proposed rural dwelling. It is my opinion that such an assessment is critical to forming an opinion on the continuation of the “essential need...”

7.2 The applicant has submitted profit and loss accounts for the last four trading periods, together with a projected profit and loss for the three years of the business plan, along with a document which describes the current farming practice and sets out the proposed practice.

7.3 Whilst the recent accounts show a profit and salaries to the applicants there is also reliance on a large proportion of gross income from agricultural contracting off-site. In my view the historic profitability offers little value in assessing the business on site due to the extent of the income earned off site.

7.4 The projected accounts show a very significant reduction in off-site income. It is my view that for profit and loss the business plan appears to be planned on a relatively sound basis. The capital accounts show that the business has a high level of gearing and a small proportion of net assets. In order to expand it is likely that the business will need further capital; I understand this is likely to be available from Director loans”.

9.1.6 The council’s agricultural consultant has concluded that the business plan has been planned on a relatively sound basis with a requirement for further capital in order to expand the business. The Council’s agricultural consultant has raised concerns that there is a heavy reliance on use of third party land under short term agreements, which provides no long term security on use of the land. However, he does conclude that there is a plentiful supply of land available on short term arrangements and there is no evidence to suggest that such supply is likely to significantly reduce in the short term and the availability of such land offers the means by which new farming businesses such as that promoted by the applicants here, can gain quick establishment.

9.1.7 In terms of land, the applicants own 12 acres freehold which comprises the field on which the temporary dwelling would be located. In addition the applicants have access to approximately 124 acres of land rented annually on a formal basis. This land lies adjacent the application site and with the freehold land forms a central block of 136 acres. This land is used mainly during the spring and summer to graze sheep and cattle. The applicants also have access to approximately 502 acres of land rented over the winter period to graze sheep on an informal short term basis.

9.1.8 Although it is recognised that there is a heavy reliance on short term agreements, it is considered that the applicants have access to sufficient land, either freehold or rented annually (approx. 136 acres), to support the business in the short term and to support this fledgling business.

9.1.9 It is furthermore noted that concerns have been raised that there is a heavy reliance on off-site contracting work. However the Council’s agricultural consultant has concluded that the business is nevertheless planned on a sound financial basis and the applicant has confirmed that his income and time committed to the off-site agricultural contracting will diminish over the three year term. In response to this, the Council’s agricultural consultant states that:

“5.2 The proposed expansion of the enterprises will present a labour requirement in excess of one full time unit; [and within paragraph] 9.0 The expansion of the business will present an essential need for a presence on site at most times. The business appears to be planned on a sound financial basis, however, the position on net assets is not strong”.

9.1.10 Based upon the information provided it is considered that there is an essential need for one agricultural worker to live on the site and that the farm enterprise is financially sustainable in the short term. The principle of development for the erection of a temporary dwelling for three years for an essential farm worker would be compliant with WCS CP48 and paragraph 55 of the NPPF and it can therefore be supported.

9.2 Impact on the Character of the Area - Core Policy 51 of the Wiltshire Core Strategy states that development proposals should protect, conserve and where possible enhance landscape character and must not have a harmful impact upon landscape character and any negative impacts must be mitigated through sensible design and landscape measures. In particular development proposals must demonstrate that the local distinctive character of settlements and their landscape settings have been conserved and where possible enhanced. Core Policy 57 states application for new development must respond positively to the existing landscape to effectively integrate the building into its setting.

9.2.1 The proposed timber clad mobile would be relatively modest in size at approximately 3.7 metres to the eaves and 5 metres to the ridge; and 6 metres wide and 17 metres long. The building would be located within 6-8 metres of the western boundary of the field and adjacent to Whaddon Lane and would not appear as an incongruous or isolated form of development. Due to the height of the hedgerow adjacent to the highway the proposed dwelling would be sufficiently screened from Whaddon Lane.

9.2.2 When viewed from across the fields, in particular from the east, the proposed temporary dwelling would be seen against the back drop of the existing hedgerow. Due to the proposed position of the dwelling on site, its modest size and height and the exterior materials in its construction, it is not considered that the dwelling would have an adverse impact on the rural character of the area. The development is considered acceptable and would comply with Core Policies 51 and 57 of the Wiltshire Core Strategy.

9.3 Impact on the Living Conditions of Neighbouring Residents - Core Policy 57 of the Wiltshire Core Strategy requires a high standard of design in all new developments and that development has regard to the compatibility of adjoining buildings. The nearest residential dwellings are located at Hill Farm approximately 430 metres to the northeast, Sharkays, Whaddon Lane approximately 220 metres to the southwest and Knoll Farm located approximately 260 metres to the west. As such, the proposed temporary dwelling would be located a sufficient distance from neighbouring residents and would have no material impact on their living conditions/amenities. The development therefore complies with Core Policy 57 of the Wiltshire Core Strategy and advice contained in the NPPF.

9.4 Highway Safety/Parking Issues - Paragraph 32 of the NPPF states that development should only be prevented or refused on transport grounds where the residual cumulative impacts of development are severe. Core Policy 61 furthermore advises that new development should be served by safe access to the highway network. In this particular case, the Council's highway officer states the existing access is substandard in terms of visibility however this issue can be addressed by requiring certain improvements along the site frontage on land owned and controlled by the applicants. Should the committee be minded to approve temporary planning permission, the condition should require visibility at the access to be improved before the development is brought into use.

9.4.1 Sufficient space is available on site to accommodate 2 off road parking spaces. As such the scheme complies with current council parking standards. The proposed development would therefore not result in severe or cumulative harm to highway safety and the scheme complies with the advice contained within the NPPF and policy CP61 of the WCS.

9.5 Drainage Issues - Paragraph 103 of the NPPF states when determining planning applications, local planning authorities should ensure flood risk is not increased elsewhere. In this case, the site is recognised as being flood zone 1 and there are no known land drainage constraints which cannot be addressed. The applicant proposes to deal with foul water drainage by an on-site septic tank. A condition is recommended approval requiring details of surface water drainage to be submitted before works on site commence.

9.6 Other Material Issues - Other issues have been raised by third parties namely concern over the proposed foundations of the building and power supply, however these issues carry little weight in the planning determination. In addition concern has been raised about unwelcome noise from the development however these issues are dealt with under other legislation such as Environmental Health legislation.

10. Conclusion (The Planning Balance) - In conclusion, the Council's agricultural consultant advises that the implementation of the business plan would result in an essential need for on-site occupation at most times. He concludes that the current business is viable and whilst the projected accounts show a very significant reduction in off-site income, the business plan for the upcoming three year period appears to be planned on a sound basis. Although there is a large amount of land held by the applicant under temporary or short terms agreements, the agricultural consultant has concluded that there is no evidence to suggest that such supply is likely to significantly reduce in the short term. The siting of a temporary workers dwelling would not significantly or adversely affect the rural character of the area, the living conditions and amenities of neighbouring residents or highway safety interests. The application therefore complies with Core Policies 48, 51, 57 and 61 of the Wiltshire Core Strategy and the advice contained within the NPPF. It would need to be subject to rigorous planning conditions, which are set out within section 11.

11. RECOMMENDATION: Approve temporary planning permission subject to the following conditions:

9. 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.

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

Proposed Site Location Plan; Site plan scale 1:500 received 19 May 2017; Proposed Layout and Elevations Plan (dwg no. 2629/02) received 19 May 2017; Septic Tank details received 19 May 2017; Attenuation treatment details received 19 May 2017; Visibility splay details received 27 July 2017.

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

11. The occupation of the temporary dwelling hereby approved shall be limited to a person solely or mainly working, or last working, in the locality in agriculture or in forestry, or a widow or widower of such a person, and to any resident dependants.

REASON: The site is in an area where residential development for purposes other than the essential needs of agriculture or forestry is not normally permitted and this permission is only granted on the basis of an essential need for a new dwelling/residential accommodation in this location having been demonstrated.

12. The temporary dwelling hereby approved and all external residential paraphernalia associated with the residential unit shall be removed and the land restored to its former condition on or before 13 December 2020 in accordance with a scheme to be submitted to and approved by the Local Planning Authority.

REASON: Permission is granted on a temporary basis only to establish whether there is a functional need for permanent on site residential accommodation at this agricultural holding.

13. 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.

14. The development hereby permitted shall not be occupied until the means of foul water drainage for the temporary dwelling (i.e. the septic tank details received 19 May 2017) have been completed in accordance with the submitted details.

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

15. The development hereby approved shall not be first occupied until visibility splays have been provided between the edge of the carriageway and a line extending from a point 2.4 metres back from the edge of the carriageway, measured along the centre line of the access, to the points on the edge of the carriageway 90 metres in both directions from the centre of the access. Such splays shall thereafter be permanently maintained free from obstruction to vision above a height of 900mm above the level of the adjacent carriageway.

REASON: In the interests of highway safety.

16. The development hereby approved 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.

REASON: In the interests of highway safety.

10. Within 1 month of the occupation of the temporary agricultural workers dwelling hereby approved the touring caravan shall be permanently removed from the site.

REASON: This site is in a position where the Local Planning Authority, having regard to the reasonable standards of residential amenity, access, and planning policies pertaining to the area, would not permit additional permanent residential accommodation in tandem with the approved.

INFORMATIVE TO APPLICANT:

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

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

AGRICULTURAL ASSESSMENT OF PLANNING APPLICATION.

1.0	REFERENCE	APA/03/0135
1.1	Proposed Development	Siting of temporary rural workers dwelling and access track.
1.2	Planning Authority	Wiltshire Council Development Management Central
1.3	Planning Application No.	17/04707/FUL
1.4	Applicant	Mr & Mrs S.Yelland
1.5	Site Address	Willowbrook Barn, Whaddon Lane, Hilperton

2.0 DESCRIPTION

2.1 Location

The application site forms part of Willowbrook Barn, which is the applicants' freehold farmstead Willowbrook Barn is accessed off Whaddon Lane and lies about half a mile north east of Hilperton villa and due north of Trowbridge Rugby Club. The surrounding land use is agricultural.

2.2 Land

2.2.1 Area and tenure

The applicants' freehold land comprises some 5ha (12 acres) in a single block, including the application site. In addition to the freehold land the applicants also have the use of some 243ha (600 acres) in the locality under a variety of short term tenancy agreements and seasonal grass keep agreements.

2.2. Soil Type and Characteristics

The soil at the application site is classified in the Wickham 3 association, which is described as slow permeable seasonally waterlogged fine loamy and coarse loamy soils over clay.

3.0 FARMING PRACTICE

Existing

- 3.1 The farm is run by a Company, Willowbrook Ventures Ltd. I understand Mrs Yelland is the sole Director Willowbrook Ventures Ltd; both Mr and Mrs Yelland are employees of Willowbrook Ventures Ltd. I understand that Mr Yelland also provides agricultural contracting services to Willowbrook Ventures and the income earned for agricultural contracting off the holding forms part of the gross income to Willowbrook Ventures Ltd.
- 3.2 The holding is run as a livestock breeding and rearing business. The core enterprises are the production of finished lambs from a ewe flock, the production of finished cattle from a small suckler herd and rearing a sale of cattle from purchased calves. In addition to the "conventional" livestock the applicants also breeds and sell pygmy goats.
- 3.3 The ewe flock comprises some 470 ewes. Lambing is split, with 100 Dorset mules due to lamb September, a further part of the flock to be lambed in January and the main crop lambing from March May. Finished lambs are sold to slaughter. The applicants advise that September lambing takes place outdoors, with all other lambing taking place at the farm building. In addition to the breeding flock the applicants also have some 750 head of sheep on tack over winter.
- 3.4 Cattle are reared either for sale as stores or as finished animals from a small suckler herd. Seven Dext cows are kept; the animals are bred and progeny reared for sale at finished at 24 months. The animals are slaughtered and butchered off site and the meat sold retail. The cattle rearing enterprise comprises t

purchase of week old calves which are then reared through with some sold at 12 weeks as weaned animals and the balance sold as stores at approximately 12 months. The most recent batch of calves comprised head with sales split 50/50 between weaned animals and 12 month stores.

- 3.5 The pygmy goats comprise some 30 head of nannies, which are bred to produce offspring which are so weaned at approximately 12 weeks; the applicants advise that all sales are to private buyers as pets.

Proposed

- 3.6 The proposal is to expand the enterprises over the next three years. The ewe flock will be expanded approximately 600 head. The suckler herd is likely to stay at its current size but the batches for calf rearing may be increased; in addition the applicants have been offered a rearing contract from Blade Farming but they are undecided on whether to pursue that line. The pygmy goat enterprise will be expanded to 1 head of nannies with sales as at present. A turkey rearing enterprise will be introduced, with the applicant taking on a franchise arrangement under the "Kelly Bronze" brand. Some 500 poultlets will be purchased and reared in the farm building. Under the franchise the franchiser takes a proportion of the finished animals with the balance sold by the applicant under the Kelly Bronze brand.

Comments

- 3.7 Mr Yelland confirms that under the business plan his income and time committed to agricultural contracting will diminish over the three year term. I understand that Mrs Yelland obtains income away from the holding as a veterinary nurse.

Buildings

- 3.8 The sole building on site is a covered yard, constructed with a four bay portal frame main span and lean-to. The building has fibre cement sheet to the roof, spaced timber boarding to the upper elevations and concrete panels to the lower elevations. The building has been recently constructed and is close to completion. The overall dimensions of the building are 24m x 18m including the 6m lean-to.

4.0 EXISTING ACCOMMODATION

Dwellings owned by applicant

- 4.1 I understand the applicants occupy a dwelling under a tenancy. The applicants advise that the dwelling is some two miles from the site and the tenancy is at expiry. The applicants advised that they used the proceeds of the sale from their freehold dwelling to fund the purchase of the freehold land.

5.0 LABOUR REQUIREMENTS

Existing

- 5.1 The current activities present a part time labour requirement.

Anticipated if proposals undertaken

- 5.2 The proposed expansion of the enterprises will present a labour requirement in excess of one full time unit

6.0 NPPF – ESSENTIAL REQUIREMENT

- 6.1 The planning application for the dwelling is associated with the proposed livestock business. The National Planning Policy Framework (NPPF) was introduced in 2012. The NPPF replaces all previous Planning Policy Statements (PPS). In the context of the application for the proposed dwelling, paragraph 55 of the NPPF states:

"Local planning authorities should avoid new isolated homes in the countryside unless there are specific circumstances such as the essential need for a rural worker to live permanently at or near their place of work in the countryside"

- 6.2 Under the NPPF it is therefore relevant to consider the requirements of the current enterprise and whether those requirements present an essential need for a worker to live at or near the enterprises
- 6.3 It is my view that the key aspects of essential need are lambing, calving, kidding and the close care of neonatal animals, including the turkey poultlets. The quantity and spread of births proposed across the year will in my view present a requirement for essential care at short notice across most of the year.

6.4 It is my view that the implementation of the business plan will result in an essential need for a presence site at most times.

7.0 BUSINESS ASSESSMENT

7.1 There is no express reference in the NPPF to a financial assessment of either an existing or proposed business which will operate in association with the proposed rural dwelling. It is my opinion that such an assessment is critical to forming an opinion on the continuation of the "essential need". In this case the essential need described and recognised above will only continue through the operation of the business. If the business has not been planned on a financially sound basis then it may fail and the authority would be left with a dwelling but no "essential need" for its presence.

7.2 The applicant has submitted profit and loss accounts for the last four trading periods, together with projected profit and loss for the three years of the business plan, along with a document which describes the current farming practice and sets out the proposed practice.

7.3 Whilst the recent accounts show a profit and salaries to the applicants there is also reliance on a large proportion of gross income from agricultural contracting off site. In my view the historic profitability offers little value in assessing the business on site due to the extent of the income earned off site.

7.4 The projected accounts show a very significant reduction in off-site income. It is my view that for profit or loss the business plan appears to be planned on a relatively sound basis. The capital accounts show that the business has a high level of gearing and a small proportion of net assets. In order to expand it is likely that the business will need further capital; I understand this is likely to be available from Director loans.

8.0 GENERAL COMMENTS

8.1 You have asked for my comments on the reliance on the use of land owned freehold by outside parties occupied by the applicant and/or Willowbrook Ventures Ltd under documented short term arrangements on an informal basis. That aspect of the application has been subject to scrutiny at planning committee as a result has been the subject of further correspondence from:

1. The applicants' agent, Willis and Co. The correspondence from Willis and Co. includes documents evidencing arrangements for short term lettings, including a licence of land at Leigh House Farm and copies of invoices for the occupation of land at Hill Farm.
2. Martyn Jones, MBIAC who has provided his comment on my previous report (03/0125)
3. At your suggestion I have also contacted Andrew and Sadie Pike, owners of Hill Farm which is currently occupied by Willowbrook Ventures Ltd under a short-term arrangement.

8.2 Below I set out my comments on the use of short term land and I then comment on the correspondence in a current situation.

Agriculture in the UK is a capital intensive business. The principal capital requirement is freehold land and buildings. The structural impact of the reliance on capital is that farm businesses tend to remain in the same ownership for many years, with a preponderance of freehold owner occupiers or quasi-freehold ownerships through Trust arrangements. This lock up of capital means that farmers are an ageing population and serves to significantly restrict new entrants to agriculture. Alongside the capital structure agriculture in the last 25 years, has seen an increased trend towards the "lifestyle" rural unit. Such a unit typically arises from the sale and break up of smaller farm businesses which often sees the farmhouse 'lotted' with say 50 acres of land. Such a unit appeals to a non-farming buyer, who then requires the land to be farmed. The land is often not farmed by the buyer (who will typically be outside agriculture) but instead is offered to local farmers under a short term arrangement. Such an arrangement might be a range of forms:

- A formal Farm Business Tenancy, for a fixed term of years and providing exclusive possession for the tenant and a rent to the landlord.
- A formal licence (which crucially does not offer exclusive possession) for a period – such period might typically be less than a year.
- A Share Farming Agreement, under which the landowner reserves the Area Payment for the land and the occupier farms the holding and retains the income from that farming activity. Such a contract might be seasonal or fixed for a term of years.
- An informal undocumented arrangement, such as seasonal keep on grassland under which there is no documented contract and payment might be a one-off sum in exchange for six months' grazing.

8.3 There is no formal research to indicate the combined prevalence of such arrangements but in experience it is rare to come across any farming business that does not have some reliance on the above arrangements. Whilst such arrangements offer no long term security it is clear there is a ready supply of land available under such arrangements. This situation has prevailed for many years and forms the basis of a circular argument:

Assertion: "Your business will not survive as there is no certainty of its continued occupation of short term land"

Rebuttal "Where is the evidence that the supply of short term land is diminishing?"

8.4 In my experience the continued availability of short term land is a function of each individual relationship between the landowner and the occupier. In the overall assessment of the business I would suggest the critical factor is the extent to which the business relies on such arrangements. Even if freehold land prevails, there is no assurance that it will continue; the owner may choose to cease farming and break up the freehold land into lots at sale.

8.5 Turning to the correspondence, the letter from Willis and Co. outlines aspects of the business and rehearses the use of short term land. The use of the land at Hill Farm is commented on further, below. The letter from Martyn Jones is generally supportive of the business; Mr Jones also comments on the capital position of the applicants as Directors of Willowbrook Ventures.

8.6 I have had correspondence with Mr and Mrs Pike, the owners of Hill Farm. It is clear from the correspondence that Willowbrook Ventures has the use of their land; it is equally clear that the business relationship is not strong and it is the owner's intent that the occupational arrangement will not be continued. This echoes my earlier point that the continued availability of short term land is a direct function of each individual relationship with each proprietor.

8.7 I have reviewed the overall composition of land held under agreement and on licence arrangements, shown on the composite plan supplied by the applicant. The plan shows freehold land in yellow, land rented in green, land rented from autumn 2016 hatched in green and land on licence from winter 16/17 hatched in yellow. The Hill Farm land is very close to the freehold land, however there are other blocks on grazing licence which are also close. It is clear that the loss of the Hill Farm land would be significant as it is physically close to the farm buildings. However, there are other areas of land which are also apparently available on grazing licence. The plan serves to show the scattered nature of the land controlled by the applicant. Land close to the farm buildings is clearly going to be more accessible for enterprises such as the goats whereas the off lying land would be better suited to the sheep on tack or the production of forage.

8.8 The business proposition now is the same as that which was identified previously. It is a matter of fact that the business could not be conducted without the use of third party land. Clearly this is not a particularly satisfactory arrangement and certainly offers no long term security on the use of the land. There is however, a supply of land available on short term arrangements and no evidence to suggest that such supply is likely to significantly reduce in the short term. The availability of such land offers the means by which new farming businesses such as that promoted by the applicants can gain quick establishment however that comes at a cost of a lack of security of tenure. As seen with the land at Hill Farm, the continued availability of short term cannot be guaranteed.

9.0 CONCLUSION AND OPINION

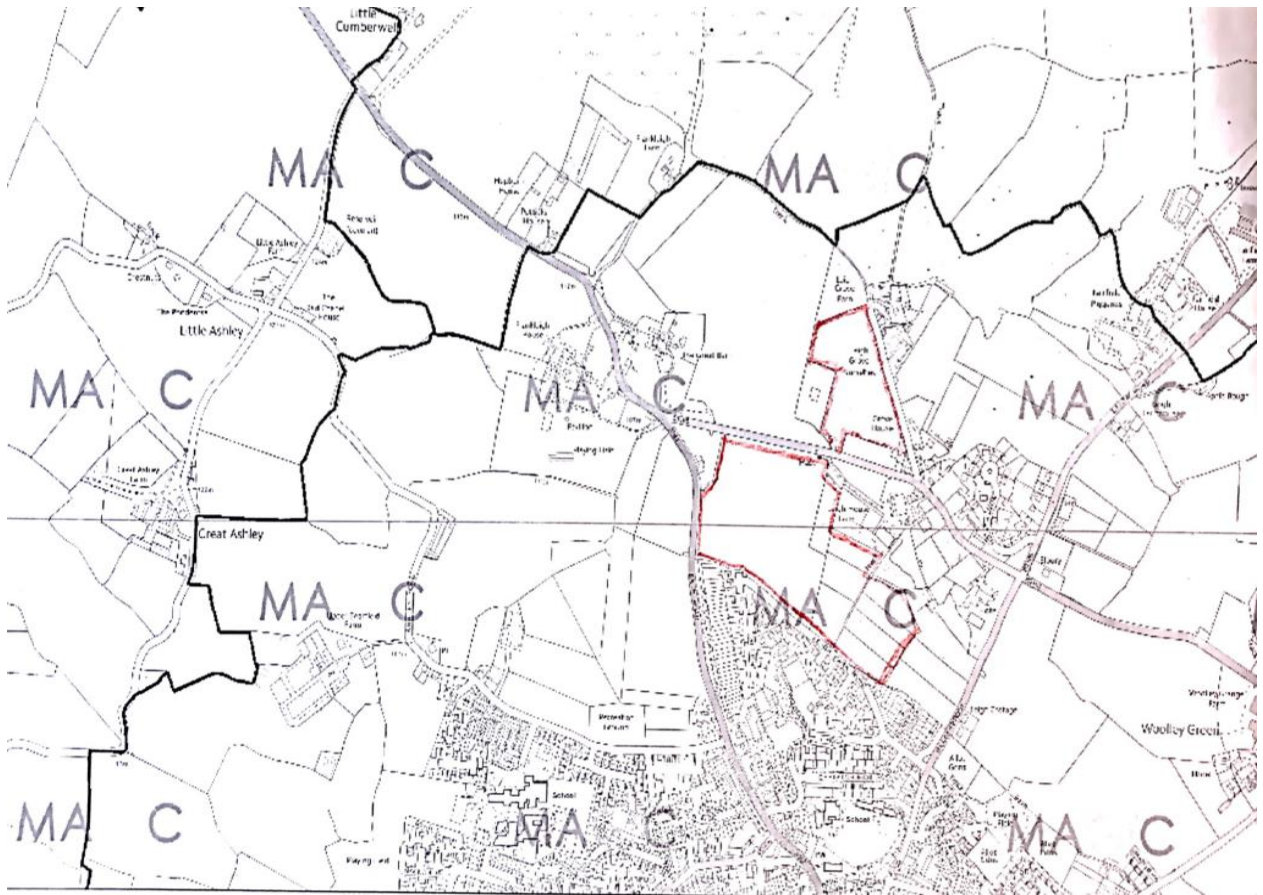
The expansion of the business will present an essential need for a presence on site at most times. The business appears to be planned on a sound financial basis, however, the reliance on insecure arrangements for land presents an area of uncertainty for the business.

I trust the above provides you with the information required. If you require any further information, or clarification on any aspect of the above, please do not hesitate to contact the writer.

A.M Coke BSc (Hons) MRICS

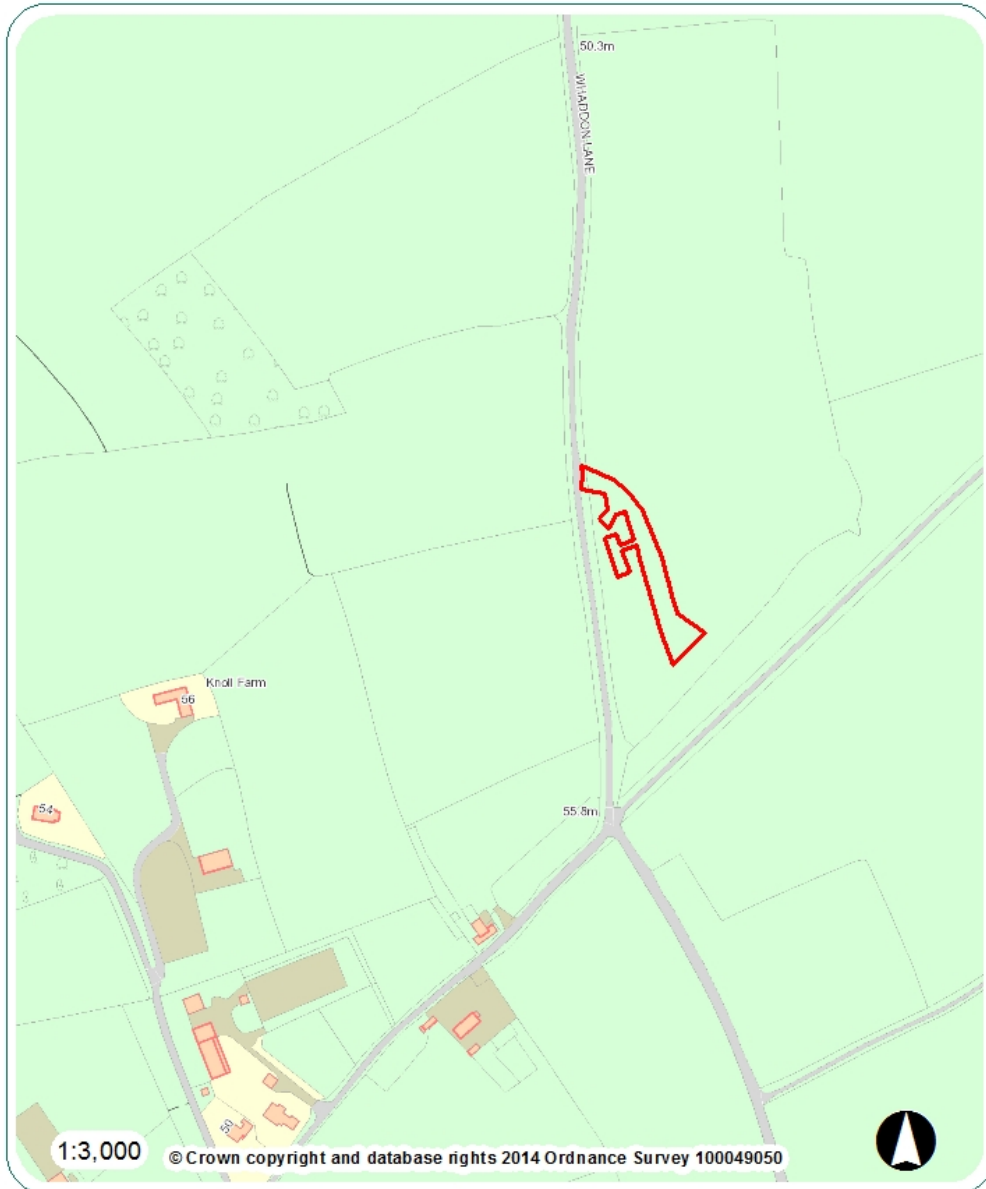
Note: This Report has been prepared on information provided by the Applicant and or the Applicant's Agent.

Appendix C: Copy of land registry plan highlighting land rented for 12 months to 31 December 2018 at Leigh Park Farm, Bradford on Avon



Appendix D: List of sites rented short term winter of 2017/18

- Ashton Hill Farm, West Ashton – 200 acres
- Arnolds Hill Farm, Wingfield – 100 acres
- New Barn Farm, Whaddon Lane – 50 acres
- 162 Devizes Road, Hilperton – 6 acres
- Ferrum House, Seend – 10 acres
- Leigh House Farm, Bradford on Avon – 120 acres
- Church Farm, Rode – 40 acres
- Bearfield Farm, Bradford on Avon – 70 acres
- Hales Farm, Urchfont – 30 acres
- Forest Farm, Melksham – 40 acres
- New Road Farm, Melksham – 45 acres



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REPORT FOR WESTERN AREA PLANNING COMMITTEE

Report No. 2

Date of Meeting	30 May 2018
Application Number	18/01841/FUL
Site Address	Land adjoining Hatch House, Up Street, Upton Lovell, BA12 0JP
Proposal	Retrospective change of use from agricultural land to a dog exercise area with retention of small paddock for agricultural use
Applicant	Mrs Lorna Street
Town/Parish Council	UPTON LOVELL
Electoral Division and Ward Member	WARMINSTER COPHEAP AND WYLYE – Cllr Christopher Newbury
Grid Ref	394,347 141,070
Type of application	Full Planning
Case Officer	David Cox

Reason for the application being considered by Committee

At the request of the Parish Council Cllr Christopher Newbury has requested that should officers be minded to approve this application, it should be brought before the elected members of the area planning committee for its determination and to consider the relationship with adjoining properties and the environmental and highways impacts of the development.

1. Purpose of Report

Having assessed the merits of the proposed development and tested it against the policies of the development plan and other material considerations, officers recommend that the application should be approved subject to conditions.

2. Report Summary

The main issues discussed in this report are as follows:

- The Principle of the Development
- Impact on Neighbouring Amenity
- Impact on Visual Amenity and the Area of Outstanding Natural Beauty
- Drainage and Flood Risk
- Highway Safety and Parking
- Impact on Ecology
- Impact on Designated Heritage Assets

3. Site Description

The application site is a rectangular piece of land located off Up Street at Upton Lovell – which is a small hamlet without settlement limits located about 0.5km from Corton and 2km south-east of Heytesbury and extends to approximately 0.43 hectares. The site is located in close proximity to the River Wylde, located to the west; and the Prince Leopold Public House and its car park, located to the North. Two dwellings (Hatch House and Vazon House) share a boundary with the site; and six residential properties are located on the north eastern side of Up Street – all of which can be easily identified on the site location context plan which is reproduced below. The application site is located within the Cranbourne Chase Area of Outstanding Natural Beauty and the land is classified as grade 4 agricultural land.



Despite the site's close proximity to the river, the land is not at risk of flooding. The Council's /EA flood risk mapping database reveals that flood zones 2 and 3 (i.e. land that has the highest risk of flooding) do not breach into the red outline of the site, only the blue outline, which is fenced off from the main field. The river Avon is also a SSSI and a Special Area of Conservation.

Flood Zone 2 Extent



Flood Zone 3 Extent



There are two grade II listed buildings within close proximity to the site at No 55 The Trumpeters approximately 45 metres to the north; and listed walls, railings and gate which form the south, west and north boundaries of Lovell House approximately 77 metres to the south. BOYT21 and ULOV11 public rights of way footpath pass Hatch House to the south and in a western direction, although views from the PRoW are limited.

4. Planning History

W/89/00504/OUT – Ten dwellings – refused

W/92/00369/FUL – Two dwellings and garages – refused

5. The Proposal

This application seeks retrospective permission for the change of use of land from agricultural use to a sui generis dog exercise and training area. Part of the landholding/paddock would however remain in agricultural use and the site photograph shown on the previous page illustrates this area that would left for crop growing.

The application seeks to use the site between 9am and 5pm between Mondays and Fridays with no use taking place at the weekends or on bank holidays. The applicant currently only spends a maximum of 4 hours on site on any given day but would like the flexibility of an extended timeframe of 9am-5pm.

It is understood that the applicant runs a dog training/dog day care business from the shared family home at Wellhead Drove in Westbury some 10km away. As dogs need to be exercised and stimulated, they are taken off site and since October 2016, this parcel of land at Upton Lovell has been used for outdoor dog exercise. Similar dog walking/dog day care businesses would usually take dogs for walks but due to the applicant's health and mobility restrictions, long walks are not a viable option for the applicant, and instead requires a dedicated parcel of land that is suitably enclosed and secure where the dogs can be exercised and stimulated without the applicant having to walk long distances.

The dogs are brought to the site via a large family sized car and up to 9 dogs are looked after by the dog trainer at any given time. No kennels are proposed as the dogs are transported from the applicant's home address. For local dog owners, dogs could be brought direct to the site for the applicant to exercise and train, should permission be granted.

When the application was lodged and advertised by site notice and neighbour notification letters posted out, the application description included and sought permission for the “*retrospective siting of ancillary mobile shepherds hut*”. This element has however been withdrawn from the application description proposal.

The hut stands on four wheels and can be moved around the site and off the site without extensive works. Under planning law, the hut is considered to be a ‘Chattel’ as set out by the following case: *Wealden District Council v Secretary of State for Environment and Colin Day (1988) JPL 268*.

The hut is currently unauthorised because it is being used as part of the dog business when the authorised use of the land is agricultural. However, (if and once) the land benefits from planning permission for the dog exercise and training business, the hut would be regarded as a ‘chattel’ and wouldn’t itself require planning permission.

The primary issue with this application relates to the principle of the change of use and its impact on neighbouring amenities. If the Planning Committee approves the application for the change of use, by virtue of the hut not being “*operational development*”, it would not require planning permission and it could continue to be used for ancillary uses by the applicant when on site exercising the dogs and/or be used for storage purposes associated to the remaining agricultural land use. If however, the Planning Committee refuses the application and the land and hut continue to be used in association to dog exercising purposes, it would be unauthorised; and enforcement action could be taken to secure the cessation of its use.

6. Planning Policy

The **Wiltshire Core Strategy (WCS)** - The following Core Policies (CP) are relevant when assessing this application: CP1 (Settlement Strategy), CP2 (Delivery Strategy), CP3 (Infrastructure Requirements), CP31 (Warminster Area Strategy), CP51 (Landscape), CP57 (Ensuring High Quality Design and Place Shaping), CP58 (Ensuring Conservation of the Historic Environment), CP60 (Sustainable Transport), CP61 (Transport and Development), CP62 (Development Impacts on the Transport Network), CP64 (Demand Management), CP67 (Flood Risk).

When adopting the WCS, some policies remain saved from the **West Wiltshire District Local Plan (1st Alteration) (WWDLP)**. There are no saved policies which apply to this application.

The **National Planning Policy Framework (NPPF)**, **National Planning Practice Guidance (NPPG)** and **Noise Policy Statement for England (NPSE)**.

AONB Management Plan

7. Summary of Consultation Responses

Upton Lovell Parish Council – Objects for the following reasons:

- Concerned about noise from barking dogs. The noise this business has created has exceeded that claimed by the applicant and has not been controlled;
- The village does not have high levels of background noise as claimed by applicant;
- The dog business brings no benefit to the Upton Lovell community or its inhabitants whilst introducing a noisy and intrusive commercial activity to the heart of the village;
- The reason for this application is to export the nuisance they create from the business owner’s home to this peaceful village;
- This proposal would threaten the unique aspect of having open un-developed fields interspersed amongst its houses; and,

- The shepherds hut is inappropriate in this agricultural location within an AONB

Wiltshire Council's Environmental Health Officer – No objection subject to condition

Wiltshire Council Ecology Officer – No objection

Wiltshire Council Highways Officer – No objection

Wiltshire Council Drainage Officer – The disposal of the waste from the Shepherds Hut may require a separate licence from the Environment Agency if it is to be disposed into the mains sewer.

AONB Officer – No objection subject to conditions limiting the use to the working day and Monday-Friday

Environment Agency – No comments,

8. Publicity

A site notice was displayed along Up Street and ten individual notification letters were posted to neighbouring residents. Following these notifications, 28 letters of support were received (with 6 letters from two Upton Lovell addresses) and 5 letters of objection were received. 2 letters providing general comments were also received.

Of the 28 received supportive letters, 11 were from separate Upton Lovell addresses and 13 from Westbury, Warminster and Salisbury. The 5 objection letters were all from Upton Lovell, 4 of which share immediate boundaries or are opposite the site.

The 5 letters of objection raised the following points of concern:

- Why wasn't the applicant aware that planning permission was required given that they have a business already?
- The applicant's website boasts that they have access to a large garden and walks along Salisbury Plain are available – so why come to Upton Lovell?; and, why not walk the dogs somewhere else?
- This would generate unnecessary vehicle movements to the site;
- This is an application for convenience and is not essential to the running of the business – if the application is refused, the business would still continue;
- What would happen to other paddocks in the village if this is approved?
- The site is not redundant to agriculture and has previously been used for hay and to graze sheep
- This would introduce an additional business into the village which has serious restricted access and the road is heavily overcommitted and overstretched. The access to the pub is often inaccessible by traffic at the pub, housing and farming. There is often gridlock at this point.
- There is no law preventing 9 dogs being walked by one person – so the applicant cannot claim to be pre-empting this supposed change in the law;
- Dogs bark for long periods uncontrollably;
- The village is not noisy and dog barks are very easily heard;
- Why can the owners of dogs not walk their own dogs?
- The hut is unsightly and inappropriate for an Area of Outstanding Natural Beauty;
- The proposal would cause harm to the SSSI (the river);
- The Council should not allow building on a flood plain;
- Upton Lovell does not want this proposal;

The letters of support can be summarised along the following grounds:

- This proposal would make good use of the existing field;
- Supporting a small business should be applauded and is a good example of a small scale rural economy;
- The dogs are not a nuisance and we are used to a lot of dogs in the village as the pub is a favourite watering hole where dogs are welcome (No 56 Upton Lovell – immediately opposite the site);
- As a local resident who works nearby, the dogs are rarely heard;
- It is ridiculous to say that the hut is harmful to the village;
- It is not true to say that barking dogs are not dealt with by the applicant.

The two general comment letters objected to the location plan being inaccurate as it doesn't show the boundary line between Vazon House and Hatch House.

9. Planning Considerations

Section 70(2) of the Town and Country Planning Act 1990 and Section 38(6) of the Planning and Compulsory Purchase Act 2004 require that the determination of planning applications must be made in accordance with the Development Plan, unless material considerations indicate otherwise. In this case, the Wiltshire Core Strategy, including those policies of the West Wiltshire District Plan that continue to be saved and enshrined within the WCS, constitutes the relevant development plan for the Melksham area.

9.1 Principle of the Development

9.1.1 The Core Strategy does not have a policy that directly relates to this proposal. However, the adopted Core Strategy at its very heart seeks to promote and deliver sustainable forms of development that extends to supporting existing businesses; and at the same time, protect the natural, built and historic environment as well as protecting neighbouring amenity.

9.1.2 The applicant has an existing business which is based in Westbury. It is understood that when the business started, the applicant walked dogs on the Salisbury Plain as duly advertised on the website and as noted by those objecting to the application. However, due to health reasons, walking on such terrain has become difficult for the applicant and solely using the garden ground at the applicant's home address is not ideal. The business is reliant on providing dogs with a stimulated environment where the dogs can experience different sensations which the Upton Lovell site provides. Without the ability to change the dog's environment or to go for walks, the quality of the dog care would ultimately suffer along with the viability of the business.

9.1.3 The applicant owns the land which was retained when the family sold one of the adjacent houses, and the field provides an opportunity for the applicant to provide added experience to the dogs through a change of environment and through exercise which can be provided within the existing secure site parameters and it negates the need to go on long walks; and the applicant who has mobility issues, does not need to do a lot of walking whilst the dogs are on site.

9.1.4 The Council's mapping constraint record indicates that the site is grade 4 agricultural land. The best agricultural land is graded as 1, 2 and 3a, with grade 1 land having the highest productive value. Whilst the field could be used for animal grazing or hay making for example, its productive and practical value given the low quality soil and limitations of the site, would be very limited. It should also be taken into consideration that this application comprises no operational development of the land, which means the field could readily return to agricultural use, should the dog business cease. WCS Core Policies 60 and 61 seek new development to be located in accessible locations and be designed to reduce the need to travel particularly by private car. Whilst there is an option for dog owners to drop dogs off at the site, officers understand that dogs

are generally dropped off at the applicant's home in Westbury by the owners at the start of the working day and the dogs are brought to the site when required. It is a regular activity for dog owners to exercise their dog(s) and it is often the case for dog owners to drive to set locations to walk their dogs, and making use the private car to take dogs for a walk is part of daily life for many people, and there is an argument that one person taking up to 9 dogs in a car to a set location is better for the environment in terms of private car traffic journeys than all 9 dog owners driving to set locations to walk their dogs. On the basis of the above observations and commentary, the principle of using the field at Upton Lovell is supported by officers.

9.2 Impact on Neighbouring amenity

9.2.1 Officers acknowledge that this is a key issue and it is set out clearly in the representations submitted by the concerned third parties and the Parish Council. Given the sensitivities of the contrasting neighbour responses and the potential for up to 9 dogs to make substantial noise disturbance, the case officer visited the site on two occasions. On the first visit the site was not in use. The case officer was however able to appreciate the site's context and proximity and relationship with neighbouring properties, as well as background noises. The second visit took place on 8 May in the late morning when the applicant had seven dogs to exercise and the case officer was able to appreciate how dogs were kept under control on site and the extent of the noise from dogs barking.

9.2.2 During the second site visit the case officer spent 30 minutes walking up and down Up Street and noted that during that time there were only 3 single isolated barks (1 every 10 minutes). The opportunity was taken to view the dogs from both the existing access from Up Street and from the access from the public house car park, during which time the dogs were being exercised and under the control of the applicant. The case officer proceeded to walk past the site trying to make his presence known to the dogs making audible noises by juggling a set of keys from hand to hand, but the dogs did not react by barking. Members are advised that from this observation period, the case officer's own experience aligns with the testimonies received from the supporting representors that the applicant has very good dog handling capabilities, control and provides excellent interaction to keep the dogs stimulated and that the dogs are very much focused on the activities provided within the site.

9.2.3 During the 30 minute observation period the case officer also met and spoke with a dog walker who had brought their dog to Upton Lovell. As they walked past the site along Up Street, none of the 7 dogs being exercised on the site barked and nor did the dog being walked. Indeed the dog walker was surprised to learn of the presence of seven dogs in the adjoin field when told by the case officer. The case officer, who is not a dog owner, had fully anticipated that other dogs whilst being walked near or past the site would trigger bursts of barking from the site, but this was not the case. It is also important to appreciate that socialised dogs do not tend to bark at other dogs whilst on walks, and through proper training and keeping dogs interested in their localised environment, disobedience and unruly barking can be quickly managed and dealt with. From the case officer's own on site observations, the applicant appears to be a very capable dog handler.

9.2.4 Officers are also fully mindful that the dog exercising use would take place during the set hours of 9am and 5pm on Mondays to Fridays which could be secured by planning condition. There would therefore be no early morning, evening, weekend or bank holiday nuisance to neighbours created by barking dogs. Furthermore, officers have been advised that the applicant tends to spend up to 4 hours a day on the site, splitting the environment and sensory interest for the dogs between the site and the applicant's Westbury home address, which means that the dog exercising use at Upton Lovell would only extend to a limited part of any given weekday.

9.2.5 The third party concerns about barking dogs when people stop at the public house when out walking their dogs at weekends would not be an issue as the site would not be in use then. It is accepted that dogs will bark occasionally, but the case officer's own observations and the

testimony of many local residents indicate that the barking is infrequent. As the dogs are brought there in a business capacity, the dogs are trained and are also used to each other as they see each other on a regular basis - which helps with their training and their overall control and contentment.

9.2.6 Officers are supportive of this application and recommend that permission should be conditionally granted subject to restricted hours of using the site for dog exercising/training purposes and after witnessing the evidenced good dog handling skills of the applicant, officers are not convinced that the use of the field would create an unacceptable adverse impact on neighbouring amenity to warrant a planning refusal.

9.2.7 Through liaising with the Council's public protection team, no noise complaints have been received relative to the use of the Upton Lovell site or the applicant's home address. As previously reported, the Council's Environmental Health Officer has no objection to the proposed development. Following additional liaison with the Council's public protection team, it was decided that a background noise survey was not considered reasonable or necessary in this particular case. It is however worthwhile to note that a background noise survey would pick up all audible noises within any given set parameters including;

- Vehicular traffic noise using local roads or from the A36
- The noise from the weir in the river adjacent to Hatch House
- Train noise on the nearby train line
- Associated noise from the public house, the beer garden and the large car park; and,
- Any barking dogs or from children

From the site observations and liaising with colleagues, officers would anticipate a noise survey completed for Upton Lovell to conclude that the hamlet is generally quiet and tranquil with the occasional traffic noise and the noise of an even more irregular passing train. The use of the site since October 2016 has not resulted in any reported complaint or documented evidence of harm being caused and officers are supportive of the application.

9.2.8 The proposed change of use of land to a dog exercise and training area would not be contrary to WCS CP57 criterion vii or conflict with the Noise Policy Statement for England which aims to avoid "significant" adverse impacts on health and quality of life. Officers acknowledge that dogs barking will be disturbing and a nuisance but it would be limited in its frequency and duration. Not only can the period of using the land be controlled, officers are also minded to recommend that any permission also limits the number of dogs the site can have at any one time to 9 dogs.

9.3 Impact on visual amenity and the Area of Outstanding Natural Beauty

9.3.1. The proposal solely involves the change of use of the land from agriculture to a sui-generis dog exercise and training area. It does not involve any kennel structures or other permanent or fixed buildings or operational development. Officers therefore raise no concern about the visual amenity impacts.

9.3.2 The protections afforded to the AONB seek to safeguard its scenic beauty as well as its tranquillity; although it is appreciated that excessive noise could lead to the tranquillity of the AONB being harmed. However, the AONB officer raises no objection and concurs with the case officer and public protection officer in arguing that imposing a Monday to Friday restriction would "*help avoid any potential clashes with exercising periods and the major, evening use of the public house next door.*"

9.3.3 The Shepherds hut is on wheels and can be easily moved from the site. It is classed as a 'Chattel' under planning law and does not require planning permission.

9.4 Drainage and Flood Risk

9.4.1 The application site is located within flood zone 1. The application site parameters are set about 5-6 metres away from the river to help create a buffer zone between the proposed dog exercising area and the river. The dogs are prevented from entering the river by a post and wire fence, and the proposed development would have no impact on the site's porosity and drainage capabilities.

9.5 Highway Safety and Parking

9.5.1. The Council's highways officer also raises no objection to the proposal as the level of traffic generation would not be significant and there is no evidence that it does or would adversely impact on highway safety interests. During the daytime when the site was visited and when it would be in use, the public house car park and Up Street were more or less free from any traffic. There was certainly no evidence of local roads being virtually impassable. However during any occasion when local roads are congested, the addition of one extra vehicle associated to this development proposal would not lead officers to be concerned and it would warrant a refusal of planning permission.

9.6 Impact on Ecology

9.6.1 The Council's ecologist has no objection. The dogs are fenced off from the river and would not interfere with the SSSI environs. Dog faeces should be regularly collected and be disposed of in an appropriate manner. This is basic site management and as the dogs are to be taken from the site, the applicant would be fully responsible for such a task. The supporting ecological statement states that the faeces would be composited on site well away from the riparian zone of the river and the SSSI. The submitted site plan shows that the compositing site would be immediately adjacent to Up Street and away from the river and SSSI. No ecology based concerns are therefore raised.

9.7 Impact on designated Heritage Assets

9.7.1 Section 66 of the Planning (Listed Buildings and Conservation Areas) Act 1990 requires 'special regard' to be given to the desirability of preserving a listed building or its setting. There are two grade II listed buildings along Up Street within 100m of the site but neither are immediately opposite the site and their respective settings do not extend to the application site. In the absence of any operational development, it is submitted that no harm would be caused to the setting or the historic significance of either listed building.

10. S106 / Developer Contributions

No S106 financial contributions are sought for this site, and CIL would not apply.

11. Conclusion (The Planning Balance)

The proposal is for the change of use of an agricultural field into a dog exercise and training area. It is submitted that the applicant has justified the need to use the site for this purpose and that it is a site the small local business maximises through offering different environments for dogs under the control and training of the applicant. Whilst dogs shall bark from time to time, the incidents as observed by the case officer were not extensive or considered harmful enough to warrant a refusal of planning permission. No complaint has been lodged with the Council's public protection team despite the site being used since 2016 for exercising and training dogs. With the proposed restrictions highlighted above to be imposed by planning conditions, the use of the site should be able to continue in harmony with neighbouring amenities without causing significant levels of nuisance.

RECOMMENDATION: - Approve subject to the following conditions

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

Design and Access Statement; Ecological Statement; Location Plan and Site Plan – all received 5 March 2018

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

2. The use hereby permitted shall be restricted to dog exercise and training purposes only taking place between the hours of 0900 - 1700 on Mondays to Fridays. The use shall not take place at any time on Saturdays, Sundays or during Bank or Public Holidays.

REASON: To define the terms of this permission and in order to protect residential and local amenities.

3. No more than 9 dogs shall be brought onto or be exercised at the site at any one time.

REASON: To ensure the creation/retention of an environment free from intrusive levels of noise and activity in the interests of the amenity of the area

4. The dog waste associated to the use hereby approved shall be properly deposited of, binned and composted on the site in the location shown on the approved site plan in perpetuity for as long as the dog exercise/training land use operates.

REASON: In the interests of protecting the nearby SSSI from contaminated waste.

5. No external lighting shall be installed anywhere on site.

REASON: In the interests of preserving the scenic beauty of the Area of Outstanding Natural Beauty and to protect neighbouring amenity.



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REPORT FOR WESTERN AREA PLANNING COMMITTEE

Report No. 3

Date of Meeting	30 May 2018
Application Number	18/01851/FUL
Site Address	Barney Lodge Day Nursery, 5 Westbury Road, Warminster, BA12 0AN
Proposal	Change of use of part of existing building from residential to nursery uses (Part Retrospective) and Variation of Condition 3 of planning consent W/06/00806/FUL to change the permitted number of children at the nursery from 45 to 70
Applicant	Mrs Lyn Ashton
Town/Parish Council	WARMINSTER
Electoral Division	WARMINSTER WEST
Grid Ref	387,541 145,696
Type of application	Full Planning
Case Officer	David Cox

Reason for the application being considered by Committee

Cllr Pip Ridout has requested that should officers be minded to approve this application, it should be brought before the elected members of the area planning committee to consider the relationship of the existing nursery with adjoining properties and the impacts of increased noise and highway safety.

1. Purpose of Report

Having assessed the merits of the proposed development and tested it against the policies of the development plan and other material considerations, officers recommend that the application should be approved subject to conditions.

2. Report Summary

The main issues discussed in this report are:

- The Principle of the Development
- Impact on Neighbouring Amenity
- Impact on Highway Safety
- Impact on the Designated Heritage Asset
- Other considerations

3. Site Description

The application site relates to the Barney Lodge Day Nursery which is a former residential property located at No 5 Westbury Road in the settlement limits of Warminster and is a large detached building located in a predominantly residential part of the town comprising of a mixture of fairly large detached and semi-detached dwellings. The existing nursery has a ground floor area of 189.3 square metres, a below ground floor area of 32.0 square metres and a first floor area of 68.2 square metres and has a tarmac car park at the site's frontage which

accommodates 6 spaces with sufficient space for vehicles to turn and leave the site in a forward gear. The access is fairly tight at no more than 4.8 metres wide, but it is wide enough for two cars to pass each other and visibility splays of 2.4 metres by 59 metres looking right and 2.4 metres x 120 metres + looking left are available.

There are two on-road parking spaces at the front of the subject property with a 30 minute waiting time restriction in place. Barney Lodge itself is within the 30mph zone of the town, although the 40mph zone, located to the north- west is only circa 15 metres away. Westbury Road is lit in the vicinity of the site and is a 7.5 metre carriageway with a 2.5 metre footway on its west side and a 4.1 metre verge on its east side.

To the south east, Westbury Road bends around a 90 degree corner leading onto Portway Road. There are two additional junctions that interface with Westbury Road in close proximity to the site – serving Copheap Lane and Elm Hill Road.

It is also worthy of note to record that as part of the endorsed master planned West Warminster Urban Extension development, highway mitigation work has identified the need to upgrade the junction arrangement illustrated below to provide a new roundabout, to be funded and delivered by the developers advancing development on the WWUE site.



As the insert map extracts illustrate, many of the properties on the western side of Westbury Road, that adjoin the site have long rear gardens extending to approximately 110 metres which abut the Salisbury-Bath railway line, which is easily identifiable in the top right insert.

The nursery has two outbuildings in the rear grounds, which is split into different sections with a range of various play equipment and activities being available. The land to the east and north east beyond Westbury Road, is open countryside with the golf club beyond. The nursery property is within approximately 10 metres of the Warminster conservation area and employs 19 members of staff (12 full time and 7 part time).

4. Planning History

W/88/02072/FUL – Change of use of ground floor from residential to day nursery school – Approved

W/94/01409/FUL – Single storey classroom extension incorporating two WC's – Approved

W/06/00806/FUL – Extensions and alterations – Approved with conditions

W/07/00933/FUL – Two wooden cabins in rear garden – Approved with conditions

W/07/01302/FUL – Two conservatories – Approved with conditions

5. The Proposal

This application seeks to vary a planning condition (condition no. 3) which was imposed at the time of granting planning application reference W/06/00806/FUL to allow for an increase in the number of permitted children to be accommodated by the day nursery from 45 to 70. The application also seeks consent to convert the existing managers flat (which was also approved under W/06/00806/FUL and is outlined in red in the image below) to provide additional nursery space. If approved and implemented, the number of full time employees would rise from 12 to 15 and the number of part time employees to increase from 7 to 11.



For the avoidance of any doubt there is a mistake in the application description which states “part retrospective” change of use of residential use to nursery use. Condition 4 of W/06/00806/FUL restricted the manager flat accommodation to only that use and not to be used as nursery space. The plans clearly show that the managers flat (outlined in red in the image above) was located in a projecting rear elevation section of the building but not the first floor extension to the main building (outlined in green). The applicants have unfortunately mistakenly understood that the first floor of the building (which is currently used for the under 2’s) was also subject to condition 4, but it wasn’t.

The first floor extension could always therefore be used for nursery accommodation and therefore there is no ‘part retrospective’ element to this application. Officers apologise for any confusion created by this error in the application description.

As part of the case officer’s site inspection on 4 May 2017 it was confirmed that the consented managers flat was not in use for nursery accommodation and there was no evidence of a breach of planning condition 4 of W/06/00806/FUL.

The nursery operates an arrival and pick up timetable, where parents are allocated times. The timetable is split into 10 minute segments i.e. 7.30am, 7.40am, 7.50am etc. until 9.40am. Under this arrangement, between 3 or 4 cars should arrive in each 10 minute block with some children arriving on foot. A member of staff is always available to take each child into their care, which limits the number of children arriving at any one time. The supporting statement produced by the applicant, states that parents generally work around the times they are given and that flexible working arrangements allow parents to work to the times they are allocated; and it is submitted that parents, in the main, stick to the allocated time slots dictate when dropping off

their children. The supporting statement also sets out that children are encouraged to walk to the site and priority on the waiting list is given to children who can walk to the site. Following negotiations with the case officer, as will be explained in the report, the nursery has extended their opening times from 7.30am to 6pm to 7am to 6pm.

6. Planning Policy

The **Wiltshire Core Strategy (WCS)** - The following Core Policies (CP) are relevant when assessing this application: CP1 (Settlement Strategy), CP2 (Delivery Strategy), CP3 (Infrastructure Requirements), CP31 (Warminster Area Strategy), CP57 (Ensuring High Quality Design and Place Shaping), CP58 (Ensuring Conservation of the Historic Environment), CP60 (Sustainable Transport), CP61 (Transport and Development), CP62 (Development Impacts on the Transport Network) and CP64 (Demand Management)

The **National Planning Policy Framework (NPPF)**, **National Planning Practice Guidance (NPPG)** and the **Noise Policy Statement for England (NPSE)** are all of relevance.

The **Warminster's made Neighbourhood Plan** is also a material plan consideration.

7. Summary of Consultation Responses

Warminster Town Council – Objects on the following grounds:

Adverse impact on neighbouring amenity through additional noise; and,
The proposal would adversely affect highway safety and the convenience of road users.

Wiltshire Council's Early Years Childcare Services Officer – Supportive: Parent demand for childcare places is high in Warminster and the Wiltshire Infrastructure Plan (which doesn't include the Army relocation consequential needs) highlights the expected rate of development within Warminster and the requirement to provide an extra 239 early years childcare places. Barney Lodge has a good reputation and its plan to expand is fully supported.

Wiltshire Council's Environmental Health Officer – No objections subject to condition

Wiltshire Council Highways Officer – No objections subject to Green Travel Plan condition. The highway asset team also confirmed that there have been no collisions recorded within 50m of Barney Lodge in the last 17 years to 31 January 2018.

8. Publicity

A site notice was displayed on a lamp post at front of the site and two neighbour notification letters were posted. Following these notifications, 6 letters of objection were received although some property owners submitted multiple objections. 1 letter of support was also received.

The 6 letters of objection received raised the following objections:

- The development would result in an adverse increase in noise from 45 children to 70 – which would be intolerable for neighbours;
- A complaint was submitted to the Council's public protection team in 2014 which resulted in on site adoptive measures to reduce the outside play areas to more reasonable levels; this included restricting the hours of for the use of zone 1 (the top AstroTurf section) and to restrict the numbers of children in the garden;
- Most modern family cars are large which restricts the turning ability to leave the site safely. Despite the nursery trying to encourage more walking, at peak times cars spill out onto the double yellow lines when dropping children off;

- Increasing the numbers by this extent may have a catastrophic impact on highway safety;
- Staff parking along neighbouring streets irks with local residents; and this would only get worse with the projected increase of staff;
- The outside play restrictions and the drop off time table cannot be enforced by the Council

The letter of support raised the following grounds:

- There is an urgent need for more early years childcare spaces in the town;
- The Government has extended the funded hours for working parents to 30 hours a week for 3 year olds and this has proven to be popular among local residents;
- The other existing nurseries are struggling to accommodate and satisfy parental demand;
- One privately run nursery in the community area has recently closed down and another plans to close its doors this year – which would further burden existing facilities to meet local demands;
- No road accidents have been witnessed on or near to the site;
- The children could be managed into appropriately sized groups in the rear garden to reduce the impact on neighbours.

9. Planning Considerations

Section 70(2) of the Town and Country Planning Act 1990 and Section 38(6) of the Planning and Compulsory Purchase Act 2004 require that the determination of planning applications must be made in accordance with the Development Plan, unless material considerations indicate otherwise. In this case, the Wiltshire Core Strategy, including those policies of the West Wiltshire District Plan that continue to be saved and enshrined within the WCS, constitutes the relevant development plan for the Melksham area.

9.1 Principle of the Development

9.1.1 The Nursery has been operating since circa 1988 and is a well-established business. It is noted that as part of the public notification exercise a complaint was lodged with the Council's public protection team in 2014, which resulted in on-site adoptive measures to reduce noise and disturbance created by children in the grounds. The land use principle of the property being used as a day nursery is extant and is not open for re-consideration. However, the proposed expansion to accommodate up to 25 more children requires careful appraisal.

9.1.2 Legislatively, it is important to appreciate that nursery facilities must comply with the requirements set by the Department of Education "*Statutory Framework for the Early Years Foundation Stage: Setting the Standards for Learning, Development and Care for Children from Birth to Five*"; which came into force 3 April; with Ofsted being the appropriate overseers and enforcers. Under the statutory framework, nurseries must provide a minimum space of 3.5m² for each child under the age of 2; 2.5m² for two year olds and 2.3m² for three to five year olds.

9.1.2 In this particular case, the Barney Lodge nursery has approximately 200m² of usable internal floor area to accommodate children once toilets, staff and circulation spaces are excluded. This ultimately affects the maximum number of children that can be accommodated within the premises when applying the Government Standards (listed above). The applicant has provided two examples of how 70 children could be accommodated within the nursery.

Example 1

Age	Area per child (sqm)	Assumed Number	Space Required (sqm)
Children under two years	3.5	23	80.5
Two year olds	2.5	23	57.5
Children aged three to five years	2.3	24	55.2
Total			193.2

Example 2

Age	Area per child (sqm)	Assumed Number	Space Required (sqm)
Children under two years	3.5	11	38.5
Two year olds	2.5	16	40.0
Children aged three to five years	2.3	43	98.9
Total			177.4

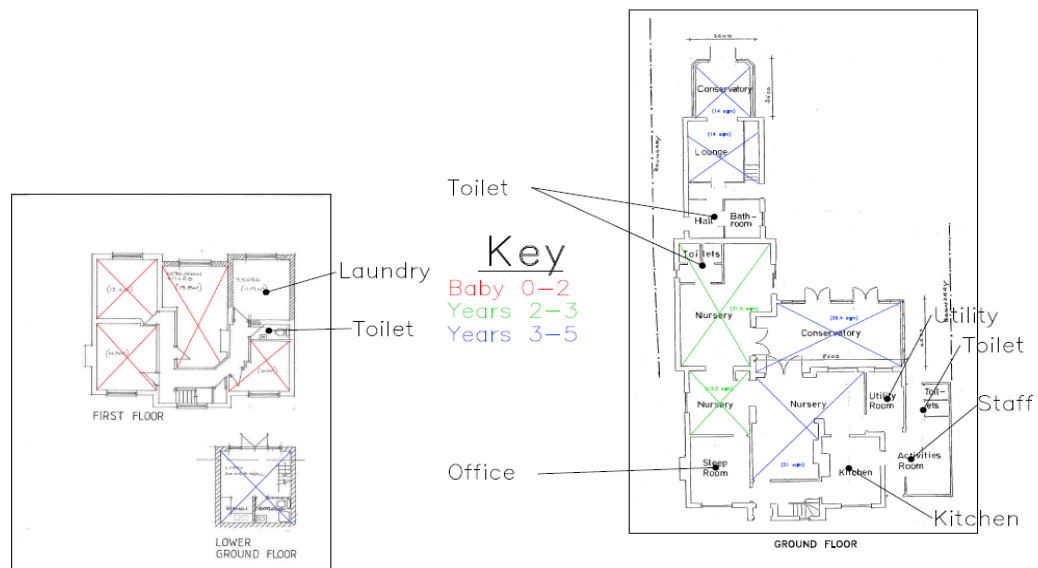
9.1.3 The Government space standards do not state whether this is a minimum or a maximum but officers submit that it is a minimum. Therefore more space can be allocated per child if the nursery decides and it would be better to not always just meet the minimum space standard. The nursery submitted this application to increase the number of children to 70 knowing how much space they would have available. Both submitted examples record how the facility could accommodate 70 with some flexibility to respond to the occasions when the nursery may have to accommodate more children of different age groups. Nevertheless, a condition is recommended to limit the total number of children to 70 which is considered to be reasonable and necessary.

9.2 Impact on Neighbouring amenity

9.2.1 Adopted Wiltshire Core Strategy Core Policy 57 (criterion vii) requires development to have regard to the compatibility of adjoining buildings and uses, the impact on the amenities of existing occupants including consideration of privacy, intrusion and noise. The Noise Policy Statement for England aims to avoid “significant” adverse impacts on health and quality of life. Officers acknowledge that a noise related complaint was submitted to the Council’s environmental health department in 2014, which resulted in the applicant and site operator making changes as to how the garden grounds are used by children. It is worthwhile reporting that no follow-up complaints have been lodged.

9.2.2 Following the submission of this application, and as part of its appraisal the case officer undertook two site inspections at No 6 Westbury Road which shares a boundary with the nursery site. The first visit was undertaken during the afternoon on Wednesday 2 May 2018 (after the children’s lunchtime) after it had been raining in the morning. The visit lasted approximately 30 minutes. The case officer observed that the children were kept inside presumably because of the wet ground and occupied the large conservatory which is adjacent to No 6 and is illustrated on the plan reproduced on the following page. Whilst in the garden of No. 6 a degree of noise from the children within the conservatory was picked up, and would, if it continued for a sustained period of time lead to a substantive level of neighbouring harm. During the first visit to No.6, the case officer noted that the audible noise from the children in the conservatory only lasted a short period of time, presumably following staff intervention and/or as

a consequence of the children being taken away from the conservatory to another section within the nursery.



9.2.3 The case officer whilst out on site fully appreciated and recognised that the conservatory offers very little noise abatement mitigation. However, once the children are inside the solid brick wall confines of the building, the children could no longer be heard.

9.2.4 Planning and public protection officers fully acknowledge that if this application is given planning permission the use of the conservatory could be used much more. However, the May 2nd observation demonstrated that with prompt, appropriate and responsible staff intervention and the better sound insulated floorspace provision within the main fabric of the building being available, noise levels should be controllable. The same situation should also apply to when the conservatory in the managers flat is used by children adjacent to No 4.

9.2.5 The conversion of the managers flat which is formed within the solid walled construction of the premises would provide additional nursery floor space that would have sufficient protections in terms of neighbouring amenity. When the case officer visited the application site the manager fully acknowledged that the conservatories offered poor noise insulation and that they would try to use those spaces for more 1:1 interaction sessions between children and staff with focused based tasks so the children aren't 'playing'. Whilst this cannot be secured by condition, it demonstrates that the nursery staff are mindful of the neighbouring impacts and are actively trying to mitigate the impact of the noise from children.

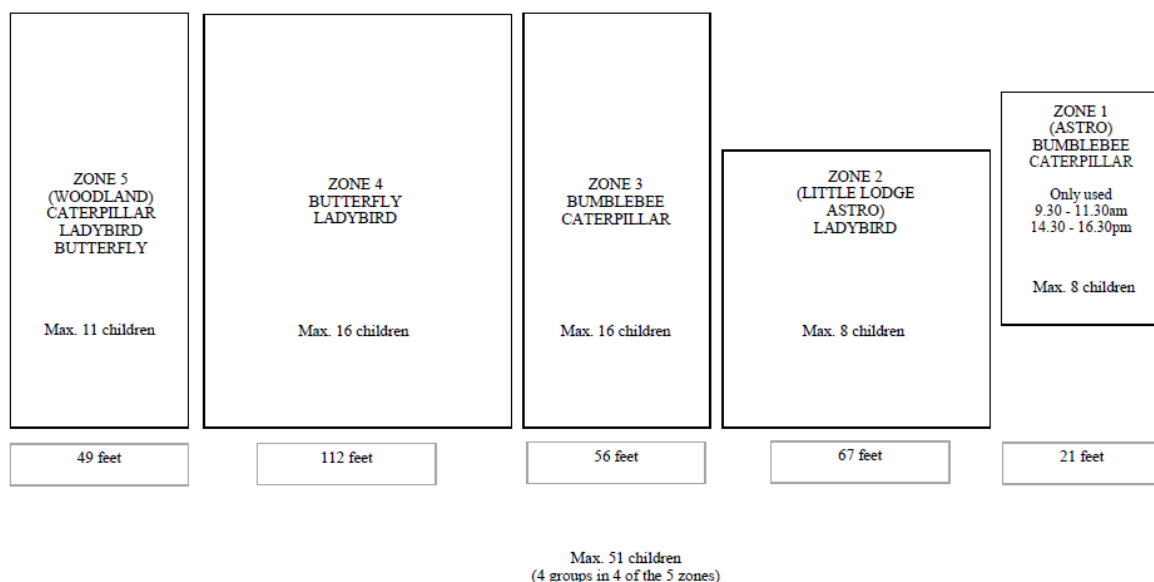
9.2.6 Officers are also mindful that across the County, especially in our towns, many education and nursery establishments are located in primarily residential areas, with some housing being in very close proximity to where children congregate and play; and it is accepted that for periods of time, the schools and nurseries when in use, will cause a certain degree of harm through audible noise. The Barney Lodge nursery has operated since 1988 and whilst the concerns from local residents are fully noted and appreciated, the facility appears to be well run and managed and following the 2014 complaint, mitigation was put in place to respond to and reduce the neighbouring concerns and conflicts.

9.2.7 As part of the public participation exercise, neighbours and local residents have referenced the fact that when the nursery first opened there wasn't many children and the use was perfectly acceptable. The approval of W/06/00806/FUL (which was determined at planning committee) extended the existing nursery from a capacity of 24 children to 45 children; and

condition 3 was imposed to limit such a number as there had been no limit previously imposed. The imposition of the 45 children limit cap as a condition was appropriate at the time recognising the extant standards that applied in 2006 as well as acknowledging the amount of floorspace within the nursery that could be used for childcare nursery purposes. The condition does not and could not dictate how each part of the nursery operates for the functions of looking after children. Such a condition would be unenforceable and would fail the Wednesbury Principles to which all condition must legally satisfy.

9.2.8 As set out in the principle section of this report, the nursery must abide by the Department of Education’s *Statutory Framework for the early years foundation stage* requirements which set out staff ratios for specific age groups. Officers are satisfied that the nursery would have enough staff to manage 70 children indoors, they also have a self-imposed policy that restricts the number of children who could be outside at any one time 51. The applicant has explained that they consider outside play to have a higher risk than indoor play; given that they have play equipment etc. and therefore the nursery increases the ratio of staff for every child playing outdoors and would be present to manage unruly, noisy behaviour. The nursery outdoor staffing policy is as follows:

- Under 2’s – inside 3 children per 1 staff member; outside 2 children per staff member;
- Over 3’s – inside 8 children per 1 staff member; outside 6 children per staff member.



9.2.9 The applicant has submitted a garden zone plan which is reproduced above. The plan illustrates how the facility separates the children into different sections to limit the impact on the neighbours as per the enacted mitigation and agreements reached following the 2014 noise complaint.

9.2.10 The case officer’s second site inspection to the neighbouring property at No 6 took place during the afternoon on Friday 4 May 2018, when children were outside playing in the rear sections of the garden in (in zones 4 and 5). Zones 1 to 3 did not have any children at the time of the case officer’s site inspection. The noise observed was akin to noise usually heard at any school and was considered to be at a reasonable level and was not significantly disruptive or harmful.

9.2.11 It is not possible to condition the number of children that would be allowed to play outside or within each section of the garden at any given time. This would fail the reasonableness and enforceability test. It would of course be entirely possible for 45 children to make as much, if not more noise, than 70 children. The critical and necessary mitigation would

be secured through proper staff management; and officers have applied significant weight to the applicants commitment to impose the aforementioned staff ratios for outside play; and in addition, officers are satisfied that the nursery management team actively want to sustain a good reputation amongst parents and neighbours. Should the proposed site management falter and statutory noise nuisance complaints be lodged, the Council's public protection would investigate and there may need to be additional noise mitigation measures and agreements put into place. For the purposes of this application, planning and public protection officers are satisfied with the commitments expressed by the applicants and in limiting the maximum number of children being outside at one time to 51, represents an additional 6 children that could be outside at present. This uplift would not be substantial enough to warrant the refusal of the application.

9.2.12 Officers do however recommend the imposition of a planning condition to restrict the use of zone 1 play area to be used only at 9.30am-11.30am and 2.30pm to 4.30pm. Zone 1 is adjacent to No 6's rear patio and rear elevation doors and windows and it is considered reasonable and necessary to add a heightened level of amenity protection to the neighbour during the early morning and evening. The number of children using zone 1 and the other zones can be satisfactorily left to the nursery management to control and enforce.

9.2.13 It is also important to appreciate that the nursery use would only be limited to Mondays to Fridays with no use at the weekends or bank holidays, which can be conditioned. It is furthermore appreciated that the use of outside areas/zones are often influenced by the weather conditions as the case officer's first site observation revealed. During spells of hot weather e.g. in June 2017, it is to be expected that children would be largely kept inside to protect them from the sun and avoid excessive play which would as a consequence, limit the levels of noise. On the basis of the above, it is submitted that the increased number of children be accommodated within the existing premises and the proposed extension to the operating hours from 7am to 6pm would not cause significant adverse harm to neighbouring amenity to warrant a refusal of planning permission.

9.3 Impact on Highway Safety

9.3.1 Officers acknowledge that this is another area of great concern as set out clearly in the representations submitted by the concerned third parties and the Town Council. As part of wanting to observe and appreciate how the nursery is accessed by parents dropping off their children, the case officer visited the site on three occasions which included an early morning visit to witness the existing peak time traffic levels. The other two visits were around midday/the early afternoon.

9.3.2 The morning visit was commenced just after 8am on Wednesday 2 May 2018, which coincided with prolonged and very heavy rainfall. The nursery had already opened at 7.30am. The applicant submitted timetable for arrivals indicates that there should have been 3 or 4 cars every ten minutes, which was broadly adhered to until approximately 8.53am when a total of 9 cars arrived at site – with 7 cars entering the car park and two being parked in dedicated bay on Westbury Road). At 9am there were a total of 5 cars (4 in car park and 1 on the road).

9.3.3 The case officer was unable to record the specific movements of individual cars and it was duly noted that the car park and movements were in general busy but by no means overly frantic or dangerous. The case officer did observe two separate incidents of cars waiting and queuing on the main road whilst cars emerged from the site although the general turnover of the cars appeared to be quite quick. The officer also noted that cars arriving at the nursery generally tended to be on site between 2-4 minutes with the averaging parked –up time being approximately 3 minutes.

9.3.4 At 9.10am there were three cars on site but between 9.17am and 9.40am (the last time for arrivals as per the submitted pick up and drop off timetable) it was noted that there was only one arrival. The timetable suggested that there should have been 9 arrivals between 9.20am and 9.40am (assuming there was full occupancy of the 45 children on that day).

9.3.5 In consideration of the above, and whilst on site, the officer considered whether the 9:00-9:40am appointments may have been “front loaded” into a period: 8:50 and 9:10am. However, when the matter was put to the applicant, they responded by stating May 2nd was a “Free trial day” and there was a higher than usual number the arrivals by car during part of the morning arrival period, which admittedly conflicted with the timetabled protocols; and the case officer fully accepts the applicant’s explanation.

9.3.6 Vehicle manoeuvres were not dangerous, but the case officer did observe occasion when drivers had to firmly break either entering or leaving the site – which was attributed to poor driving. The access is 4.8 metres wide, which is wide enough for two cars to pass each other but it was observed that some drivers tended to take the middle part of the access and deny other drivers the opportunity to pass. Such irresponsible driving are matters that fall beyond the remit of planning that cannot influence the determination of this application.

9.3.8 Officers also report that between 8.15am and 8.53am during the case officer’s unscheduled visit, the car park did not have any more than 3 cars on site at any one time and vehicles were able to safely enter and leave the site. The site visit was invaluable in terms of observing and understanding that parent drop offs tended to last for about 3 minutes on average. The submitted timetable breaks each time period into 10 minute blocks for the period of: 7.30am to 9.40am – allowing for 14 x 10 minute blocks. In a worst case scenario if all 70 children were to arrive by car this would mean 5 cars would need to be allocated for every ten minute slot. However, it is to be expected, and as encouraged by the nursery that some parents shall bring their children by foot.

9.3.9 The applicant fully understands and appreciates the highway safety and traffic flow implications and proposes, through negotiation with officers, to expand the block arrival timetable protocols to commence at 7am (which is already advertised on their website). This would consequently increase the number of 10 minute blocks from 14 to 17 (7am to 9.40am); and, would equate to 4 appointments every ten minutes in a car park that has 6 spaces, with a further two spaces available off road. If the observed “front loading” occurred on a daily basis, the number of 10 minute blocks would reduce to 14, which would mean 5 appointments per block. However, there is not sufficient evidence to suggest that appointments between 9.20-9.40am are being ignored.

9.3.10 It is submitted from the above analysis that there is sufficient capacity in the car park to accommodate the additional vehicle movements that would potentially arise to service the increased number of children accessing the nursery. Officers acknowledge that there will be occasions when parents arrive early or late, potentially meaning that more than 4 cars are on site in each 10 minute time period. However, it also has to be taken into account that this is assuming that 70 children would be on site every day, and each child would be driven.

9.3.11 Whilst it is not possible to condition how many children should walk to the site, officers recommend that a Green Travel Plan condition should be imposed on any planning permission whereby the appointment system can be formally submitted alongside a commitment to engage with and encourage parents within walking distance of the nursery, use sustainable modes of transport to access the site. Officers even suggest that this should be included on the nursery website.

9.3.12 Officers note that there have been no accidents within 50 metres of Barney Lodge for the last 17 years; and given the applicant’s commitment to spreading the arrival times, the

projected nominal increase of vehicle movements along and off Westbury Road would not lead to substantive harm. The access is wide enough for two cars to pass each other and a recommended condition to secure new white line marking on the site should help assist motorists to drive more carefully and use the shared access more attentively, which would help with highway safety interests.

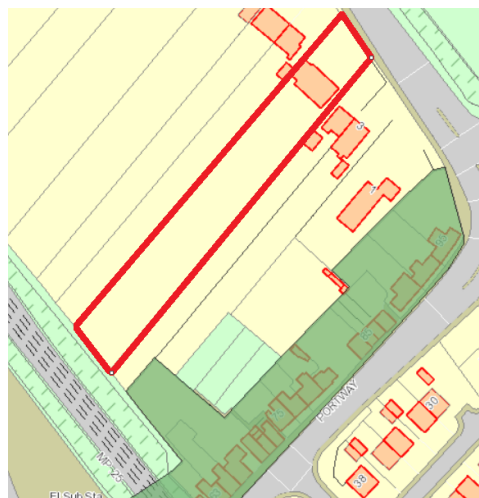
9.3.13 All the nursery staff either park off site or are dropped off which was observed during the case officer's site inspections. It was also noted that staff were dropped off on the main road rather than inside the car park, which left the spaces free for parents. Staff park on surrounding roads where existing road restrictions allow and there can be no substantive objection thereto. The number of full time employees would potentially rise from 12 to 15 and the number of part time employees to increase from 7 to 11. Officers accept that this would consequently increase the pressure on surrounding roads but there is plenty of on road parking spaces available along Cophead Lane and Portway to accommodate such additional demand without harming highway safety interests.

9.3.14 Officers fully acknowledge that the on-road parking spaces are most likely to be used by occupiers of the residential properties, and perhaps especially those that do not have their own off-road parking spaces but these spaces can nevertheless be used publically and there are no parking restrictions in place at present. Any spaces taken by staff would only also extend to working hours around the time the nursery is open.

9.4 Impact on designated Heritage Assets

9.4.1 Section 72 of the Planning (Listed Buildings and Conservation Areas) Act 1990 states that in the exercise of any functions, with respect to any buildings or other land in a conservation area, under or by virtue of any of the provisions mentioned in this Section, special attention shall be paid to the desirability of preserving or enhancing the character or appearance of that area.

9.4.2 The application site is within 10 metres of the Warminster conservation area (which is illustrated in green shading on the following insert). It is submitted that the character of the conservation area would not be harmed as the existing use of the site is for a nursery. Additionally there would be no harm to the appearance of the conservation area as the application proposes no extensions or outbuildings.



10. S106 / Developer Contributions

No S106 financial contributions are sought for this site, and CIL would not apply.

11. Conclusion (The Planning Balance)

This application proposal seeks to vary condition 3 of planning consent W/06/00806/FUL to increase the number of children to be accommodated from 45 to 70. It is submitted that the applicant has reasonably set out how this would not have an adverse impact on neighbouring amenity or to highway safety interests. Officers have noted the existing difficulties in terms of both existing highway access and noise levels experienced from the neighbouring garden, and in recognition of the applicant's commitment to properly staff children and limit the number of locations where children play in the rear grounds, the application can be supported. It is furthermore noted that there has been no noise related complaint lodged with the Council's public protection team since 2014, which indicates that the nursery keeps noise levels under control, and again this was observed by the case officer when he visited no.6 and observed how the nursery operated. Subject to a series of planning conditions, the use of the site should be able to continue without causing significant levels of public nuisance or compromise highway safety interests.

RECOMMENDATION: - Approve 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:

Location Plan, Block Plan and Design and Access Statement – all received 8 March 2018; Consolidated Transport Statement, Children Space Requirement Statement, Noise Mitigation Statement – all received 9 April 2018; Further Children's Space Requirement and Garden Use Statement – Received 18 April 2018; Garden Zone Plan – received 8 May 2018; Proposed Plans and Elevations – received 11 May 2018

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

3. The nursery shall not accommodate any more than 70 children at any one time.

REASON: In the interests of Highway Safety and neighbouring amenity

4. The extended nursery hereby permitted shall only operate between the hours of 0700 in the morning and 1800 in the evening Monday to Friday. The use shall not take place at any time on Saturdays, Sundays and Bank or Public Holidays.

REASON: To ensure the creation/retention of an environment free from intrusive levels of noise and activity in the interests of the amenity of the area

5. The extended use of the nursery shall not commence until a Green Travel Plan has been submitted to and approved in writing by the Local Planning Authority. The Travel Plan should include measures to be adopted pursuant to actively encouraging parents to use sustainable modes of transport when accessing and using the nursery and to reduce private car dependency levels as well as require the applicant to submit full details of the Plan's implementation and its monitoring. Thereafter, the on-site use should operate in accordance with the agreed details. Future monitoring reviews of the Travel Plan should be submitted to the Local Planning Authority on request, together with any changes to the plan arising from those results.

REASON: In the interests of road safety and reducing vehicular traffic to the development.

NOTE: The applicant should make contact with the Council's green travel plan officer Ruth Durrant to assist with its preparation and to ensure best practices are employed.

6. The extended use of the nursery shall not commence until the 6 on-site car parking spaces and a centre line at the site's intersection with the public footpath (i.e. on the nursery site land) have been white line painted. Thereafter, all the line painting shall be maintained in perpetuity.

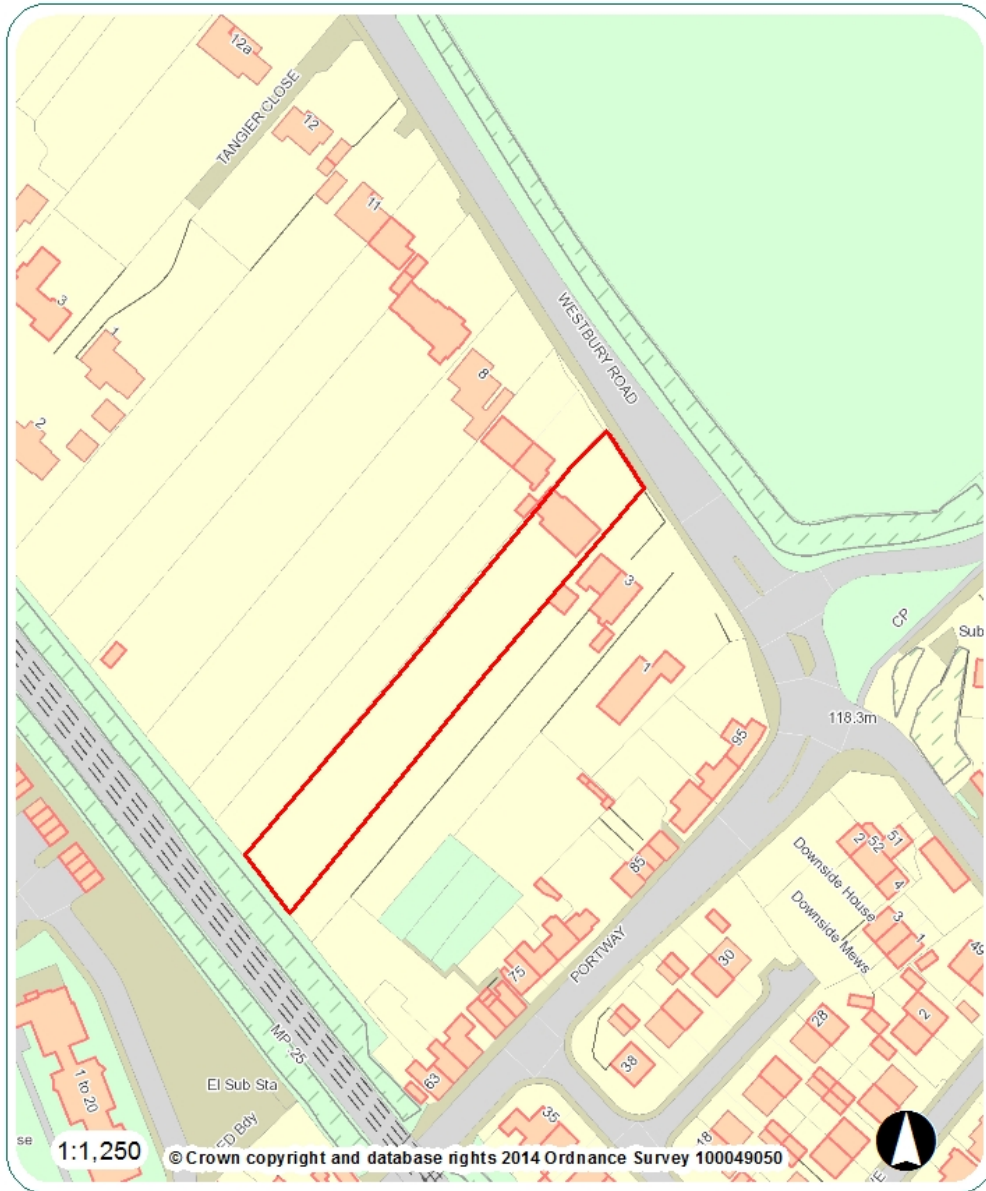
REASON: In the interests of road safety.

7. The outside play area, shown as ZONE 1 on the submitted garden plan shall only be used during the hours of 0930 to 1130 and 1430 to 1630.

REASON: To ensure the creation/retention of an environment free from intrusive levels of noise and activity in the interests of the amenity of the area

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18/01851/FUL
Barney Lodge Day Nursery
5 Westbury Road
Warminster
BA12 0AN



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REPORT FOR WESTERN AREA PLANNING COMMITTEE

Report No.4

Date of Meeting	30.05.2018
Application Number	17/12066/FUL
Site Address	Land to the rear of 1 Frome Road, Trowbridge, BA14 0DB
Proposal	Change of use to car wash with enclosed building, drainage and associated works (Resubmission of 17/05075/FUL)
Applicant	Mr Sukhwinder Dhaliwal
Town/Parish Council	TROWBRIDGE
Electoral Division	TROWBRIDGE CENTRAL – Councillor Stewart Palmen
Grid Ref	385330 157312
Type of application	Full Planning
Case Officer	Steven Vellance

Reason for the application being considered by Committee:

The application is brought to committee at the request of Councillor Stewart Palmen for the consideration of the visual impact of the proposal on the surrounding area, the design, the bulk, the height and the general appearance of the proposed new facility and to consider the impacts on residential amenities.

1. Purpose of Report.

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

2. Report Summary.

This report centres on assessing the principle of the proposed redevelopment of the site and appraising the neighbouring impacts as well as the effects on heritage assets, drainage and highway safety interests.

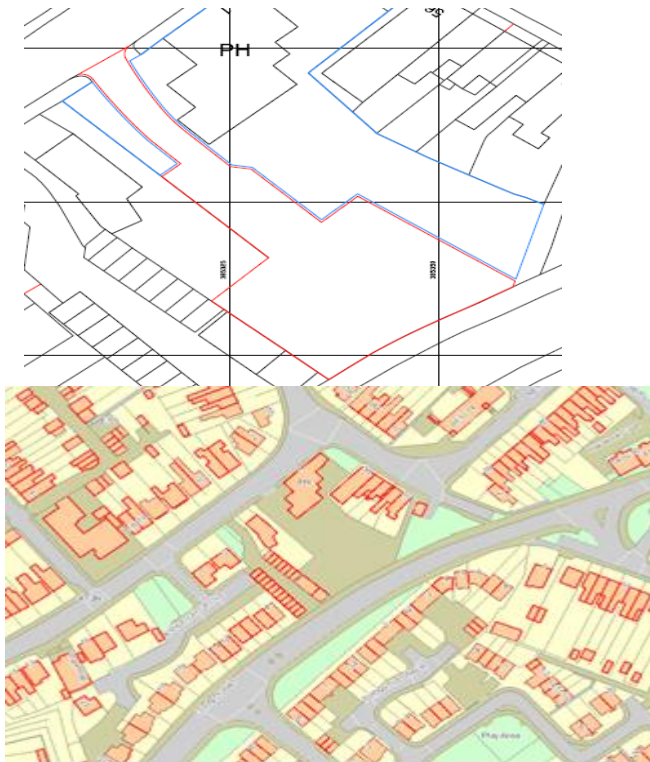
Trowbridge Town Council: Objects to the application for the reasons summarised in section 7 of this report.

Neighbourhood Responses: 7 third parties submitted 7 representations opposing the application which are summarised in section 8 of this report

3. Site Description

The 0.1 hectare application site is a privately owned car park located to the rear of the Ship Inn, which is accessed off Frome Road in Trowbridge. The site is bounded on two sides by public highway, the former Ship Inn Public House (now closed) and residential properties to the north-east. Additional residential properties are found within relative close proximity to the site to the north-west and south. The site's southern boundary backs onto the A361 County Way. The vehicular access which connects with Frome Road leads to a large car park area to the rear of the Inn. The site is located outside of the Trowbridge Conservation Area and it is appreciated that there is a mix of land uses, buildings and house types within close proximity to the site. The inserts

below illustrate the site parameters, local context followed by site photos of the site's frontage as viewed from Frome Road and from the rear viewed from the A361/County Way.



Site Location Plan

Wider Site Context Plan



The site's vehicular entrance off Frome Road



County Way/A361 public highway on site's southern boundary

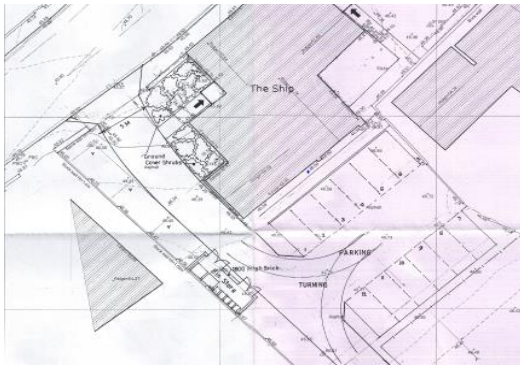
There is, as the above signage in the upper right photograph denotes, an existing car wash facility within the rear car park of the former Ship Inn, which is an authorised development that was approved in 2015.

The site is partially un-surfaced with a low brick wall to the south boundary and a breeze block wall to the west. A garage block and barn are located to the west of the site. PRoW TROW21 crosses adjacent to the east corner of the site connecting with Mortimer Street.

4. Relevant Planning History

W/09/00138/FUL - Retrospective application to regularise use of part of the site as a manual car wash area - Approved - 02.03.2009

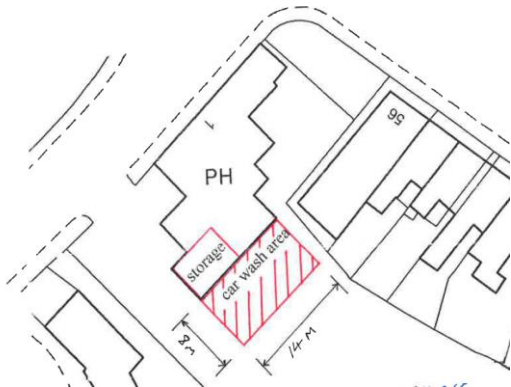
16/04462/FUL - Change of use and alterations and extensions to former public house to form 8 self-contained flats - Approved - 29.07.2016. The following inserts illustrate the site plan and proposed elevations:



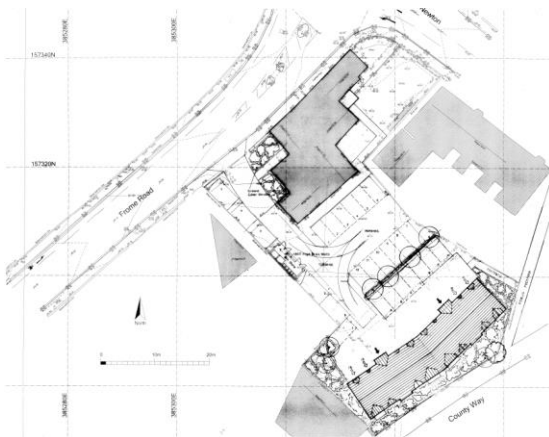
15/06493/FUL - Small area of car park to be used as manual car wash area. Approved – 21.10.2015 which *inter alia* was subject to the following condition:

“The use hereby permitted shall only take place between the hours of 9am in the morning and 6pm in the evening, from Mondays to Fridays and between 9am and 1pm on Saturdays. The use shall not take place at any time on Sundays and Bank or Public Holidays”.

The reproduced plan insert below shows the extant approved location of the existing car wash facility and the close proximity of neighbouring housing:



16/10046/FUL - Erection of 10 x 1 bedroom apartments with car park and associated works – Approved – 17.11.2017



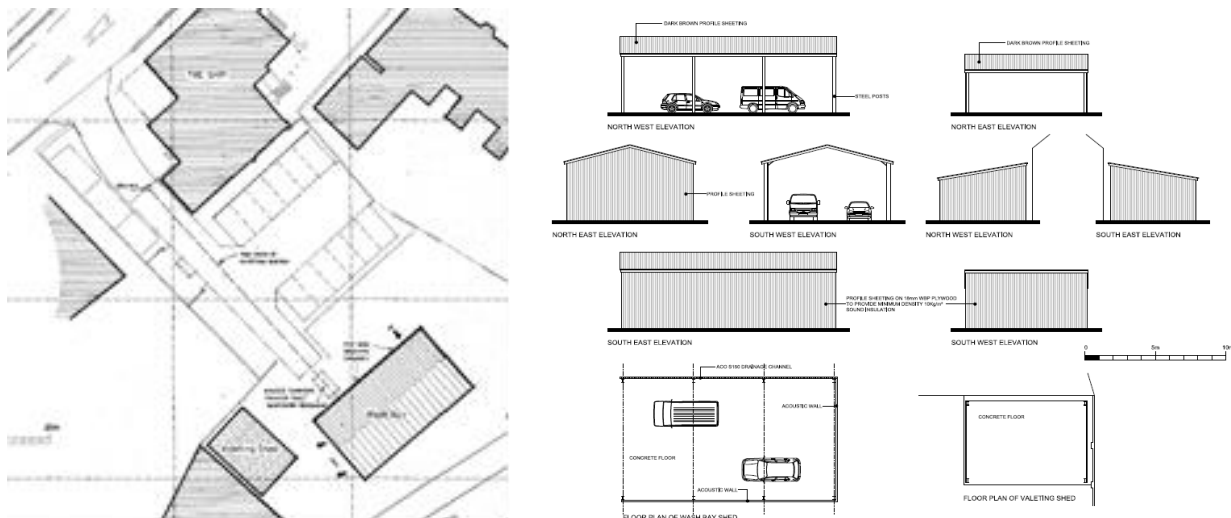
17/02014/VAR - Variation of Condition 1 of Planning Permission 15/06493/FUL to allow business to operate from 8am - 7pm on Monday to Friday, 9am - 6pm on Saturday and Sunday – Refused – 24.04.2017 with the following reason cited:

1. *The proposed increase in the hours of operation would have an adverse impact on the amenities of nearby residents arising from the activities on site, such that they would be contrary to Core Policy 57 of the adopted Wiltshire Core Strategy.*

17/05075/FUL - Change of use to hand car wash with two open sided buildings, drainage and associated works – Refused – 04.10.2017 with the following reasons(s) cited:

1. *The proposed intensification of use of the site and of the hours of operation, to include weekend working, would have an adverse impact on the amenities of nearby residents arising from the activities on site, such that they would be contrary to Core Policy 57 of the adopted Wiltshire Core Strategy."*

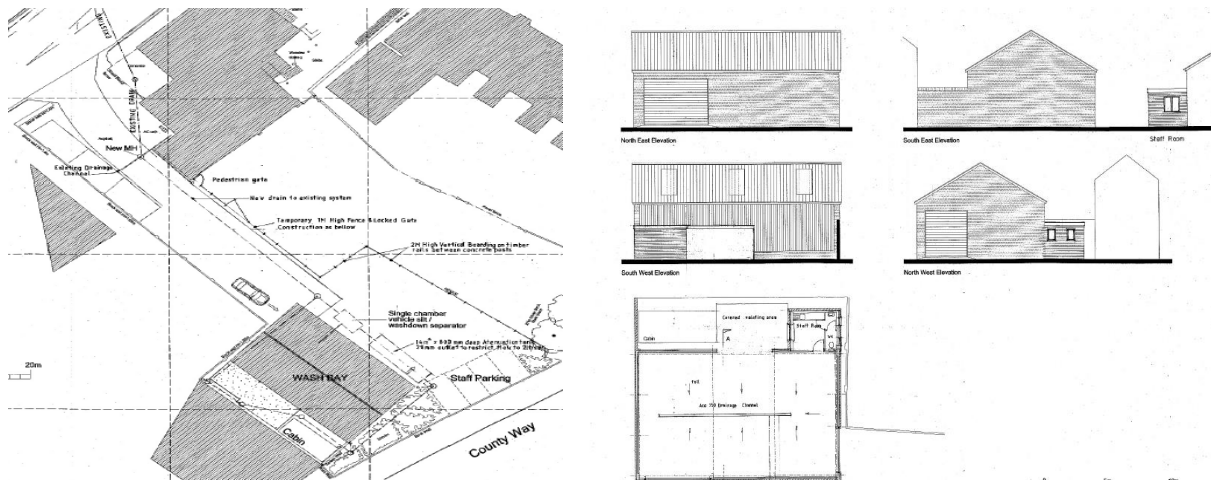
2. *The proposed wash bay shed and valeting shed by reason of their size, height, mass and unrelated design in a prominent location would create a visually incongruous and discordant feature that would be contrary to Core Policy 57 of the Wiltshire Core Strategy, as adopted 2015".*



Following the refusal of the above application, the applicant and his appointed agent approached planning and public protection officers to negotiate revisions and necessary mitigation measures, which are now enshrined within this application that is being reported to members of the planning committee.

5. The Proposal

The application seeks to gain planning permission for the change of use of part of the car park behind the Ship Inn to erect a building to be faced in brickwork and internally lined with plywood and thermal insulation to walls and roof to provide an acoustic barrier that would contain the hand operated car wash and valeting operations which would move the existing facility from immediately behind the Ship Inn to the south-western corner of the site and consequently move it a further 20m or so from the eastern plot boundary which abuts residential gardens.



A roller shutter door would be provided on the north-western and north-eastern façades of the proposed building which would be used as the entry and exits respectively to provide a one-way system. A small single-storey staff amenity structure and storage compound to provide toilet and washing facilities are also proposed to be attached to the new building's western elevation. Four staff car parking spaces would be provided which is clearly notated on the site block plan insert reproduced on the previous page.

New landscaping is proposed fronting the County Way/A361 public highway.

A 2m high vertical boarded fence shall be erected in addition to a temporary 1m high fence with lockable gates to sub-divide the site keeping the new car wash facility and associated car movements physically constrained in part of the site and detached from the neighbouring property boundaries.

The plan would also see the relocation of the existing car wash facility and operations from immediately behind the Ship Inn. To avoid the scenario whereby the applicant could in theory end up with two car wash facilities operating on site (the proposed enclosed unit captured by this application; and the extant approved outdoor facility), officers recommend that before planning permission is granted, the applicant would be required to enter into a unilateral undertaking to formally nullify the aforementioned extant planning permission, which would legally nullify the previous consent upon the bringing into use of the proposed new facility. A planning condition cannot legally secure a revocation and should the applicant fail to enter into such an undertaking, officers would no longer be supportive and would seek to refuse the application.

Members are therefore invited to consider as part determining this application, weigh up the necessity/ merits of seeking the revocation of the extant approved development that would legally bring an end to the existing approved operations and formalise the car wash/valeting operations away from the residential boundaries of No's 56-60 Newtown – which front onto Mortimer Street.

This application has been informed by necessary new drainage works to accommodate a new facility following negotiations held with Wessex Water and the Council's lead local flood authority, which included a site meeting which took place on 8 November 2017.

The proposed operating hours would increase to Monday – Saturday 8:00am to 7:00pm, and Sunday and Bank Holidays 10:00am - 4:00pm.

The application is supported by a noise impact assessment, a design and access statement, a planning statement, swept path analysis and a suite of plan drawings.

6. Local Planning Policy

Wiltshire Core Strategy (WCS) CP1: Settlement Strategy, CP2: Delivery Strategy, CP57: Ensuring High Quality Design and Place Shaping; CP58: Ensuring Conservation of the Historic Environment; CP60: Sustainable Transport; CP61: Transport and Development; CP62: Development Impacts on the Transport Network; CP64: Demand Management; CP67 Flood Risk

National Planning Policy Framework. (NPPF), National Planning Guidance (NPPG) and the Noise Policy Statement for England (NPSE) are also material considerations.

7. Summary of consultation responses.

Trowbridge Town Council: Objected to the application for the following reasons:

Proposed intensified use of site and hours of operation are not acceptable;
The development would lead to adverse impacts on residential amenities;
The proposed wash bay and valeting building by reason of its size, height, mass and design in a prominent location would create a visually incongruous and discordant feature;
The development would be detrimental to the nearby Conservation Area;
There is a lack drainage information and/or infrastructure to support the application;
The proposed development appears to lack the necessary staff welfare facilities to support employment and supervising persons.

Wiltshire Council's Public Protection Team: No objections subject to conditions securing the hours of operation, the terms of the permission (the jet wash and valeting operations), a condition covering lighting and ensuring the revocation of planning permission granted under 15/06493/FUL through a S.106 Unilateral Undertaking

Wiltshire Council's Highways Officer: No objections.

Wiltshire Council's Conservation Officer: No objections.

Wiltshire Council's Land Drainage Officer: No objections.

Wessex Water: No objections. Vehicles washed by hand produces less drainage flow than fixed vehicle washes, however the disposal of drainage water arising from hand washing of all vehicles must follow the same guidance as for fixed vehicle washes.

Environment Agency: No objections subject to an informative.

8. Publicity

The application was advertised by a site notice and posted out neighbour notification letters, following which 7 representations were received from 7 third parties raising the following concerns:

The principle and need for the car wash within a residential area are questioned. There are other car wash facilities elsewhere.

The Council recently refused a similar application for a car wash - what has changed?

The increased hours/days of operation are not supported.

The site operator currently washes vehicles for 59 hours per week.

The proposed building would be an eyesore and harmful on edge of Conservation Area.

There would amenity harm created by use of pressure washers, vacuum cleaners, engine noise – all contrary to Core Policy 57. The proposed new building would not address the impacts on amenity and will still generate noise.

Residents cannot enjoy their rear gardens because of noise and wafting spray from the car washing activities and suffer from stress and anxiety

Residents have no confidence in the site operators to which there has been local press coverage.

There has previously been a non-compliance with the original permission.

Consideration should be given to other developments in the town

The current operator's advert displays inaccurate hours of working.

Waste water run-off from current operations is/would not be dealt with properly.

The respite on a Saturday afternoon and all day Sunday is enjoyed by local residents.

Residents would prefer housing rather than car wash activities on the site

If the Council is minded to approve this application, the previously approved hours of operation should be retained and enforced by the authority.

9. Planning Considerations

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

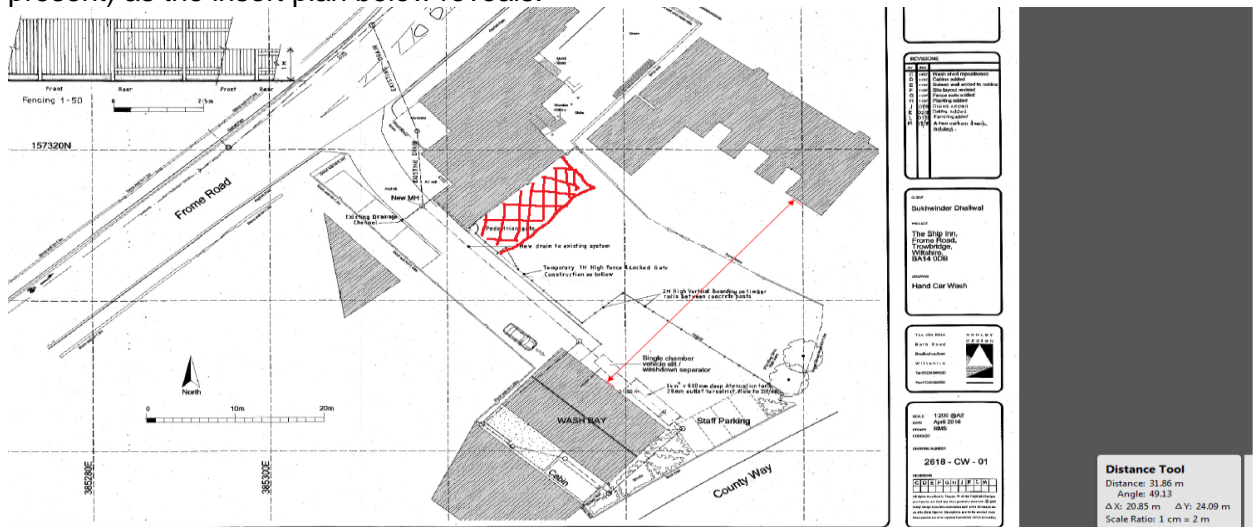
9.1 The Principle of Development – The application site at the former Ship Inn public house car park already benefits from extant planning permission for a car wash and valeting facility. Temporary permission was originally granted under application reference W/09/00138/FUL, which was subsequently granted permanently under W/15/06493/FUL. This allows for a small area of the car park immediately behind the Ship Inn building to be used as a car wash – which continues to operate.

9.1.1 Under para 123 of the NPPF, decision makers are advised to aim to consider developments carefully to *“avoid noise from giving rise to significant adverse impacts on health and quality of life as a result of new development; [to] mitigate and reduce to a minimum other adverse impacts on health and quality of life arising from noise from new development, including through the use of conditions; [to] recognise that development will often create some noise and existing businesses wanting to develop in continuance of their businesses should not have unreasonable restrictions put on them because of changes in nearby land uses since they were established; and identify and protect areas of tranquillity which have remained relatively undisturbed by noise and are prized for their recreational and amenity value for this reason”*.

9.1.2 The applicant wants to expand his business and intensify the use of the site by increasing the hours and days of operation and create more secure, permanent and better insulated premises through the construction of a bespoke sound proofed building for car washing and valeting in the south-western part of the form pub car park. With extant permission in place for a car wash and valeting facility in place, officers raise no in principle objection to the planning proposal. The input of the Council's public protection team has been pivotal to the case officer's appraisal of the proposed extension of the hours of operation and their expertise on sound proofing and noise impact analysis – which is covered in the next chapter heading.

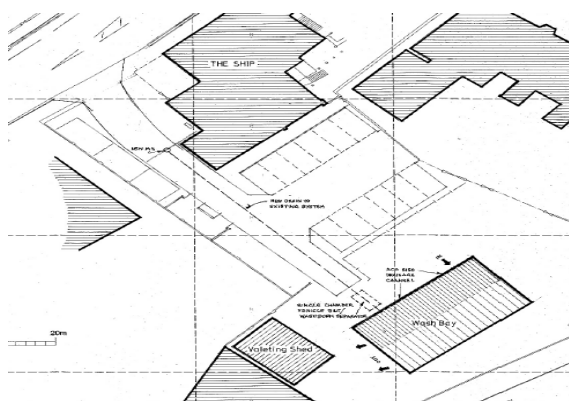
9.2 Neighbouring Amenity Impacts – It is appreciated that the majority of the objections received from neighbours/third parties centred on concern relating to loss of residential amenity through increased noise and disturbance as well as having what is an industrial/commercial operation on a site adjoining neighbouring properties and gardens. This latter point is responded to the previous chapter however, although there are some clear

merits in relocating the existing approved facility 20m+ from the existing residential boundaries and over 30m from habitable rooms within the neighbouring properties (compared to 1-2m at present) as the insert plan below reveals.

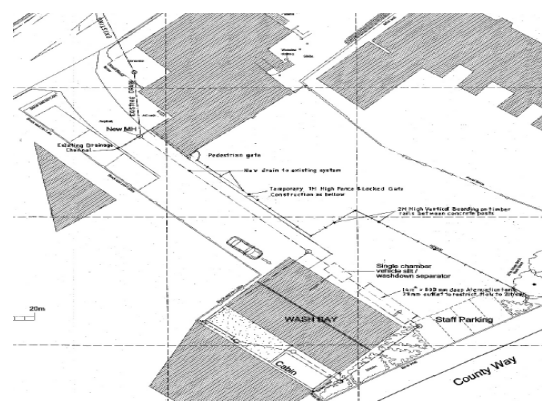


9.2.1 As the insert block plan on the previous page illustrates, the working area associated to the extant approved/operating car wash facility (identified by red hatching) is within close proximity to the boundaries of the nearby residential gardens and the impacts of the ongoing operations on the amenities of the neighbouring residents as expressed through the previous public notification exercises as well as the most recent process, have all been duly noted and appreciated. Indeed it was the impacts on the neighbouring properties which were central to officer discussions and negotiations held with the applicant and his appointed agent(s).

9.2.2 Before appraising the present application, members are advised that officers refused application reference 17/05075/FUL in October 2017 because the proposal comprised an open framed building approx. 6m high to 'house' a relocated car wash/valeting facility in the location as shown in the insert plan reproduced below left and extend the hours of operation to 08:00-18:00 Monday-Saturday and 09:00-18:00 Sunday and Bank Holidays. The 17/05075/FUL would have relocated the car wash facility operations about 10m from the residential boundaries, but this wasn't considered far enough given the proposed extended proposed operating hours; and, officers refused the application citing conflict with WCS CP57 due to adverse impacts on residential amenity as well as a design based objection to the utilitarian wash bay shed that would have occupied roughly half of the site's width.



Refused application 17/05075/FUL



Proposed application 17/12066/FUL

9.2.3 As illustrated in the above right insert, this application seeks to site the car wash facility building in the south-western part of the application site. The building's walls would be constructed from brick and internally lined with plywood incorporating noise proofing thermal

insulation, as would the underside of the roof sheeting. The building would be partially visible from the Newtown Conservation – which is defined by the properties on the northern side of Frome Road. The application is supported by a noise assessment which surveyed the existing operations and calculated the acoustic betterment to be gained from the proposed new building which is set out below:

Location	Proposed Use L _{Aeq(1hour)} dB	Existing Use L _{Aeq(1hour)} dB
NSR1 – 56-60 Newtown	47	57
NSR 2 – 3, 3a, 3b, 3c Frome Road	49	50
NSR 3 – The Ship Inn	56	70

This clearly indicates a decrease in noise levels at the dwellings along Newtown by -10 dB, Frome Road -1 dB and the proposed dwellings within the Ship of -14 dB.

As such the proposed development will have a significant **positive** impact to the residents in the form of noise reduction. This is clearly indicated in our report.

9.2.4 The proposed building would house the car washing and valeting activities and would remove the outdoor operations and spray and nuisance impacts currently experienced by local residents. Having a dedicated enclosed structure that contains that car washing and valeting operations would deliver betterment not only for the workforce but also to local residents. The previous insert which sets out the acoustic value improvements have been fully checked by the Council’s own public protection team and the application is therefore supported.

9.2.5 At the rear of the proposed new building, on its western flank, the proposed single storey addition to accommodate a staff room and cabin would securely house the generators and would be suitably sited away from residential properties, and would create no harm. The proposed car valeting and vacuuming would also take place within this enclosed dedicated area of the building. After careful consideration and close liaison with the Council’s public protection team, it is considered that the mitigation measures being proposed to reduce noise levels, have dedicated areas within the new building for washing and valeting operations as well as siting the building in the south-western part of the site, would deliver mitigation in terms of reducing the impacts upon the residential properties, and to a degree, deliver some betterment.

9.2.6 In addition to the above and at the insistence of the planning officers, the applicant agreed to include within this application a commitment to erect a 2 metre high fence to be erected within the car parking area to sub-divide the site to limit the extent of the associated vehicular movements accessing and exiting the facility in the interests of safeguarding neighbouring amenities and interests.

9.2.7 The current extant approved hours of operation are 09:00 – 18:00 Mondays to Fridays and 09:00 – 13:00 on Saturdays, with the no operations permitted on Sundays and Bank or Public Holidays. The proposal seeks to increase the hours of operation by two extra hours Mondays-Fridays (08:00-19:00) and eight additional hours on Saturdays (also 08:00-19:00). The applicant also wants to offer Sunday and Bank Holiday hours of operation between 10:00 -16:00. The Council’s Public Protection team are in supportive of the proposed expanded hours recognising that the operations would be contained within an insulated sound roofed building sited circa 30m from the housing at No’s 56-60 Newtown; and, no substantive harm would occur to other neighbouring/nearby users; subject to planning conditions defining the terms of the permission and securing the aforesaid mitigation.

9.2.8 It is acknowledged that the proposal would increase the working hours and days at the site, and there would be an intensification of use which may result in a degree of nuisance. However, the negotiated development would not result in significant harm and nor would it conflict with the NPPF, NPSE or the adopted WCS.

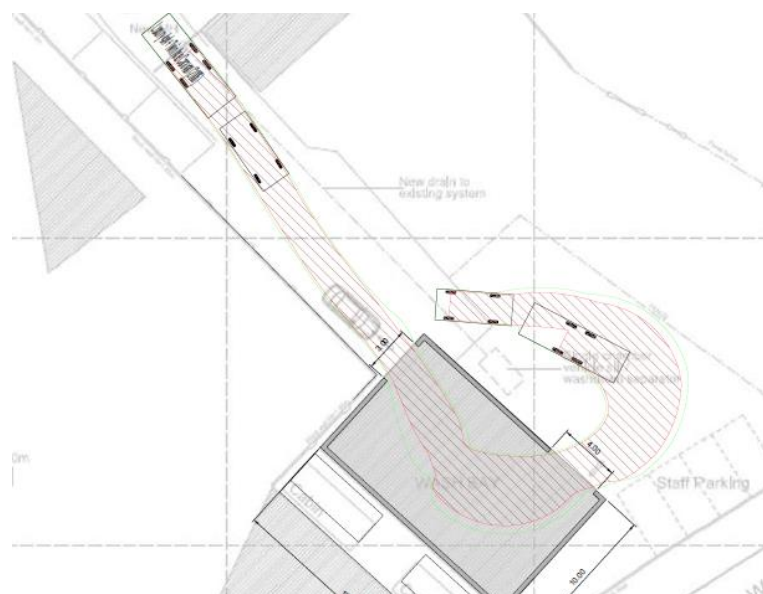
9.3 Impacts on the nearby Conservation Area Heritage Asset – Section 72 of the Planning (Listed Buildings and Conservation Areas) Act 1990 states that in the exercise of any functions, with respect to any buildings or other land in a conservation area, under or by virtue of any of the provisions mentioned in this Section, special attention shall be paid to the desirability of preserving or enhancing the character or appearance of that area.

9.3.1 Representations have raised concern about the impact of the proposed new building to be sited in the south-western part of the site which would be readily visible from the public domain. The proposed building would be sited circa 45 metres away from the edge of the Conservation Area and would only be partially visible in the rear part of the site when viewing the gap between the former Ship Inn and No. 3 Frome Road. The Council's Conservation Officer has appraised the proposals and concludes *"given the distance between the building and the Conservation Area, and that there would be a restricted view to and from the Conservation Area as well as the use of matching brick, it is considered that the proposal would have only a minimal impact on the Conservation Area and that this would not constitute harm"*.

9.3.2 Officers therefore report that the proposed development would accord with the NPPF and WCS in terms of the historic environment.

9.4 Drainage Matters – Wessex Water, the Environment Agency and the Council's drainage team were all consulted on this application and after appraising the submitted site drainage details no objections were raised.

9.5 Highways Safety Interests – The proposed development would utilise an existing vehicular access from Frome Road and also provide staff car parking spaces. The Council's highways officer appraised the application and confirmed having no objections. The application is supported by swept path analysis which shows how vehicles would enter and leave the site and the car wash building, from the existing access, as shown below:



Swept Path analysis showing how vehicles will enter and leave the site.

10. S106 Developer Obligations - A s106 unilateral undertaking is required for this application in order to secure nullification of planning permission 15/06493/FUL.

11. Conclusion (The Planning Balance) – This brownfield site currently benefits from extant planning permission for a car wash and valeting facility. A net betterment would be delivered in terms of relocating the existing on-site operations to the south-western part of the site for the neighbouring residential neighbours of No.56-60 Newtown and having the operation houses within an insulated building. Officers furthermore recommend the necessity to nullify the extant approved permission to avoid the site ending up with two facilities, fully acknowledging that a planning condition cannot nullify a lawfully approved development. However through a s106 unilateral agreement signed by the applicant/site owner(s), the extant car wash planning permission would be legally nullified should the development captured by 17/12066/FUL be implemented. This report has appraised the impacts on residential amenity, heritage assets, drainage matters, and highway safety interests and as set out above, officers conclude that the proposed development accords with the relevant national and local plan policies and planning permission is recommended.

12 RECOMMENDATION: It is recommended that the committee delegates authority to the head of development management to grant permission, following the completion and sealing of a s106 unilateral undertaking to enshrine the applicant's agreement to nullify planning permission 15/06493/FUL, and to bind planning permission under 17/12066/FUL to the following conditions and informatives:

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 fencing as illustrated on drawing reference 2618-CW-01 Rev M shall be constructed prior to the new car wash and valeting facility being brought into use and shall be retained for the lifetime of the development.

REASON: In the interests of neighbouring amenity.

3. The use hereby approved shall only take place between the hours of 08:00 - 19:00 Mondays to Saturdays and 10:00 to 16:00 on Sundays and Bank Holidays.

REASON: In the interests of controlling the use of the site.

4. No development shall commence on site until the exact details and samples of the materials to be used for the external walls and roofing have been submitted to and approved in writing by the Local Planning Authority. Thereafter the 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.

5. No external lighting shall be installed on site until plans showing the type of light appliance, the height and position of all fittings as well as the illumination levels and light spillage levels in accordance with the appropriate Environmental Zone standards set out by the Institute of Lighting Engineers in their publication "Guidance Notes for the Reduction of Obtrusive Light" (ILE, 2005)", have been submitted to and approved in writing by the Local

Planning Authority. Thereafter the approved lighting shall be installed and shall be maintained in accordance with the approved details.

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

6. The washing, cleaning, vacuuming and valeting of all vehicles shall take place within the designated building at all times.

REASON: In the interests of neighbouring amenity.

7. The development hereby permitted shall be carried out in accordance with the following approved plans: Site location plan received on 11.12.2017; Drawing number 2618-CW-01 Rev M Proposed site layout received on 20.04.2018; Drawing number 2618-CW-04 Rev E Proposed car wash building received on 15.05.2018; Drawing number 2618-CW-05 Rev A Section of proposed car wash building received on 15.05.2018; Drawing number 1008 sheet 1 of 1 silt/wash down separator received on 15.05.2018; Drawing number 1105-SK01 Swept path analysis received on 11.12.2017

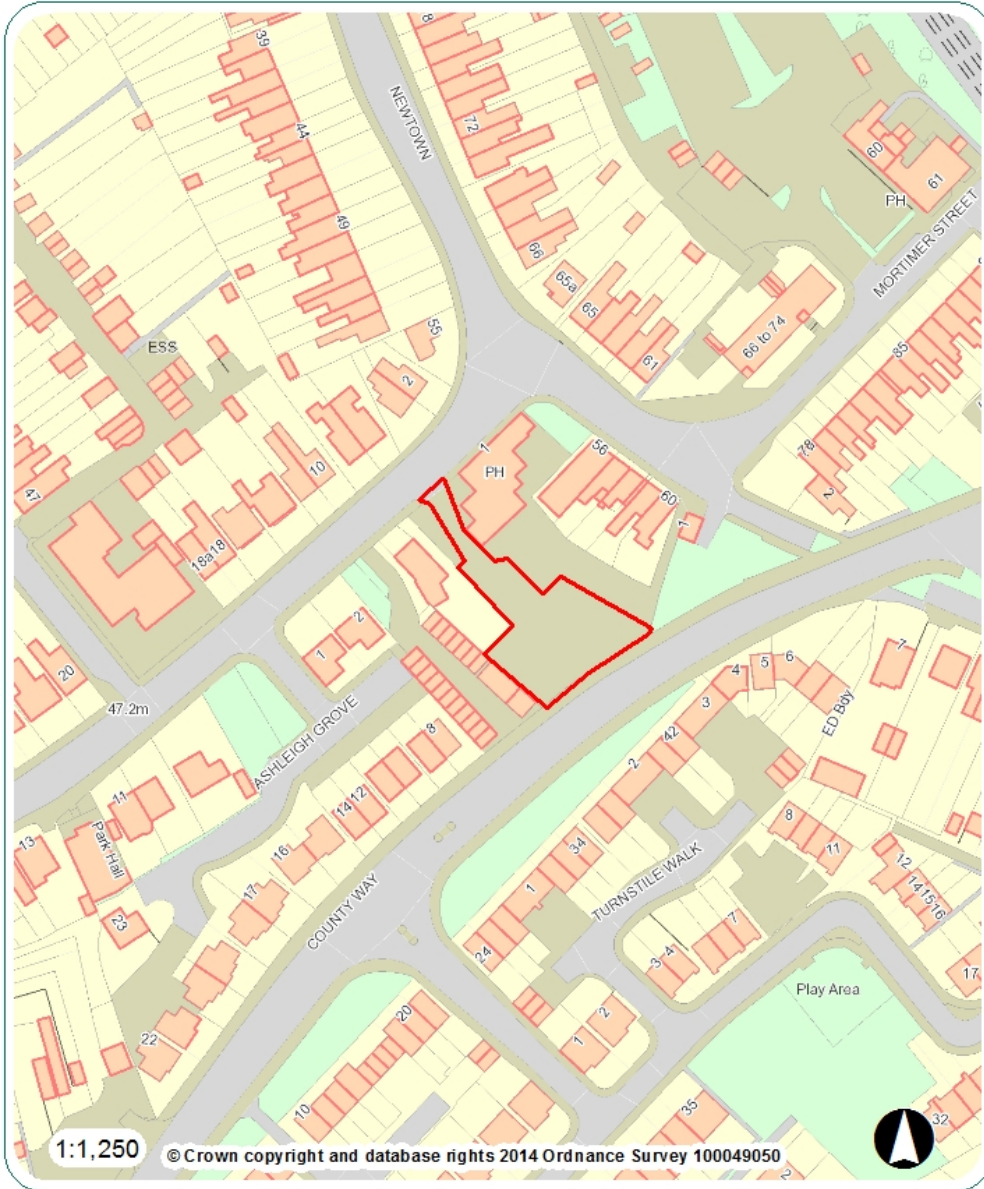
REASON: For the avoidance of doubt and in the interests of proper planning.

INFORMATIVE: Safeguards should be implemented during the construction phase to minimise the risks of pollution from the development. Such safeguards should cover:

- the use of plant and machinery
- oils/chemicals and materials
- the use and routing of heavy plant and vehicles
- the location and form of work and storage areas and compounds
- the control and removal of spoil and wastes.

The applicant should refer to the Environment Agency's Pollution Prevention Guidelines at: <https://www.gov.uk/government/collections/pollution-prevention-guidance-ppg>

17/12066/FUL
Land to the Rear of 1 Frome Road
Trowbridge
BA14 0DB



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Date of Meeting	30 May 2018
Application Number	18/01371/FUL
Site Address	Yew Tree House, Brokerswood, BA13 4EG
Proposal	Erection of detached dwelling.
Applicant	Mr & Mrs Cassidy
Town/Parish Council	NORTH BRADLEY
Electoral Division	SOUTHWICK – Horace Prickett
Grid Ref	383276 151938
Type of application	Full Planning
Case Officer	Eileen Medlin

Reason for the application being considered by Committee

The application has been called into committee by Councillor Prickett if it is recommended for refusal as he considers that the site is a brownfield field site in urgent need of redevelopment and the proposal would improve the street scene.

1. Purpose of Report

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

2. Report Summary

The main issue discussed into this report is the principle of development. Other issues such as impact on the character of the area, impact on residential amenity and highway safety and parking are also considered.

3. Site Description



Site Location Plan



Aerial Photograph

The application site comprises the car park of the former “Kicking Donkey” public house – which closed in November 2013 and extends to circa 1450sq.m, located in Brokerswood, some 800m west of Brokerswood Country Park. The site lies in the open countryside outside of any development limits and forms part of the curtilage of the converted public house which is now in residential use and known as Yew Tree House. No special landscape protections or

designations apply to the site or its immediate environs. The surrounding area is predominantly characterised by loose knit ribbon development with residential development either side of the application site as can be seen from the site location plan and aerial image.

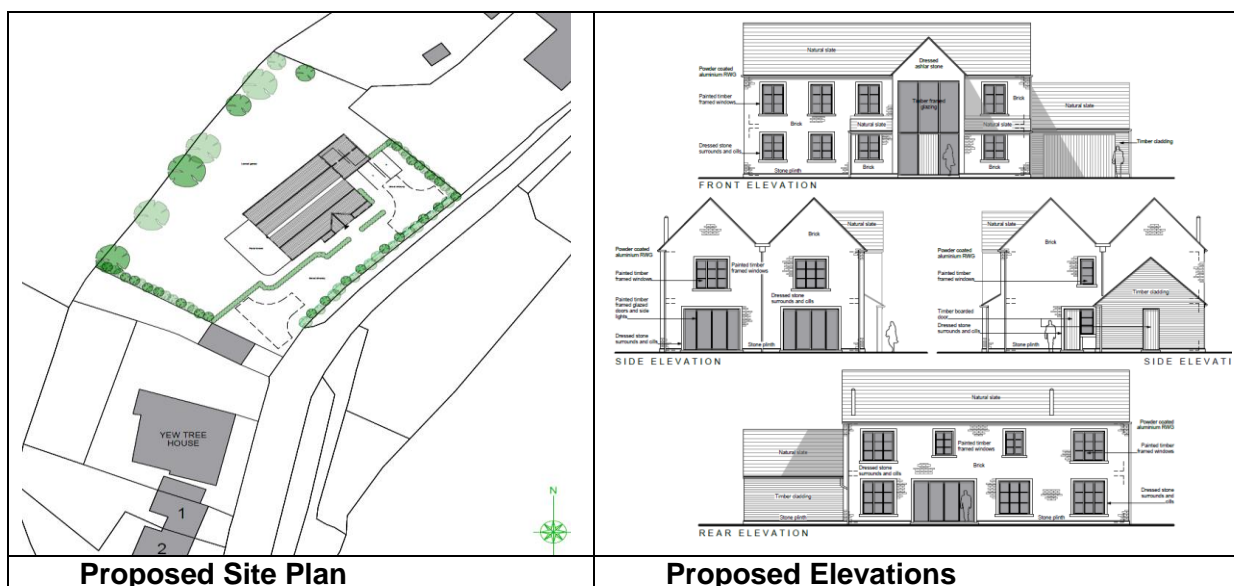
4. Planning History

W/74/00814/HIS	Sitting of residential caravan as temporary accommodation for staff	Approved 30/09/1974
W/84/01367/FUL	Proposed alterations and extensions to licensed premises and extension of car park onto existing agricultural land	Approved 18/12/1984
W/89/00991/FUL	New beer store and kitchen extension	Approved 25/07/1989
W/89/00992/FUL	Temporary beer store	Approved 27/06/1989
15/10329/FUL	Change of Use of Public House to residential dwelling house; first floor extensions at rear and side.	Approved 11/12/2015

Of particular relevance to this application is the 2015 planning application and permission cited above pursuant to the conversion of the pub to residential C3 use. The application site at that time included the car park which is now the subject of this application.

5. The Proposal

This application proposes the erection of a detached, two-storey, 4 bed dwellinghouse with attached garage, access and parking. The proposed siting, design and elevation treatment are illustrated in the plans below. The construction materials would be red brick walls under an artificial slated roof and painted timber frame windows.



A mature hedgerow is found along part of the southern boundary of the application site, running parallel with Brokerswood Road – which the applicant proposes to retain with additional hedgerow and soft landscaping planting.

The site would be accessed via the existing entrance to the former pub carpark which is long established and has good visibility in both directions. The application proposes 2 car parking spaces, in addition to the spaces provided for within the proposed double garage.

6. Planning Policy

The **Wiltshire Core Strategy** (WCS) was adopted on 20th January 2015. The following Core Policies (CP) are relevant when assessing this application: CP1 (Settlement Strategy), CP2 (Delivery Strategy), CP3 (Infrastructure Requirements), CP29 (Trowbridge Community Area Strategy), CP41 (Sustainable Construction and Low Carbon Energy), CP57 (Ensuring High Quality Design and Place Shaping), CP58 (Ensuring Conservation of the Historic Environment), CP60 (Sustainable Transport), CP61 (Transport and Development), CP62 (Development Impacts on the Transport Network), CP64 (Demand Management), and CP67 (Flood Risk)

Wiltshire Waste Core Strategy WCS6 (Waste Audit)

When adopting the WCS, some policies continued in force from the West Wiltshire District Local Plan (1st Alteration) (WWDLP). Those which are relevant to this application include: U1a (Foul Drainage/sewerage treatment)

The National Planning Policy Framework (NPPF) and **Planning Practice Guidance** (PPG)

Other Material Considerations

- **Wiltshire Car Parking Strategy**
- **Wiltshire Housing Land Supply Statement (Baseline date of April 2017)**
- **The Emerging North Bradley Neighbourhood Plan**

7. Summary of consultation responses

Trowbridge Town Council – No objection

North Bradley Parish Council – No objection

Wiltshire Council Highways Officer – No objection

8. Publicity

A site notice was displayed near the site and individual letters were posted to neighbouring occupiers advising them of the proposal. Following this public notification exercise, two letters of representation were received raising concerns on the following summarised grounds:

- The scale of the proposal
- The height of the proposed house; and
- The level and impacts of external lighting

9. Planning Considerations

Section 70(2) of the Town and Country Planning Act 1990 and Section 38(6) of the Planning and Compulsory Purchase Act 2004 require that the determination of planning applications must be made in accordance with the Development Plan, unless material considerations indicate otherwise. In this case, the 2015 adopted Wiltshire Core Strategy, including those policies of the West Wiltshire District Plan that continue to be saved and enshrined within the WCS, constitutes the relevant development plan for the Trowbridge Community Area where this site is located.

9.1 Principle of the Development

9.1.1 Core Policy 1 of the Core Strategy seeks to focus development at Principal Settlements, Market Towns, Local Service Centres and Large Villages and sets out a general presumption against unwarranted/unjustified development outside the defined settlement limits. This hierarchical settlement strategy is aimed at achieving sustainable development by locating housing growth at appropriate locations accessible to most services and facilities, whilst protecting the open countryside. Core Policy 1 also advises that development at large and small villages should be limited to dedicated scheme that meet the housing needs of settlements and to improve employment opportunities, services and facilities. However, it is essential that all such development should be carefully managed; and in the pursuit of delivering sustainable development, decision makers should be fully mindful of the objectives and direction set out by Core Policy 1 and other relevant policies in the Core Strategy.

9.1.2 In addition to development within the limits of development, Core Policy 2 supports infill development in small villages subject to satisfying certain requirements. Brokerswood is not identified as a small village by the Core Strategy. Core Policy 29 advises that new

residential development in the Trowbridge Community Area should be in accordance with the Settlement Strategy set out in Core Policy 1.

9.1.3 The application site is located in the open countryside for the purposes of applying planning policy and in the absence of a robust justification, the proposed development which seeks to erect a dwellinghouse for the open market, is considered to be unacceptable in principle and contrary to the Settlement Strategy as set out in Core Policy 1, the Delivery Strategy as set out in Core Policy 2 and the Trowbridge Community Area Strategy as set out in Core Policy 29. Moreover, the proposed development does not satisfy any of the exception policy in the Core Strategy.

9.1.4 Core Policies 60 and 61 require new development to be located at accessible locations and be designed to reduce the need to travel particularly by private car. These policies should be read in parallel with Core Policies 1 and 2 which seek to promote new development at the most sustainable locations and following Plan led growth.

9.1.5 Given the site's location within an area of open countryside, it is considered that the proposal conflicts with the above mentioned policies and would be an unwarranted and unsustainable form of development.

9.1.6 The Council has recently published its Housing Land Supply Statement with a baseline date of April 2017 - which confirms that the authority can demonstrate a five year housing land supply (published as being 6.25 years supply). Therefore, it follows that in accordance with paragraph 49 of the National Planning Policy Framework, policies CP1, CP2, CP29, CP60 and CP61, which all, to varying degrees restrict housing land supply, merit full weight.

9.1.7 The applicant argues that the site should be considered as being brownfield land and the development should be accepted. However, the Core Strategy does not set out an exception for residential forms development on previously developed land in the open countryside beyond settlement limits. In such locations, the adopted WCS requires a planning justification for additional residential development.

For the avoidance of any doubt, the definition of what constitutes 'previously development land' is contained in the glossary to the NPPF, which reads as follows:

***“Previously developed land** - Land which is or was occupied by a permanent structure, including the curtilage of the developed land (although it should not be assumed that the whole of the curtilage should be developed) and any associated fixed surface infrastructure. This excludes: land that is or has been occupied by agricultural or forestry buildings; land that has been developed for minerals extraction or waste disposal by landfill purposes where provision for restoration has been made through development control procedures; land in built-up areas such as private residential gardens, parks, recreation grounds and allotments; and land that was previously-developed but where the remains of the permanent structure or fixed surface structure have blended into the landscape in the process of time”*

9.1.8 It should be noted that the land that is the subject of this application, formed part of the application site for the conversion of the public house and was considered as part of the curtilage of this property under that application; and through the implementation of the 2015 application, the land would now be classed as residential curtilage / garden.

9.1.9 Officers report that the site was still occupied by building materials, waste rubble and equipment when the case officer visited the site on the 21 February 2018 which can be seen in the site photographs on the following page. The site is now considered to be residential curtilage following the conversion of the public house and it can be laid out as a garden. Following a query raised by the case officer, the applicant's agent confirmed that the clay was removed from around the property to put in land drainage and under the parking area to create a soakaway for surface water drainage which have been signed off by Building Control. Officers have been further advised that a local farmer will be taking the soil/clay and remaining rubble away from the site to level one of their fields, and to fill a track/driveway that needs repairing. Due to the poor weather during this past winter, it has not been practical to remove the rubble from the site or for the farmer to level their fields or to repair their track. However, the applicant has given an assurance that the material shall be removed within the next two months. Whilst the land is not tidy garden ground it is not significantly untidy; and even if it

was to be considered as such, untidy land cannot be used as justification to grant planning permission for an unrestricted dwellinghouse in an unsustainable location.



9.1.10 For the avoidance of any doubt, even if the site was to be considered to constitute as previously developed land, new residential development proposals must still be tested against the adopted Core Strategy and any decision should consider whether it is appropriate, justified and satisfies the Council's sustainable development policy requirements. In this particular case, officers are not satisfied there is a substantive planning justification and the application is not supported. The application does not propose affordable housing or an agricultural workers dwelling, and as a consequence, the principle of development is unacceptable.

9.2 Impact on the Character and Appearance of the Area

9.2.1 Core Policy 51 advises that development should, protect, conserve and where possible enhance landscape character. The supporting text to this policy advises that the principle means of protecting landscape character is the settlement framework. The development of this site would introduce a large two storey building within an existing gap in the street scene, which would result in a degree of urbanisation to this rural area, creating more of a hamlet than a loose knit form of development in the open countryside.

9.2.2 Core Policy 57 requires a high standard of design in all new developments. The proposed house would be of a mass and bulk that is larger than the majority of the existing neighbouring properties. However, it would sit comfortably within the plot and the eaves, ridge height and materials would all be in keeping with the neighbouring property at Yew Tree House and therefore no substantive design based objection is raised.

9.2.3 The proposed development would however represent an unacceptable encroachment into the open country side and would result in an unacceptable erosion of the open countryside consolidating an area of loose knit development which would have an adverse impact on the character and appearance of the area contrary to Core Policy 51 of the Wiltshire Core Strategy.

9.3 Impact on Neighbouring Residential Amenities

9.3.1 In terms of residential amenity, the proposed house would be sufficiently distant from the existing neighbouring properties and the layout, elevation and fenestration plans have been designed to avoid overlooking and loss of privacy. As such it is considered the proposed development would not result in harm to the amenity of neighbouring occupiers in accordance with Core Policy 57.

9.4 Highway Safety and Parking

9.4.1 The proposed development would utilise an existing vehicular access and provide parking in line with the Council's minimum standards. Therefore it is considered that suitable safe access could be secured in accordance with Core Policy 61 and 64, subject to conditions.

9.5 Other Matters

9.5.1 Core Policy 67 includes a requirement for Sustainable Urban Drainage which could be secured by condition, if the authority was minded to approve the application. Foul drainage details could also be secured by condition to comply with the requirements of saved policy U1a (Foul Drainage/sewerage treatment).

10. S106 / Developer Contributions

No S106 financial contributions / obligations are sought for this site and application as it falls below the threshold for seeking tariff style contributions as set out within the PPG and no site specific infrastructure requirements have been identified.

11. Conclusion (The Planning Balance)

The proposal for one dwelling in the open countryside would represent an unsustainable form of development that does not accord with the settlement strategy and delivery strategy as set out within Core Policies 1 and 2 of the adopted Wiltshire Core Strategy and the spatial strategy for Trowbridge as contained within Core Policy 29. The limited contribution that this one house would make to the Council's supply of housing does not outweigh the harm caused by the conflict with the above policies which are the mechanisms for delivering sustainable patterns of growth in the Trowbridge Community Area.

Furthermore it is considered that the adverse impacts on the character and appearance of the area as a result of development in the open countryside would be contrary to Core Policy 51.

RECOMMENDATION: - Refuse for the following reasons:

1. The proposed site is located in the open countryside outside any identified limits of development which has not been allocated for residential development within the Wiltshire Core Strategy (January 2015), a Housing Site Allocations DPD or Neighbourhood Plan. The development fails to satisfy the policy based criteria which support the delivery of additional residential units in the open countryside, and in the absence of a robust planning justification, the proposal is not considered to be a sustainable form of development and is contrary to Core Policies 1, 2, 29, 60 & 61 of the Wiltshire Core Strategy.

2. The proposed development would constitute as unwarranted encroachment of the open countryside, without any justification. The proposal would lead to the loss of a spatial gap between existing buildings that would introduce an urbanising effect that would harm the rural character and appearance of the area, contrary to Core Policies 1 and 51 of the Wiltshire Core Strategy and Paragraph 17 of the National Planning Policy Framework which seek to preserve the intrinsic character of the countryside.



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