

AGENDA

Meeting: Eastern Area Planning Committee
Place: Wessex Room, Corn Exchange, Market Place, Devizes SN10 1HS
Date: Thursday 1 November 2018
Time: 3.00 pm

Please direct any enquiries on this Agenda to Tara Shannon, of Democratic Services, County Hall, Bythesea Road, Trowbridge, direct line 01225 718352 or email tara.shannon@wiltshire.gov.uk

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

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Membership:

| | |
|--------------------------------------|---------------------|
| Cllr Mark Connolly (Chairman) | Cllr Peter Evans |
| Cllr Paul Oatway QPM (Vice-Chairman) | Cllr Nick Fogg MBE |
| Cllr Ian Blair-Pilling | Cllr Richard Gamble |
| Cllr Stewart Dobson | Cllr James Sheppard |

Substitutes:

| | |
|--------------------|---------------------------|
| Cllr Ernie Clark | Cllr Jerry Kunkler |
| Cllr Anna Cuthbert | Cllr Christopher Williams |
| Cllr George Jeans | Cllr Graham Wright |

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Public Participation

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

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

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

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

AGENDA

Part I

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

1 **Apologies**

To receive any apologies or substitutions for the meeting.

2 **Minutes of the Previous Meeting** (*Pages 7 - 12*)

To approve and sign as a correct record the minutes of the meeting held on 6 September 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 25 October 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 29 October 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 13 - 14)*

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

7 **Planning Applications and Items**

To consider and determine the following planning applications and items.

7a **17/08775/FUL - Malthouse Farm, 1 Bunnies Lane, Rowde, SN10 2QB** *(Pages 15 - 48)*

Hybrid Planning Application seeking: Part: Outline application for residential development of 3 market sector dwellings including siting, access and parking; and Part: Full Permission for the change of use of the retained buildings to form 3 market sector dwellings including external appearance and parking.

7b **18/07000/FUL - Land to the rear of Trinity Cottage, Castle Grounds, Snails Lane, Devizes, SN10 1DB** *(Pages 49 - 60)*

Proposed dwelling on site of former horticultural buildings.

7c **WILDLIFE AND COUNTRYSIDE ACT 1981 - The Town and County Planning Act 1990 Section 257 - The Wiltshire Council Marlborough 30 Diversion and Definitive Map Statement Modification Order 2018** *(Pages 61 - 96)*

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

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

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EASTERN AREA PLANNING COMMITTEE

MINUTES OF THE EASTERN AREA PLANNING COMMITTEE MEETING HELD ON 6 SEPTEMBER 2018 AT WESSEX ROOM, CORN EXCHANGE, MARKET PLACE, DEVIZES SN10 1HS.

Present:

Cllr Mark Connolly (Chairman), Cllr Ian Blair-Pilling, Cllr Peter Evans, Cllr Richard Gamble, Cllr James Sheppard and Cllr Jerry Kunkler (Substitute)

Also Present:

Cllr Sue Evans

42. Apologies

Apologies were received from, Cllr Stewart Dobson, Cllr Nick Fogg MBE and Cllr Paul Oatway.

Cllr Oatway was substituted by Cllr Jerry Kunkler.

43. Minutes of the Previous Meeting

The minutes of the meeting held on 12 July 2018 were presented for consideration, and it was:

Resolved:

To approve and sign as a true and correct record the minutes of the meeting held on 12 July 2018.

44. Declarations of Interest

Councillor Richard Gamble declared a non-pecuniary interest in application 18/04942/FUL as in his previous role as Portfolio Holder for Education and Skills he had met and worked with the Diocesan Board of Education and the applicant. He declared he would consider the application on its merits with an open mind as he debated and voted on the item.

Councillor Richard Gamble also declared a non-pecuniary interest in application 18/04151/FUL due to his current role as Portfolio Holder for Heritage, Arts and Tourism, as there were heritage considerations regarding the application. He declared he would consider the application on its merits with an open mind as he debated and voted on the item.

45. **Chairman's Announcements**

There were no announcements.

46. **Public Participation**

The rules on public participation were noted.

47. **Planning Appeals and Updates**

The report on completed and pending appeals was presented for consideration.

Resolved:

To note the updates.

48. **Planning Applications**

The following planning applications were considered.

49. **18/04942/FUL - Community Centre, Southbroom School House, Estcourt Street, Devizes, SN10 1LW**

Public Participation:

Mrs Elizabeth Denbury, resident, spoke in objection to the application.

Mr Darren Saunders, resident, spoke in objection to the application. Mr Darren Saunders had also submitted formal questions to the Committee. These were answered by the Chairman. The questions and responses can be seen in supplement 2. There were no supplementary questions asked.

Mr Lawrence Nash, resident, spoke in objection to the application.

Mr Peter Kent, Agent, spoke in support of the application.

The majority of objections raised concerned the number of parking spaces proposed as part of the application. It was stated that there were serious parking pressures in the local area and that if approved the application would seriously exacerbate this situation, due to the under-provision of parking in connection with the scheme.

Jonathan James, Senior Conservation/Planning Officer presented a report which recommended that planning permission be granted, subject to conditions, for the proposed redevelopment of the existing Old Southbroom School Buildings to provide 6 new residential dwellings comprising 1 Studio; 4 two bedroom flats; and 1 two bedroom town house, with associated external works, to include conversion of the existing redundant WC block into bike and bin storage (Resubmission of 17/09283/FUL).

Key details were stated to include the following:

The existing buildings on the site are Grade II listed, therefore a counterpart listed building application was submitted, which was undetermined. The application was a resubmission of 17/09283/FUL, which was withdrawn due to concerns about the number of units proposed. The number of units had been reduced from 7 to 6 in the revised application. It was proposed that each unit would have 1 parking space, so there would be 6 parking spaces in total.

The key details regarding the application were stated to include the impact on highway safety, car parking provision and heritage impacts. The total number of parking spaces to be provided did not meet with parking standards, however as the site was not a new build, but rather a change of use of a listed building, a relaxation in parking standards was deemed acceptable. In the proposed scheme, some of the parked cars would need to reverse out of the site which was not considered ideal. However it was stated that cars currently using the site were doing this already, so there would be no change in that regard. The public benefits of the proposal, in securing the future of the historic buildings, were deemed to outweigh the less than substantial harm caused to the heritage asset as a consequence of the change of use to residential. The re-development of the site would also provide an important contribution to housing stock in the local area.

Attention was drawn to a new plan which had been submitted by the applicant, which was summarised by the officer. The new plan illustrated how an extra parking space could be provided, taking the overall number of spaces to 7. However, as the agent did not wish it to form part of the application, it could not be considered.

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

The unitary division member, Cllr Sue Evans, spoke in objection to the application.

In response to public statements the officer stated that this was a conversion, rather than a new build, as such, statements that parking requirements were half those required were not correct.

A debate followed, whereby the key issues raised included; the reversing of cars onto the road causing safety issues. Some members felt this could not be considered as a major issue as it was already happening on the site. It was felt that the principle of the proposal was sound, as it would increase housing stock and ensure survival of the listed building. However parking was of great concern to all members of the Committee as there were already parking problems locally and there were not many spaces being provided in the proposed scheme. It was felt that there was room within the site to provide more parking. There was also concerned raised regarding drainage as there did not appear to be a storm sewer.

In response to the debate the planning officer stated that there was existing storm water drainage on the site.

Councillor Mark Connolly proposed a motion to refuse planning permission, against officer recommendation, as the provision of parking was not deemed to be sufficient in a location where there were already parking pressures. The application was therefore felt to be contrary to Core Policy 64 of the Wiltshire Core Strategy (2015) and to Section 9 of the National Planning Policy Framework. This motion was seconded by Councillor Peter Evans.

Further debate followed, where some members reiterated their concerns regarding the parking issues and felt that there was definitely room within the site to increase parking provision. It was hoped that if the motion to refuse was passed then the applicant would reapply with revised plans showing a higher level of parking provision on the site.

At the conclusion of the debate it was;

Resolved:

To REFUSE planning permission for the following reason:

The proposed development of six residential units with only six parking spaces makes inadequate provision for residents parking to enable the development to be accepted at this location where there is already parking pressure on nearby public roads. The proposed development is therefore contrary to Core Policy 64 of the Wiltshire Core Strategy (2015) and to Section 9 of the National Planning Policy Framework.

50. **18/04151/FUL - Lowerhouse Farm, Lower Chute, Wiltshire, SP11 9DX**

Public Participation:

Ms Ann Rudland spoke in objection to the application.

Mr Chris Hewlett spoke in objection to the application.

Ms Annie Griffiths spoke in objection to the application.

Mr Aaron Smith, Agent, spoke in support of the application.

Cllr Dominic Hughes of Chute Parish Council spoke in objection to the application.

Cllr David Pike of Chute Forest Parish Council spoke in objection to the application.

Objections included concerns regarding the increased number of car journeys the development would cause, car parking issues, lack of requirement for this type of housing, whether the proposal would comprise infill development, effect on heritage assets (including the adjacent grade II listed Lowerhouse Farm, the curtilage listed stable block and the Conservation Area); and impact on the AONB.

Karen Guest, Development Management Team Leader, presented a report which recommended that planning permission be granted, subject to conditions,

for the proposed conversion and extension of the outbuildings on the site to create three new dwellings, including off road parking.

Photos and plans of the site and proposal were shown, including elevation drawings. Windows and doors would largely be inserted in existing openings, apart from some new roof lights. The elevations fronting the road would look the same apart from the new roof lights.

Key issues were stated to include the following; that the site was in the North Wessex Downs Area of Outstanding Natural Beauty (AONB) and was in a Conservation Area; there was a grade II listed building adjacent and the stable block was considered to be curtilage listed. The principle of development was considered to be acceptable as the proposal was small scale, involving conversion and extension; and there were residential properties on either side. The property was Grade II listed, however the proposal was felt to be sensitive to the character of the buildings and not deemed to cause harm to the designated heritage assets. Two parking spaces were to be provided per dwelling which reflected the adopted parking standards.

Attention was drawn to late correspondence, consisting of 12 objections to the proposal. These were summarised by the officer and included: overdevelopment of the site; visual impact; inappropriate ecology report; impact on the AONB; drainage; it not being infill development; and parking.

Members of the Committee then had the opportunity to ask technical questions of the officer. Details were sought on whether all the bedrooms in the proposal were double bedrooms. The officer confirmed that they were.

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

The unitary division member, councillor Ian Blair-Pilling then spoke in objection to the application.

In response to public statements the officer confirmed that the stable block was considered to be a curtilage listed building.

A debate followed, whereby the key issues raised included; the lack of need for housing of this type in the area, affordable housing was needed which the proposed properties were not. Heritage concerns were also raised, including the size of the extension for Plot 2, which was felt to encroach upon the nearby listed farmhouse which would cause harm to its setting. There were concerns raised regarding parking, although it was acknowledged that the scheme met parking standards. It was stated that there may be increased vehicle journeys through the village. Due to a lack of services and public transport in the location, new residents would need to rely on cars. However it was also acknowledged that when the building was used as stables, there would have been traffic going to and from the location. Although most members were not opposed to the principle of residential development on the site, it was felt that the proposed scheme constituted overdevelopment and would harm the setting

of the listed and curtilage listed buildings and the conservation area. Concerns were also raised that the outbuildings associated with Lowerhouse Farm would be lost. It was not felt that the public benefit would outweigh the harm that would be caused to the heritage assets.

Councillor Ian Blair-Pilling proposed a motion to refuse planning permission, against the officer recommendation, due to harm that would be caused to heritage assets. This was seconded by Councillor Richard Gamble.

At the conclusion of the debate it was;

Resolved:

To REFUSE planning permission, for the following reasons:

Plot 2, comprising the conversion and extension of the existing outbuilding, would be in close proximity to the adjacent grade II listed Lowerhouse Farm; would result in an overdevelopment of the site; and would result in the loss of dedicated outbuildings for use in association with Lowerhouse Farm. This would cause less than substantial harm to the significance of the adjacent grade II listed property and the curtilage listed stable block by compromising their settings; and to the character and appearance of the conservation area. There are no public benefits which would outweigh that harm. The proposal would therefore conflict with Core Policies 57 and 58 of the Wiltshire Core Strategy and Section 16 (Conserving and enhancing the historic environment) of the National Planning Policy Framework, 2018.

51. **Urgent items**

There were no urgent items.

(Duration of meeting: 3.00 - 4.45 pm)

The Officer who has produced these minutes is Tara Shannon of Democratic Services, direct line 01225 718352, e-mail tara.shannon@wiltshire.gov.uk

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

**Wiltshire Council
Eastern Area Planning Committee
1st November 2018**

Planning Appeals Received between 24/08/2018 and 19/10/2018

| Application No | Site Location | Parish | Proposal | DEL or COMM | Appeal Type | Officer Recommend | Appeal Start Date | Overturn at Cttee |
|----------------|--|------------|--|-------------|-------------------------|-------------------------|-------------------|-------------------|
| 15/01209/ENF | Field Opposite Wyatts Lake Farm, Westbrook Bromham, Chippenham Wiltshire | BROMHAM | Land being used for storage of vehicles and machinery, and earthworks taking place | DEL | Written Representations | - | 28/08/2018 | No |
| 17/08897/FUL | Land East of 2 Prospect Cottages Malthouse Lane Upper Chute SP11 9EP | CHUTE | Erection of a detached dwelling; with parking, turning, landscaping, and private amenity space. Creation of new vehicular access point out onto Malthouse Lane. (Resubmission of Application No. 17/04582/FUL) | DEL | Written Representations | Refuse | 19/09/2018 | No |
| 18/00127/FUL | The Elms Kingston Road Shalbourne, SN8 3QF | SHALBOURNE | The erection of one detached dwelling and link detached garage | EAPC | Written Representations | Approve with Conditions | 20/09/2018 | Yes |

Planning Appeals Decided between 24/08/2018 and 19/10/2018

| Application No | Site Location | Parish | Proposal | DEL or COMM | Appeal Type | Officer Recommend | Appeal Decision | Decision Date | Costs Awarded? |
|----------------|---|--------|----------------------------------|-------------|--------------|-------------------|-----------------|---------------|----------------|
| 17/00178/ENF | Double Cottage 23 Wilcot, Pewsey Wiltshire, SN9 5NS | WILCOT | Unauthorised rethatching of roof | DEL | Written Reps | - | Split Decision | 09/10/2018 | None |

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REPORT FOR EASTERN AREA PLANNING COMMITTEE

Report No. 1

| | |
|----------------------------|--|
| Date of Meeting | 1 st November 2018 |
| Application Number | 17/08775/FUL |
| Site Address | Malthouse Farm, 1 Bunnies Lane, Rowde SN10 2QB |
| Proposal | Hybrid Planning Application seeking: Part: Outline application for residential development of 3 market sector dwellings including siting, access and parking; and Part: Full Permission for the change of use of the retained buildings to form 3 market sector dwellings including external appearance and parking. |
| Applicant | Adele Homes |
| Town/Parish Council | ROWDE |
| Electoral Division | Cllr Anna Cuthbert |
| Grid Ref | 397732 162753 |
| Type of application | Full Planning |
| Case Officer | Jonathan James |

Reason for the application being considered by Committee

The application has been called-in by the Chairman of the Planning Committee, Cllr Mark Connolly, in the division member's absence, due to concerns regarding highway safety, accessibility and the impact on the historic environment.

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

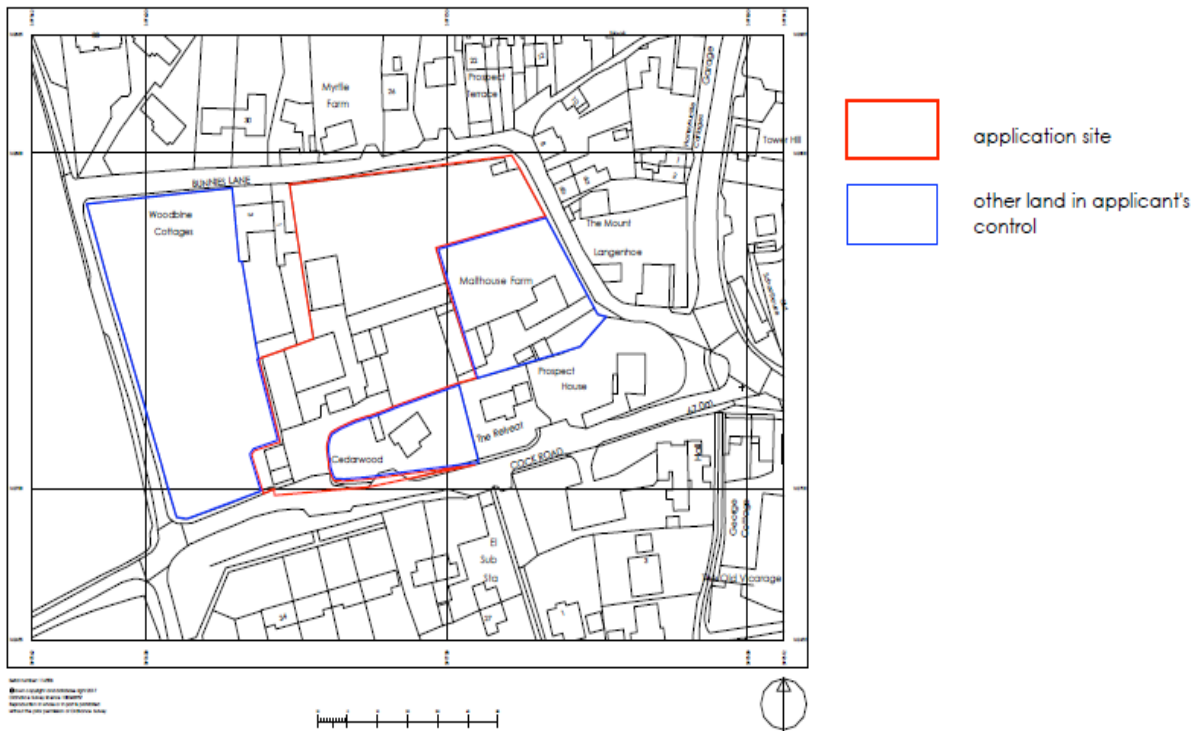
Concerns have been raised regarding the potential impact on highway safety as a result of inadequate pedestrian links into the village; the increase in traffic movements along highways that are incapable of supporting the development; the impact on heritage assets; the potential impact on drainage; and the visual impact of the scheme. These issues will be addressed in the report.

3. Site Description

The site is located within the Limits of Development for Rowde, which is designated as a large village within the Wiltshire Core Strategy (WCS) 2015. Within the site there are existing agricultural buildings, some traditional and others of modern (steel-framed) appearance. The boundary treatment to the north is a simple post-and-wire fence; however, across the site are a mixture of brick/stone walls as well as hedgerows. Bunnies Lane lies immediately to the north of the site and Cock Road lies immediately

to the south. There are existing dwellings to the north, west, east and south of the site, including the grade II listed Myrtle Farm and Prospect House. The existing housing stock is predominantly two storey dwellings, finished in a range of materials, although painted render and brick is predominant. Roof finishes comprise a mixture of clay tile, thatch and slate.

The topography of the land is generally level across the site, however there is a drop in level of close to 1.5m from the paddock down to Bunnies Lane.



Site Location Plan

4. Planning History

K/80/0325 Erection of one single storey dwelling and garage - Withdrawn

Adjacent site:

K/33796/O Outline planning permission for residential development. – Refused – dismissed at appeal.

5. The Proposal

The application is for the redevelopment of the site with six new dwellings (3 from the conversion of existing buildings and 3 new-build units).

The application, as originally submitted in 2017, was outline in form and proposed a total of 7 dwellings on the site, of which 4 would have been new-build units. In response to concerns raised by various parties, a number of amendments have been received. The key changes are as follows:

- The number of properties has been reduced from 7 to 6: - conversion of existing buildings to form three dwellings and the erection of three new builds;
- Change of application from outline to a hybrid; the conversion of the existing buildings is now in full application format and the new builds remain in outline;
- The scale of the proposed structure on plot 5 has now been described as single storey and the illustrative plans show a ridge height of 5.40 metres;
- The garage location on plot 6 has been move in line with the proposed dwelling;
- Landscaping has now been proposed along the northern boundary of plot 5;
- Further clarification on the drainage strategy has been provided;

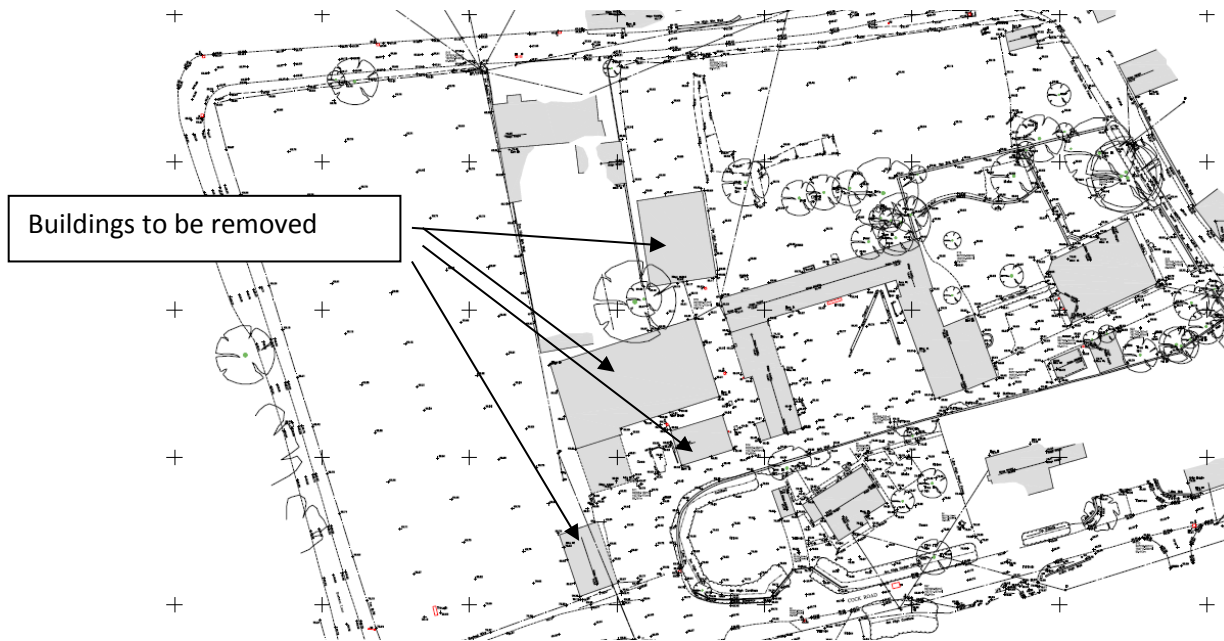
Access to plot 6 would be off Bunnies Lane to the north, and access to the remainder of the site would be off Cock Road to the south.

During the course of the application, it was identified that the conversion element of the scheme could not be dealt with under an outline application. As a consequence, the application for determination by the planning committee is a “hybrid” application. This provides “full” details of the conversion of the existing traditional farm buildings to three residential dwellings; and “outline” details for the erection of the three new-build dwellings, including siting, access and parking. All other matters (namely landscaping, scale and external appearance) are reserved for subsequent approval.

As can be seen on the existing and proposed site layouts below, the proposed scheme would involve the removal of some existing large agricultural buildings. Additional planting is proposed along the boundaries of the site.



Proposed Site Layout



Existing Site Layout (topographical survey)

6. Local Planning Policy

Wiltshire Core Strategy 2015 (WCS):

- Core Policy 1 – Settlement Strategy. This identifies settlements where sustainable development will take place, with a settlement hierarchy running from Principal Settlements through market towns and local service centres to large and small villages. Rowde is classified as a large village.
- Core Policy 2 – Delivery Strategy – in order to deliver the sustainable development envisaged in CP1, CP2 sets out the delivery strategy. Again, this states that houses will be delivered in sustainable locations, with a presumption in favour of such development within the limits of development defined on the policies map. This site is identified as falling within the limits of development of Rowde.
- Core Policy 3 – Infrastructure requirements – aims to ensure for the provision of necessary infrastructure requirements where appropriate.
- Core Policy 12 – Spatial Strategy: Devizes Community Area – clarifies that development in the Devizes Community Area should be in accordance with the Settlement Strategy as set out in Core Policy 1.
- Core Policy 50 – Biodiversity and geodiversity - Development proposals must demonstrate how they protect features of nature conservation and geological value as part of the design rationale.
- Core Policy 51 – Landscape – the supporting text for this in paragraph 6.85 identifies the need to protect the distinct character and identity of the villages and settlements in Wiltshire. Development should protect, conserve and where

possible enhance landscape character, and any negative impacts must be mitigated.

- Core Policy 57 – requires new development to make a positive contribution to the character of Wiltshire
- Core Policy 58 – Ensuring the conservation of the historic environment – requires development to protect, conserve and where possible, enhance the historic environment, and states that designated heritage assets and their settings will be conserved.
- Core Policy 60 – Sustainable transport – The council will use its planning and transport powers to help reduce the need to travel particularly by private car this will be achieved by planning developments in accessible locations.
- Core Policy 61 – Transport and new development – New development should be located and designed to reduce the need to travel particularly by private car, and to encourage the use of sustainable transport alternatives. The proposal must be capable of being served by safe access to the highway network.
- Core Policy 64 – Demand management – residential parking standards.

National Planning Policy Framework (2018)

Wiltshire Local Transport Plan 2011 – 2016: Car Parking Strategy (March 2011).

Historic England good practice guide to interpreting the National Policy Planning Framework (NPPF), “**The Setting of Heritage Assets**”

7. Summary of consultation responses

Rowde Parish Council – Comments have been received from the PC on the 24/10/2017, 31/10/2017 and the 08/11/2017 which have reiterated the same points, namely that: the Parish Council continues to support the application subject to conditions:

- Either lower embankment or re-site plot 6 to alleviate impact on Myrtle Farm and Ashwin’s Barn
- Insufficient parking spaces
- Require inclusion of footpath on Cock Road for pedestrian safety
- Request applicants to reconsider proposed tree and hedgerow along Bunnies Lane

Following the reduction in the number of units on site the PC made the following comments:

15/02/2018 - The Parish Council had these further comments to make:

- The concerns about pedestrian safety have not been addressed, concerned that highway officer does not support this
- It is acknowledged that plot 6 has been removed, but plot 5 has increased in size and has been moved closer to Myrtle Farm.
- Plot 5 has increased in size so greatly as to be no longer in keeping with the local landscape.

- Request applicants to reconsider proposed tree and hedgerow along Bunnies Lane, due to impact on amenity of neighbouring properties
- There were no photos to show what the view would be like of the renovated farm buildings from Myrtle Farm.
- The Parish Council would like to direct Wiltshire Council to the letters that have been submitted by local residents.

06/04/2018 - No comments

Following receipt of the Hybrid Application

Rowde PC comments (13/06/2018) – Support subject to conditions; Rowde Parish Council is content with its previous position, which is to support the application with conditions. These conditions are outlined in the Parish Council response date 15th February 2018.

Latest Comments received (12/09/2018) following receipt of land drainage strategy:

It was noted that it in the revised plan that plot 5 will be single storey building. The proposed height is stated as 5.4 metres. It was noted that a standard single storey building is usually lower than this.

The Parish Council had no further comments to make on the revised plans. The planning department's attention is drawn to previous comments including:

1. The concerns about pedestrian safety have not been addressed. These are fundamental to the Parish Council. There is no footpath provision on Cock Road or on Bunnies Lane.
2. The Parish Council would like to direct Wiltshire Council to the letters that have been submitted by local residents.

Wiltshire Council Highways – Support subject to conditions - 17/11/2017 - This is an outline application. There is no footway in the vicinity of the site, though I note this is very much the par for rural villages. There is a school in the village and it is on a main bus route.

The proposed visibility splays as shown of 2.4m x 31m and speeds identified are accepted.

Access for a single additional dwelling off Bunnies Lane is accepted. The improvement to the highway verge at the corner is welcome and could be undertaken via a short form S278 agreement.

The use of the current access for the proposed dwellings is accepted in principle. The proposed widening in front of Cedarwood and the potential for some widening on the opposite side of the road within the highway should be adopted via a short form S278. Cock Road does narrow over parts but there are recognisable lengths which are accessible for the passing of two vehicles and its junction onto the main road is

acceptable. In the opposite direction Cock Road is narrow but it is considered that most vehicle movements will be via the main road.

The internal road would not be adopted, the scheme does need to be designed to accommodate a refuse vehicle, early contact with the Waste team is recommended. The Council can enter the site to collect bins under written agreement.

There is insufficient detail to clarify the level of parking allocation; parking would need to meet the minimum parking guidelines. A tracking diagram to show how each parking space will work between plot 1 and the visitor parking is required.

The main access area (shown light green on the drawing) should be surfaced in consolidated material and in regards to plot 7 it should be surfaced in a consolidated material for at least the first 2.5m. Both accesses should be made to drain away from the highway.

In summary the principle of development is accepted subject to the following matters being addressed/conditioned:

1. All accesses should be surfaced in a consolidated material for at least the first 2.5m. If the site is to be accessed by a refuse lorry under agreement the turning area for the lorry should be built to adoptable standards i.e. consolidated surfacing.
2. The proposed widening to the front of Cedarwood and on the corner of Bunnies Lane as shown on the drawing will be required to be conditioned and secured as adopted highway via a short form S278 agreement.
3. The applicant could also look to provide some more widening on the opposite side of the road in areas which are shown as highway. This could also be a benefit to neighbouring properties providing a hard surfaced on street parking area.
4. The parking should meet minimum requirements and be provided as shown on the approved drawing.

02/02/2018 - Accept the amended drawing 1658.02.-C; refer to previous comments and accept the proposal. The splays as demonstrated on the drawing and the road widening on Cock Road and on the corner of Bunnies Lane which has also been annotated should be secured. A S278 agreement will need to be entered into to secure adoption of this work. Parking should be secured as demonstrated (meeting adopted minimal standards). The roads will not be adopted and the applicant should start discussions with the waste team to secure agreement in regards to waste collection.

Following receipt of the Hybrid Application

19/09/2018 - I have looked on line at my comments and on file is a revised response dated the 2nd of Feb in response to the revised drawing. In that response I note that the splays on the drawing are acceptable. Cock Road shows the 2.4m x 31m and Bunnies Lane shows the 2.4m x 22m. The access onto Bunnies Lane is at a location where speeds will be recognisably low I am happy to accept the 22m. This is also an access for a single dwelling and as such conflicting movements are very small and as such a shorter splay is acceptable.

Wiltshire Council Land Drainage - 20/10/2017 – Objects and Supports subject to conditions:

Application form states foul drainage to go to main sewer – WW issued their standard response for developments of less than 25 units and included a plan showing public foul sewers in Bunnies Lane and Cock Road thus assumed foul drainage discharge will not be an issue – condition needed

Application form states storm water disposal to be via sustainable drainage but does not indicate where the storm water will go – to ground or water course – WW records appear to show a highway drain in Cock Road but there is no right of connection into it from the site

Whilst site is in FZ1 according to EA mapping but there is 1 in 30/100 surface water flood risk in the roads to north and south which could impact on access/egress

This is an outline application but as a brownfield redevelopment it is expected that more details of storm water disposal should be given – may be issues with the use of soakaways thus would need to look for alternative disposal method such as to water course but none close and applicant may not have the right to connect

LPA have the choice of an objection (holding) on lack of storm water disposal information or accept that applicant can find an acceptable disposal arrangement within the life time of any approval in which case a recommendation of support with a GRAMPPIAN condition.

15/11/2017 – Amendment does not relate to drainage, no change from previous comments

Following the reduction in the number of units on site

02/02/2018 – Revisions do not include drainage plans, original comments stand

Following receipt of the Hybrid Application

26/06/2018 – Object; lack of drainage details, also concerns over flood risk from adjacent property owners. WW support foul to foul connection but do not accept storm water to foul. With no storm water drains within area this would need to be resolved before objection could be removed. However if LPA accept an arrangement is feasible within the lifetime of an application then this can be included as a Grampian condition. Highways adjacent to the site at risk of surface water flooding, it is expected that greater detail of storm water disposal should be given.

Latest Comments following receipt of land drainage strategy:

25/09/2018 - As our recent discussion:

- Local residents have issues over flooding in the area and down stream
- I also have concerns that the development may pose an increased risk to other

- They have prepared a desk top FRA which –proposes a reduced discharge from the site but not shown what current discharge rate actual is from the site
- They have indicated that current site has (at least some) flow going to a pipe off site but as above not confirmed the extent of current area draining to it, or its route to water course , its status or their right to use it.

Whilst I have concerns over the storm drainage disposal proposals, and based on a statement of an inspector at an appeal, I cannot say the applicant cannot overcome the drainage issues within any life of the application should you deem to give approval – As a result should the application be approved I would suggest pre-commencement conditions are applied

Wiltshire Council Conservation - 16/11/2017 – Object; the application is in outline form and therefore there is limited information to assess the impact of the proposals on the heritage assets. It is suggested that the offset of the removal of the agricultural barns would mitigate the erection of the new dwellings. Plot 6 is set on higher ground and it is considered that it would dominate the setting of the listed buildings opposite the site. It is agreed that there would be no harm to the setting of Prospect House. The existing farm buildings (not the steel framed modern structures) would be construed as non-designated heritage assets, however without detail of their conversion the degree of impact cannot be assessed.

It is difficult to see how the layout, form and design of the proposed new builds fits within the local context. It is considered that the development would cause less than substantial harm to the significance of Myrtle Cottage and barns. There is no public benefit to offset the harm as required by the NPPF.

Following the reduction in the number of units on site

22/02/2018 – The omission of plot 6 is a significant improvement to the setting of Myrtle Cottage and Ashwins Barn. The proposed planting is still shown close to the boundary opposite Myrtle Cottage. The reintroduction of apple trees and the use of a native hedgerow are acceptable, such a feature would not have an adverse impact in terms of significance of the listed building.

However, plot 5 has increased in size and is partly 1 ½ storeys high with single storey projecting wings; it is considered that the height and footprint of this property should be further reduced, i.e. omit western wing and reduce height to small single storey cart shed scale. Whilst there are examples of half hipped roofs, this is not a typical feature of the local vernacular. The location of the garage on plot 6 is arbitrary and could be accommodated within the built form of the new dwelling.

The provision of more information on the conversion of the barns is useful however without further details it is not clear what the finished scheme will look like. In terms of layout, the central courtyard should be retained as an open yard and not subdivided.

28/03/2018 – It is noted that the latest revisions have tried to resolve some of the issues. The garage has been moved on plot 6 to the end as opposed to the rear; this location is better. The height of plot 5 has been marginally reduced, however it should

be single storey. Query why the fruit trees are planted within the boundary and not further into the site.

Following receipt of the Hybrid Application

05/07/2018 – The revised details have provided more information on the conversion of the barns and this is now acceptable. Concerns over plot 5 remain.

19/09/2018 – My original comments included the background context for considering the application in terms of the historic environment

The key issues, in terms of the historic environment, are the impact of the development on designated and non-designated heritage assets. The Planning statement has identified Myrtle Farm and Prospect House being designated heritage assets in the vicinity of the application site. It also includes the fact that Malthouse farm is included in the HER and is a partial survival of an historic 19th century farmstead. In terms of the historic environment the primary consideration is the duty placed on the Council under section 66 of the Planning (Listed Building and Conservation Areas) Act 1990, to have special regard to the desirability of preserving the building or its setting or any features of special architectural or historic interest which it possesses.

The National Planning Policy Framework NPPF July 2018 outlines government policy towards the historic environment. Section 16 “Conserving and Enhancing the Historic Environment” sets out an overall aspiration for conserving heritage assets. In particular paragraph 193 *When considering the impact of a proposed development on the significance of a designated heritage asset, great weight should be given to the asset’s conservation (and the more important the asset, the greater the weight should be). This is irrespective of whether any potential harm amounts to substantial harm, total loss or less than substantial harm to its significance.*

The works to convert the farmyard buildings has now been shown in more detail and is now considered to be acceptable as it will retain the character and appearance of these heritage assets. Although I would prefer the central courtyard to be one single space and not divided into separate lawned spaces.

In terms of the new houses and impact on the setting of the listed buildings - I note that the height of the proposed house on plot 5 has been considerably reduced and the half hips removed in favour of gable ends. Due to the location of the house and its height I am on the view that it will not cause harm to the significance of Myrtle cottage nor Ashwins Barn. The outlook from these properties may be changed but I do not consider this to impact on the historic significance of the properties. However, I still consider that the footprint of this element should be reduced to comply with policy CP57 as new development should follow the scale and layout of the area. I previously suggested the removal of the eastern wing.

Wiltshire Council Archaeology – No objection, subject to a planning conditions requiring a proportionate level of archaeological recording. The Wiltshire and Swindon Historic Environment Record (WSHER) shows that the proposed development site contains a partially extant historic farmstead which dates to at least the 19th century. The Wiltshire and Swindon Farmsteads Project recorded it as U plan with additional detached elements to the main part. The Farmhouse being set away from the yard and located within or associated to a village. There has been less than 50% loss of traditional buildings.

The Heritage Statement submitted with the application makes reference to the village of Rowde being in existence in Saxon times and the medieval village centred around the church. The WSHER details a fragment of a Romano-British finger ring found immediately north of the site and a Roman coin found approximately 70m to the south. The Andrew and Drury's map of 1773 shows buildings in the area of Malthouse Farm and by 1886 the Ordnance Survey mapped the farm in a similar layout as of today (central U plan form with detached elements to the southeast and northwest).

The Planning Statement contains a Heritage Assessment which has not addressed the potential for non-designated heritage assets to be impacted by the proposals nor does it appear to follow the Wiltshire and Swindon Farmsteads Assessment Framework. On the latter however I refer you to the advice of the Conservation Officer but I consider an appropriate level of building recording should be undertaken prior to the works commencing and a report submitted to the Wiltshire Buildings Record. There is little evidence on the WSHER to suggest significant archaeological remains will be impacted by the proposals and the development of the farmstead from at least the 19th century to present will likely have caused a degree of impact on surviving archaeological remains. Due to its location however on the periphery of Saxon-medieval settlement (its likely location around the Church of St Matthew), two nearby Roman finds and possible remnants of earlier buildings/farm structures on the site, I consider a proportionate level of archaeological investigation should be made a condition of planning approval.

Wiltshire Council Ecologist – No objections, support subject to conditions. It is considered that the Phase I Habitat and Bat Survey carried out by Malford Environmental Consulting has been sufficiently thorough to properly inform the application. The survey report states that the buildings are of negligible importance for bats and no evidence of bats was found within the site. There is some evidence of past use of the buildings by swallows and other birds, a function that will be lost through development, therefore some replacement of bird nesting opportunities will be required. The adjoining paddock contains grassland of low conservation value although the trees contribute to primary connectivity within the wider landscape area and will provide foraging and commuting habitat for a range of birds and small mammals.

The survey report gives recommendations for retention of trees where possible and I note that the site drawings propose tree planting to replace any lost. The report also recommends the addition of integral bird and bat boxes on the replacement buildings, in line with the requirement within NPPF to provide mitigation AND enhancement for biodiversity within the development.

Any given permission should be in accordance with the recommendations for ecological mitigation (bats and birds) in Section 5 of the submitted Protected Species Survey and Mitigation (Malford Environmental Consulting, 23 September 2016) and with any further plans submitted as required by the Ecologist.

The site is at least 60m south of the watercourse to the north which runs into Summerham Brook; this brook is over 200m west of the site. The distance between the site and the watercourse is a combination of permeable open ground and hardstanding, therefore I consider that there appear to be no likely ecological impacts on the watercourse.

Wiltshire Council Arboriculturist – No objections.

Wessex Water – No objection - Following receipt of the revised scheme our comments remain unchanged. There are no objections raised to this application by Wessex Water who advise that a new water supply and waste water connection will be required. A plan showing the approximate location of WW apparatus is provided. The applicant has indicated that foul sewerage will be disposed of via the main sewer. Rainwater running off new driveways and roofs will require consideration so as not to increase the risk of flooding. The applicant has indicated in the current application that rainwater (also referred to as “surface water”) will be disposed of via sustainable drainage systems and the main sewer. Due to the risk of sewer flooding in the area there must be no rainwater connections to the foul network. Your contractor will need to consider a point of discharge to watercourse or the public surface water system if soakaways do not work in this area.

8. Publicity

The application has been advertised by way of a site notice, advertisement within the local press and by letter to neighbouring properties. The following is a summary of the responses received:

Object:

- The amendments to the scheme do not resolve any of the other issues identified within previous comments made for a development of this type at this location
- Disagree that a hybrid application should be acceptable
- Great weight should be attributed to settings of the nearby listed buildings and the value of the visual amenity of this rural area
- Plot 5 remains significantly large and the amendments do not overcome the Conservation Officer concerns
- Plot 5 has not been reduced to a single storey structure; 4 metres is the maximum permissible height for a single storey building
- The new houses would dominate the landscape
- The reduction in ridge heights does not overcome the visual impact within this area
- Proposed planting does not overcome the visual impact that the proposed development would create
- Plot 6 remains unchanged and would appear to be one of the largest houses in this area

- Property at plot 6 would overlook properties opposite and affect their right of light
- Property at plot 6 would block light
- Proposed trees along northern boundary would impact on light and living conditions of properties along Bunnies Lane
- The proposed development is not in the village plan
- The village has already met its quota for new development
- The site has been allocated as employment land within the Housing Site Allocations DPD
- There is no village green in Rowde, this is the only green area left
- Rowde has attracted a number of new businesses in recent years the most recent being a micro-brewery, as such the paddock and buildings have some local business value within the village and should not be automatically lost to residential
- There is no justification for new dwellings
- The site continues to support agricultural activities
- The Paddock is a greenfield site; who has made the decision that this is brownfield land
- Development would be more appropriate elsewhere such as Manor Farm
- More affordable housing required not luxury housing at Malt House Farm
- Impact on the setting and character of the two listed buildings opposite the site on Bunnies Lane
- Site for one bungalow (Myrtle Farm) was turned down due to impact on listed building, this proposal would have a greater impact on the listed building
- No assessment of the impact on all of the listed buildings within the area (Langenhoe, Ashwins Barn, Prospect House and Myrtle Farm)
- Views of the paddock greatly enhance the setting of the heritage assets
- The paddock forms part of the historic core of the village
- The existing agricultural buildings form part of the rural/agricultural context of this area and are not visually intrusive
- Development not in accord with Core Policies 1, 2, 45, 48, 57, 58 and 61
- Bunnies Lane and Cock Road are rural, single track roads with extensive on-road parking and extremely limited passing opportunities
- Both access roads to the site are dangerous with no footpaths or pedestrian access
- There should be no direct access onto Bunnies Lane
- Proposed trees would undermine the adjacent highway
- The surrounding road network is inadequate to accommodate construction vehicles;
- There would be a conflict with the current on-street parking with existing residents;
- Existing households do not have sufficient parking off-street and have to park on the highway
- The proposed scheme would not provide sufficient parking on-site and would lead to overspill parking on the surrounding road network to the detriment of highway safety
- Concerned that services such as fire engines and ambulances will not be able to gain access to properties
- Correspondence, highlighted by residents, received from Wiltshire Council's waste department highlighting on-street parking issues and that waste lorries encountering difficulties in gaining access to this area

- The increase in traffic would have a detrimental impact on highway safety conflicting with pedestrians etc.
- Increase in traffic would lead to congestion issues
- Transport statement contains a number of inaccuracies
- Highways Impact – application should be rejected
- The area is well used by walkers/ramblers/horse riders and residents have noted that buzzards, red kites and bats use the land
- Loss of open space would discourage visitors from the area including local B&B businesses
- Detrimental impact on protected species and their environment
- Issues relating to the management of storm drainage remain an issue
- Proposed scheme would result in more hard surfaces which would cause flooding to surrounding highways and properties
- In times of inclement weather Bunnies Lane often has pooled water along it, due to insufficient drainage
- Root system of the proposed trees would detrimentally impact on the existing drainage system along Bunnies Lane
- High levels of polluted water runoff entering the nearby stream would have a detrimental impact on protected species
- Mains drainage is at capacity and cannot receive any further additions

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 states that “*determination must be made in accordance with the development plan unless material considerations indicate otherwise*”. Paras 2 & 11 of the NPPF (2018) reiterate and confirm this requirement. This is the starting point for determination. The Wiltshire Core Strategy, adopted in January 2015 is the relevant development plan for the purposes of this proposal.

9.1 Principle of Development

The applicant submits that the site has brownfield (previously developed land) status. This is questioned by local objectors who refer to “The Environmental Protection Agency” (EPA) definition of brownfield land and contend that the paddock cannot be considered as brownfield land. It is considered that none of the land (farmyard or paddock) is brownfield land. With reference to the definition contained within both the WCS (2015) and the NPPF (2018), brownfield land (previously developed land) is,

‘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 was last occupied by agricultural or forestry buildings; land that has been developed for minerals extraction or waste disposal by landfill, where provision for restoration has been made through development management procedures; land in built-up areas such as 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’.

As the land is occupied by agricultural buildings, it is excluded from the planning definition of previously developed land and this is therefore not a material consideration in the determination of the application.

However, on reviewing the farm buildings that are the subject of this application for conversion against the permitted development rights in the Town and Country Planning (General Permitted Development) Order (Class Q) it is clear that these could be eligible for conversion to residential under the prior approval regime without requiring planning permission from the local planning authority. The floor space of the building (including first floor) amounts to 380sqm which is well below the 1000sqm permitted by the GPDO and the works proposed appear to comply with the conditions and requirements of Class Q. There is a clear desire, through the submission of this application, that the applicant intends to develop and maximise the value of the site and that there is a real prospect of the development proceeding. As such, and with reference to *Mansell v Tonbridge and Malling BC* [2017] EWCA Civ 1314, in which the leading judgment was given by Lindblom LJ the prospect of conversion of the buildings to form three dwellings under permitted development rights is a realistic fall-back position, and this is a material planning consideration.

Furthermore, the whole of the site (buildings and paddock) lies within the defined settlement boundary (limits of development) for the village of Rowde as defined within the Wiltshire Core Strategy (2015) and the Kennet Local Plan before that.

Core Policy 2 identifies that within the Limits of Development (LoD), as defined on the policies map, there is a presumption in favour of sustainable development at the Principal Settlements, Market Towns, Local Service Centres and Large Villages. Rowde is identified in Core Strategy Policy 1 as a large village where development will predominantly take the form of small housing and employment sites within the settlement boundaries. Small housing sites are defined as sites involving fewer than 10 dwellings (i.e. not a major application). The proposal is for six dwellings and the site falls within the LoD, (except for two parking spaces to the southwest corner that fall just outside).

The proposed development, in terms of its size and location within the settlement boundaries, is therefore in accordance with the settlement strategy of the Wiltshire Core Strategy, which is the development plan for the area.

Although the limits of development for the village are being reviewed through the Sites Plan, no changes to the limits of development in this part of the village are proposed in the latest draft. The plan is due for examination next year, and so carries limited weight at this stage.

9.2 Visual Impact

The Wiltshire Core Strategy identifies the need to protect the distinct character and identity of the villages and settlements in Wiltshire. Core Policy 57 and the NPPF seek to encourage high quality design in new development. The proposed scheme involves re-use of existing buildings on the site and in this sense is considered to reflect and respect the existing character of the area. The proposed alterations are considered to be appropriate and reflective of the character of the existing buildings.

The proposed three new dwellings are in outline form only, although an indication of scales can be derived from the details supplied within both the plans and the submitted statements. It is considered that the scale and design detailing can be reasonably controlled through condition and will be formally considered at the reserved matters stage. The amended plans received reduce the number of units down from seven to six which it is considered is a significant improvement to the layout and density of development within this location. The scale of the dwelling to plot 5 has been reduced to a single storey dwelling, which is recognised as acceptable by the conservation officer and is considered a significant reduction to the scale of development on this plot and would further enhance the proposed development. In addition the position of the garage to plot 6 has been moved from its original location closer to the highway of Bunnies Lane further into the site adjacent to the proposed new dwelling. This again is considered to be a significant visual enhancement of the proposed development along this part of the street.

The site is located within the built form of the village, would involve the retention and conversion of traditional agricultural buildings and the removal of unsightly modern buildings, which would be an enhancement in visual terms. It is considered that carefully designed new dwellings could be reasonably sited within the proposed locations without harming the existing context and character of this part of the village, the full details of which would be considered at the reserved matters stage. As such, the proposed development is considered to comply with Core Policies 51, 57 and 58 of the WCS (2015) and the relevant paragraphs of the NPPF.

9.3 Impact on Heritage Assets

The key issues, in terms of the historic environment are the impact of the development on designated and non-designated heritage assets. The submitted Planning statement has identified Myrtle Farm and Prospect House as being designated heritage assets in the vicinity of the application site. It also states that Malthouse farm is included in the Historic Environment Records (HER) and is a partial survival of an historic 19th century farmstead.

In terms of the historic environment, the primary consideration is the duty placed on the Council under section 66 of the Planning (Listed Building and Conservation Areas) Act 1990, to have special regard to the desirability of preserving the building or its setting or any features of special architectural or historic interest which it possesses.

The National Planning Policy Framework NPPF July 2018 outlines government policy towards the historic environment. Section 16 "Conserving and Enhancing the Historic Environment" sets out an overall aspiration for conserving heritage assets, in particular paragraph 193 *'When considering the impact of a proposed development on the significance of a designated heritage asset, great weight should be given to the asset's conservation (and the more important the asset, the greater the weight should be). This is irrespective of whether any potential harm amounts to substantial harm, total loss or less than substantial harm to its significance.'*

Core Policy 58 in the WCS - Ensuring the conservation of the historic environment - states that designated heritage assets and their settings will be conserved.

Distinctive elements of Wiltshire's historic environment, including non-designated heritage assets, which contribute to a sense of local character and identity, will be conserved, and where possible enhanced. The potential contribution of these heritage assets towards wider social, cultural, economic and environmental benefits will also be utilised where this can be delivered in a sensitive and appropriate manner in accordance with Core Policy 57. This policy seeks high quality design in new development.

Malthouse farm has dominated the central area between Bunnies Lane and Cock Road. Prospect house is in the south west corner. The area retains its largely rural agricultural character. Whilst the barns are not of great architectural quality, they relate to this agricultural use and character. To the north of the site is Myrtle Farm and its associated barns (now house) which are grade II listed and date to the 17th century. The house is a thatched timber framed building of one-and-a-half storeys. Some of the rural character of the setting of Myrtle farm has been lost with the 20th century developments adjacent, however, it still retains a rural outlook to the front over the historic orchard.

The works to convert the farmyard buildings has now been shown in more detail, through the submission of additional plans and is now considered to be acceptable as it will retain the character and appearance of these heritage assets.

The Historic England Guidance *Making Changes to Heritage Assets* states that it would not normally be good practice for new work to dominate the original asset or its setting in either scale, material or as a result of its siting.

The Conservation Officer notes that, in terms of the new houses and impact on the setting of the listed buildings, the height of the proposed house on plot 5 has been considerably reduced and the half hips removed in favour of gable ends. She considers that due to the location of the house and its likely height (based on the section drawings), no harm would be caused to the significance of Myrtle cottage or Ashwins Barn. It is considered that the outlook from these properties may be changed to some extent but that this would not impact on the historic significance of the properties. It is further considered that there would be no harm to the significance of Prospect House. The omission of Plot 6 (thereby reducing the number of properties from seven to six) from the application is a significant improvement in relation to the setting of Myrtle cottage and Ashwins barn.

On balance, it is considered that the proposed scheme would not cause harm to the significance of the adjacent listed buildings or their setting and as such would comply with Core Policies 57 and 58 of the WCS (2015) and with the relevant paragraphs of the NPPF.

9.4 Ecological Impact

In carrying out its statutory function, the local planning authority must have sufficient information to judge whether the proposal would be likely to result in any adverse impact to protected habitats or species, in line with NPPF and with Core Policy 50 of the WCS (2015). Core Policy 50 provides the Council's stance on biodiversity and how development must take into consideration the importance of such features and species using an area, how they can be maintained and where it is deemed necessary to alter a

feature, appropriate mitigation. The presence of any protected species is a material consideration within the planning system.

A Bat and Protected Species Survey (Malford Environmental Consulting, 2 November 2017) was submitted as part of the original application. The Council's Ecologist is satisfied that the Phase I Habitat and Bat Survey carried out by Malford Environmental Consulting has been sufficiently thorough to properly inform the application. The survey report states that the buildings are of negligible importance for bats and no evidence of bats was found within the site. There is some evidence of past use of the buildings by swallows and other birds, a function that will be lost through development, therefore some replacement of bird nesting opportunities will be required. The adjoining paddock contains grassland of low conservation value although the trees contribute to primary connectivity within the wider landscape area and will provide foraging and commuting habitat for a range of birds and small mammals.

The survey report gives recommendations for retention of trees where possible and it is noted that the site drawings propose tree planting to replace any lost. The report also recommends the addition of integral bird and bat boxes on the replacement buildings, in line with the requirement within NPPF to provide mitigation and enhancement for biodiversity within the development.

The Ecologist's initial comments were made in respect of the outline application and did not take into consideration the full details subsequently submitted for the conversion of the older farm buildings. However, comments received subsequent to receiving the hybrid application also raised no objections and advised that the previous comments stood. In accordance with the Ecologist's recommendations, a condition is recommended in the event that planning permission is granted, requiring a plan to be submitted at the reserved matters that shows the number, type and location of bird and bat boxes to be included within the development.

Concerns have been raised by residents regarding the potential for the pollution of locally important watercourses through the proposed drainage strategy and any pollutants on site. Both the Council's ecologist and environmental health officer have been consulted on this matter. No objections have been raised by either officer in relation to this issue. Environmental Health has required a standard condition be imposed in relation to contamination investigation. The Council's ecologist has checked the application's revised plans, and retains the previous ecological comments, originally made in December 2017. These requested a condition to secure that a mitigation strategy site plan is submitted prior to works commencing. The site is at least 60m south of the watercourse to the north which runs into Summerham Brook; this brook is over 200m west of the site. The distance between the site and the watercourse is a combination of permeable open ground and hardstanding, therefore it is considered that there would appear to be no likely ecological impacts on the watercourse.

In summary, it is considered that the proposed scheme would not have a detrimental impact on protected species but that any given works undertaken should be in accordance with the recommendations for ecological mitigation (bats and birds) in Section 5 of the submitted Protected Species Survey and Mitigation (Malford

Environmental Consulting, 23 September 2016) and with any further plans submitted as required by the Ecologist. These can be secured via condition.

9.5 Highway Safety Impact/Parking

Core Policy 60 Sustainable Transport supports the premise for development within sustainable locations. Core Policy 61 Transport and New Development aims to ensure that the proposal is capable of being served by safe access to the highway network. Core Policy 64 Demand Management, inter alia, aims to ensure that adequate parking is provided.

It is acknowledged that there are existing facilities within Rowde such as a primary school, a local (community) shop, two public houses, village hall and a church within the village and that the village is on a main bus route, as such the site is located within a reasonably sustainable location in accordance with the requirements of CP2 and CP60 of the WCS (2015). Approximately 2 miles to the southeast is the market town of Devizes providing access to a greater range of services and facilities within this area.

It should be noted that the site has two access points existing already. To the south is the existing gated access, onto Cock Road, through which the everyday running of farm traffic movements would have taken place. And to the north there is an existing access onto Bunnies Lane, near to the corner where there is an existing garage/outbuilding with access in front.



Existing access onto Cock Road



Existing access onto Bunnies Lane from existing outbuilding on site

Strong objections have been received from local residents within the area, who have stated the following: the surrounding road network is inadequate to accommodate construction vehicles; there would be a conflict with the current on-street parking with existing residents; the increase in traffic would have a detrimental impact on highway safety conflicting with pedestrians etc; no safe pedestrian footpath to village; concerns raised that existing parking on street restricts access for services (such as fire engines, ambulances etc); the adjoining highways are too narrow to accommodate cars passing each other and this is emphasised by vehicles parked along the roadsides and verges; inadequate visibility splays would create dangerous entrance points to the development; inadequate parking provision within the site would lead to on street parking and increase in traffic would result in congestion.

The scheme, following a number of amendments, including the reduction in the number of units has been thoroughly reviewed by the Councils Highway Officer. No objections have been raised by the highway officer to the proposed scheme. All of the roads adjoining the site and within the vicinity of the site, namely Cock Road, Bunnies Lane and the High Street, are 30 mph speed limited. It is considered that the existing highways are both able to accommodate the proposed traffic movements during construction phase and for future residents. Any poor access for emergency services that exists at present would not be further impeded through this development proposal.

It is acknowledged that there is no footway in the vicinity of the site and that this is typical for rural villages. It would be unreasonable and impractical to insist on a paved path along the front of the site where it cannot actually connect to any other paved path. To reach any other paved path would involve crossing land outside of the applicant's control/ownership. It should be acknowledged that the proposal is only for 6 dwellings and that pedestrian access would follow that as existing for local residents that is along the highway. It is considered that the additional pedestrian and vehicular movements of residents from the proposed scheme would not have a significant cumulative detrimental impact on the safety of road users. The road network is currently shared by pedestrians and vehicles and is already subject to low vehicle speeds. The introduction of additional pedestrians combined with additional vehicle movements should encourage these lower speeds and more caution on behalf of the motorist. Such shared use designs are promoted within the guidance contained in Manual for Streets 1 and 2. As such whilst

the request of the PC and the concerns of local residents are acknowledged, it is considered that the failure to provide a footpath would not constitute a robust reason for refusal in this instance.

Plots 1, 5 and 6 are in outline form and as such it is not clear at the current moment in time how many bedrooms each property will have. However, from the plans provided it is considered that there would be more than sufficient room to accommodate adequate parking provision for each dwelling within their respective plots. Turning to the conversion of the barn, from the detailed plans provided it is clear that:

- Plot 2 is a 2 bed property
- Plot 3 is a 3 bed property
- Plot 4 is a 2 bed property

From the Council's parking standards the number of parking spaces required for a two to three bedroom property is two parking spaces per unit and the number of parking spaces for a four plus bedroom property is 3 parking spaces. The site layout plan provided demonstrates that plots 2 and 4 have two parking spaces each and plot 3 has three; thereby more than adequately meeting the required parking standards.

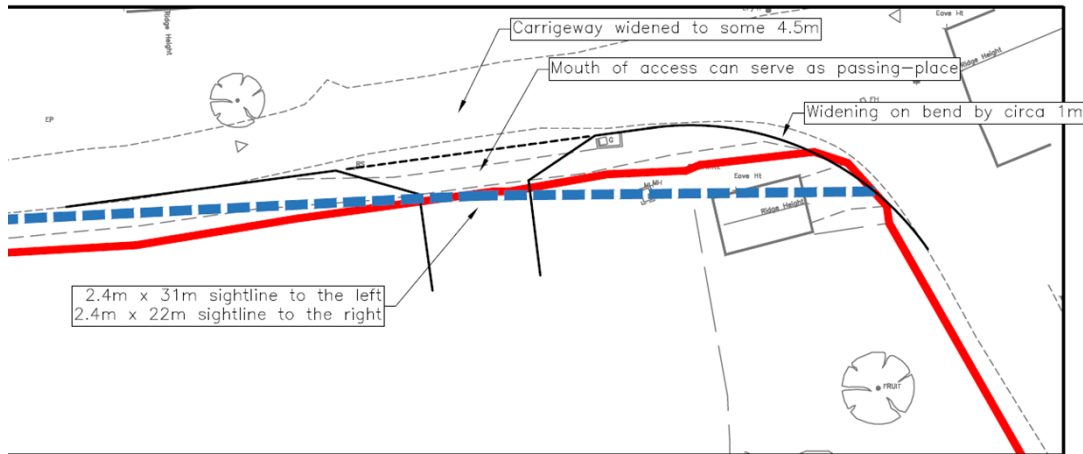
Visitor parking would amount to 0.2 spaces per dwelling, therefore the required visitor parking for this site would be $6 \times 0.2 = 1.2$ or 2 parking spaces. However, visitor parking spaces for the development site have been provided in the south west corner of the site measuring a total of 12.5m x 5m; a parking space in this location should measure 2.4m x 4.8m and based on the size of area of 12.5m x 5m would equate to 5 parking spaces in total. It is therefore considered that the proposed scheme would more than adequately meet the parking requirements as set out in the Council's approved car parking strategy.

It is considered that the site would provide adequate parking to accommodate the minimum parking standards for each dwelling. As such it is considered that there would not be displaced parking onto the highway; therefore satisfying the highway authority's position that the site itself would not necessarily lead to any additional on street parking, in compliance with Core Policy 64 of the WCS (2015).

The Highway Authority will not look to adopt the internal road, however the scheme does need to be designed to accommodate a refuse vehicle and the applicant will need to contact the Waste Team to confirm the requirements of a new unadopted road for suitability of access for refuse vehicles. It is possible to have a written agreement which allows the council to enter the site to collect bins.

The highway officer has clarified that they accept the visibility splays as shown as being acceptable. The access, for the five dwellings, onto Cock Road shows provision of 2.4m x 31m visibility splays in each direction and the access for the singular dwelling onto Bunnies Lane shows visibility of 2.4m x 31m to the west and 2.4m x 22m to the east. It is considered that the access onto Bunnies Lane is at a location where speeds will be recognisably low and as such the Highway Officer accepts the 22m visibility splay to the

east. This is also an access for a single dwelling where conflicting movements are considered very small and as such a shorter splay is acceptable.



Extract from Transport Plan for access for singular dwelling onto Bunnies Lane

It is further considered, as can be seen in the extract from the Transport plan that there would be benefits to the highway through the widening of the carriageway (along Bunnies Lane) in part and the widening of the bend by 1.0 metre



Photo of existing outbuilding to be removed and the existing embankment between Bunnies Lane and the site

It is considered that vehicular movements along Bunnies Lane would through its nature (ref. photo above) result in traffic driving more carefully. It should be noted that the embankment (ref. photo above) at this point would be reduced in height to allow for visibility and also the part widening of the carriageway. The widening of the highway at this location would allow for better access and passing opportunities for both existing residents and any emergency or other vehicles accessing Bunnies Lane.

The concerns of local residents are acknowledged and have been taken into consideration in reaching a recommendation on this application. However, the site does have an existing use against which traffic movements would be offset. It should also be

noted with reference to the principle of development that the barns could potentially be developed through the submission of a PNCOU and that this should also be considered as a potential fall-back position for the applicant.

Access to the main part of the site would remain in the same position; however, access onto Bunnies Lane is being repositioned. There has been a reduction (of one) in the number of properties proposed, since the original submission and it is acknowledged that the site within the settlement boundary of Rowde is considered a sustainable location for such development. Comments received from the highways officer clarify that the proposed parking would meet the necessary standards and that visibility and access is acceptable for the proposed scheme.

Paragraph 109 of the NPPF clarifies that Development should only be prevented or refused on highways grounds if there would be an unacceptable impact on highway safety, or the residual cumulative impacts on the road network would be severe. No objections are raised by the Highway Officer and it is considered that the scheme would not have an unacceptable impact on highway safety or have a severe impact on the road network. It is therefore considered that the proposal, on balance, complies with the criteria of Core Policies 60, 61 and 64 of the WCS (2015) and the WLTP (2011 – 2016) Car Parking Strategy (March 2011) and with the relevant sections in the NPPF.

9.6 Drainage

Concerns have been raised by local residents that the proposed scheme would have a detrimental impact on surface water flooding on adjoining land to the site, including the highway that is Bunnies Lane and the properties on the opposite side of the road.

Wessex Water response is supportive of foul to foul connection and as such this is considered not an issue. Wessex Water have confirmed that they would have no objections to the proposed scheme connecting to the mains sewer for foul disposal, however they do not agree to surface water connecting to the mains.

Comments received from the Council's Land Drainage Officer raise both objections and support subject to conditions. The Land Drainage Officer has maintained that there is a lack of drainage disposal information in support of the application. They state that there are no storm sewers in the area thus the original stated method of storm water disposal to sewer is not achievable and no means of storm water drainage disposal for the site. WW records appear to show a highway drain in Cock Road but there is no right of connection into it from the site. Whilst the site is in Flood Zone 1 according to EA mapping (least likely flood risk), there is a 1 in 30/100 surface water flood risk in the roads to the north and south which could impact on access/egress plus provision of a storm water drainage disposal solution. The Flood Risk Assessment (FRA) acknowledges that there would not be a need for a sequential and exceptions test to be undertaken and passed. The FRA concludes that there is a negligible risk of any flooding of the site.

Following receipt of the drainage strategy concerns from the Drainage Team still remain over storm water drainage disposal which it is considered is not proven. However, whilst

the Land Drainage Officer remains concerned that the application has not proven a drainage system can be accommodated they do accept based on recent appeal decisions that a pre-commencement planning condition restricting the development until such time as a drainage scheme is agreed can be used.

Subsequent to the receipt of the Land Drainage Officers comments of the 25th September, the applicant has submitted (received on the 15th October 2018) an amendment to the drainage strategy and a supporting letter that explains that the storm water outflow to Sunnyham Brook has longstanding rights. The correspondence confirms that there is a water trap to the northeast corner of the yard which connected to a settlement chamber within the site and then discharged through an underground pipe to Sunnyham Brook. This was installed pre-1937.

Turning to the addendum to the drainage strategy, this clarifies that there will be a significant reduction in surface water runoff and could potentially reduce the impact of flooding from the surrounding area.

Core Policy 67 states that all new development will include measures to reduce the rate of rainwater run-off and improve rainwater infiltration to soil and ground (sustainable urban drainage) unless site or environmental conditions make these measures unsuitable. The FRA identifies a number of sustainable drainage features that could be incorporated into the scheme that would create a development that can be successfully achieved within the constraints and guidance relating to flood risk set out in the NPPF, and as required by the EA, with matters relating to flood risk and surface water drainage safeguarded by conditions. It is considered that this would comply with the requirements of Core Policy 67 of the WCS (2015) and the NPPF.

9.7 Neighbour Amenity

Core Policy 57 of the WCS (2015) aims to ensure that proposed development would not have a detrimental impact on the residential amenities of the residents of adjoining properties.

The proposed conversions are within a courtyard formation with strong boundary features subdividing this part of the development from the surrounding properties. The windows for these proposed properties would look out predominantly over circulation space through the development, or parking and forward garden areas. As such the level and degree of internal overlooking opportunities is minimal and acceptable to the requirements of Core Policy 57 of the WCS (2015).

There are no details for the three new builds that would allow for an assessment of any potential overlooking issues; however the detailed design for each of these units will have to ensure that they do not create a scenario that would result in a detrimental impact on the amenity of the occupiers of the adjoining neighbouring properties through overlooking. On this basis it would be reasonable to include restrictive conditions to any grant of consent to prevent any first floor windows to the rear south facing elevation of plot 6 and to prevent any first floor windows to the north facing rear gable of plot 1.

With regards to the new builds other than those areas identified above it is considered that due regard to the distances between the existing adjacent properties and the proposed new properties and layout and orientation of the proposed properties that there would not be any other issues relating to loss of privacy.

Therefore whilst any concerns are acknowledged, the degree of impact from the proposed scheme would not be so significant as to warrant a reason for refusal on amenity grounds. The scheme is considered to be compliant with Core Policy 57 of the WCS.

10. Conclusion (The Planning Balance)

In determining this application, the local planning authority is fully aware that if development accords with an up-to-date Local Plan it should be approved, and that proposed development that conflicts should be refused unless other material considerations indicate otherwise. In this case, the proposal is considered to comply with the up-to-date policies of the development plan. There are three aspects of sustainable development - economic, social and environmental. The NPPF identifies that there is a presumption in favour of sustainable development and that local planning authorities should approve development in accordance with the development plan without delay.

Rowde is identified in the development plan as a large village. At Large Villages, settlement boundaries are retained and development will predominantly take the form of small housing and employment sites within the settlement boundaries. Small housing sites are defined as sites involving fewer than 10 dwellings (i.e. not a major application). The proposal is for six dwellings and the site falls within the settlement boundary of Rowde. It is considered that the proposed units would add to the diversity of housing/accommodation stock within Rowde and that the development of this windfall site should be viewed in addition to the provision of the required numbers within this sustainable location.

Paragraph 109 of the NPPF states that “development should only be prevented or refused on highways grounds if there would be an unacceptable impact on highway safety, or the residual cumulative impacts on the road network would be severe”. As clarified within the highway officer’s comments, this is not considered to be the case.

It is acknowledged that there is some positive weight to be given to economic benefits through the likely local employment that may be generated by the development proposed for a limited period of time. As are there likely to be social and environmental benefits through the provision of new dwellings within the local housing market, through the retention and safeguarding of the existing heritage on site and enhancements for ecology across the site.

On balance, it is considered that the proposed scheme would not cause harm to the significance of the adjacent listed buildings and as such would comply with Core Policies 57 and 58 of the WCS (2015) and with the relevant paragraphs of the NPPF.

Whilst the concerns and objections raised by local residents are acknowledged, they do not amount to a sustainable reason for refusal in this instance. Overall, the scheme offers the chance to improve the external appearance of the site, reusing existing buildings on site and boosting the housing supply for the area in accordance with paragraph 59 of the NPPF. The proposed development represents an appropriate level of development within the limits of development of Rowde, and incorporates a mix of type of properties that would have a positive impact in economic, social and environmental terms.

On balance the development proposed is considered to comply with the policies of the Wiltshire Core Strategy (2015) and of the NPPF and a positive recommendation is made.

RECOMMENDATION

Grant planning permission subject to the following conditions:

Conditions:

1. Phase 1 (full element) of 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. Phase 2 (the outline element) of the development hereby permitted shall be begun either before the expiration of three years from the date of this permission, or before the expiration of two years from the date of approval of the last of the reserved matters to be approved, whichever is the later.

REASON: To comply with the provisions of Section 92 of the Town and Country Planning Act 1990 as amended by the Planning and Compulsory Purchase Act 2004.

3. No development in Phase 2 (the outline element) shall commence on site until details of the following matters (in respect of which approval is expressly reserved) have been submitted to, and approved in writing by, the Local Planning Authority:
 - a. The scale of the development;
 - b. The external appearance of the development;
 - c. The landscaping of the site;

The development shall be carried out in accordance with the approved details.

REASON: The application was made for outline planning permission and is granted to comply with the provisions of Section 92 of the Town and Country Planning Act 1990 and Article 5 (1) of the Town and Country Planning (Development Management Procedure) (England) Order 2015.

4. An application for the approval of all of the reserved matters shall be made to the Local Planning Authority before the expiration of three years from the date of this permission.

REASON: To comply with the provisions of Section 92 of the Town and Country Planning Act 1990.

5. The development hereby permitted shall be carried out in accordance with the Application Form, Planning Statement Doc Ref. 113 01 40, Supplementary Planning Statement relating to change of use of farm buildings (doc ref. 11301 41, dated May 2018), Transport Statement, Ref. IMA-17-011 (dated Aug 2017), Flood Risk Strategy and Drainage Strategy (August 2018), Agents email and Addendum to FRA (received 15/10/2018), Agents email and supporting 'Drainage Letter' (received 15/10/2018), Tree Survey, Tree Protection and Landscaping Proposals, Ref 18.693 Rev B (dated Mar 2018), Protected Species Survey and Mitigation (dated 23 Sept 2016) and the following approved plans:

- Location Plan, Dwg No. 113 01 01 Rev 00
- Proposed site layout, Dwg No. 1658.02-E
- Site Sections, Dwg No. 1658.03-C
- Conversion Principles for Courtyard Buildings, Dwg No. 1658.04-A
- Proposed conversion (Plots 2, 3 and 4), Dwg No. 1658.05
- Landscape Plan, Dwg No. Fig. 4 (18.693) Rev b
- Topographic Survey, Dwg No. 212091-SU-01
- Hay Loft survey, Dwg No. EL-01
- Barn elevations, Dwg no. EL-01
- Tree Plan Existing, Dwg No. 113 01 10 Rev 01

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

6. Notwithstanding the details set out in the application particulars, no development shall commence on site within any particular phase until details and samples of the materials to be used for the external walls and roofs within the particular phase 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.

7. No development shall commence on site until a landscape management plan, including long-term design objectives, management responsibilities and maintenance schedules for all landscape areas (other than small, privately owned, domestic gardens) has been submitted to and approved in writing by the Local Planning Authority. The landscape management plan shall be carried out as approved 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, to ensure the proper management of the landscaped areas in the interests of visual amenity.

8. No development shall commence on site in any particular phase until a scheme of hard and soft landscaping for that particular phase has been first submitted to and approved in writing by the Local Planning Authority, the details of which shall include:-
 - a. location and current canopy spread of all existing trees and hedgerows on the land;
 - b. full details of any to be retained, together with measures for their protection in the course of development;
 - c. a detailed planting specification showing all plant species, supply and planting sizes and planting densities;
 - d. finished levels and contours;
 - e. means of enclosure;
 - f. car park layouts;
 - g. other vehicle and pedestrian access and circulation areas;
 - h. all hard and soft surfacing materials;

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

9. All soft landscaping comprised in the approved details of landscaping for any particular phase of the development shall be carried out in the first planting and seeding season following the first occupation of the building(s) or the completion of the development within the particular phase whichever is the sooner; All shrubs, trees and hedge planting shall be maintained free from weeds and shall be protected from damage by vermin and stock. Any trees or plants which, within a period of five years, die, are removed, or become seriously damaged or diseased shall be replaced in the next planting season with others of a similar size and species, unless otherwise agreed in writing by the local planning authority. All hard landscaping within a particular phase shall also be carried out in accordance with the approved details prior to the occupation of any part of the development within the phase or in accordance with a programme to be agreed in writing with the Local Planning Authority.

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

10. No development shall commence on site until an investigation of the history and current condition of the site to determine the likelihood of the existence of contamination arising from previous uses has been carried out and all of the following steps have been complied with to the satisfaction of the Local Planning Authority:
 - Step (i) A written report has been submitted to and approved by the Local Planning Authority which shall include details of the previous uses of the site for at

least the last 100 years and a description of the current condition of the site with regard to any activities that may have caused contamination. The report shall confirm whether or not it is likely that contamination may be present on the site.

Step (ii) If the above report indicates that contamination may be present on or under the site, or if evidence of contamination is found, a more detailed site investigation and risk assessment should be carried out in accordance with DEFRA and Environment Agency's "Model Procedures for the Management of Land Contamination CLR11" and other authoritative guidance and a report detailing the site investigation and risk assessment shall be submitted to and approved in writing by the Local Planning Authority.

Step (iii) If the report submitted pursuant to step (i) or (ii) indicates that remedial works are required, full details have been submitted to the Local Planning Authority and approved in writing and thereafter implemented prior to the commencement of the development or in accordance with a timetable that has been agreed in writing by the Local Planning Authority as part of the approved remediation scheme. On completion of any required remedial works the applicant shall provide written confirmation to the Local Planning Authority that the works have been completed in accordance with the agreed remediation strategy.

REASON: To ensure that land contamination can be dealt with adequately prior to the use of the site hereby approved by the Local Planning Authority.

11. No development shall commence on site until details of the stopping up of the existing vehicular access onto Bunnies Lane, has been submitted to and approved in writing by the Local Planning Authority. The details shall include a programme for the timing of the stopping up of the access. The stopping up of the access shall take place in accordance with the approved details. On completion of the development, the means of vehicular and pedestrian access to the development shall be as shown on the plans hereby approved.

REASON: In the interests of highway safety.

12. 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: The matter is required to be agreed with the Local Planning Authority before development commences in order that the development is undertaken in an acceptable manner, to minimise detrimental effects to the neighbouring amenities, the amenities of the area in general, detriment to the natural environment through the risks of pollution and dangers to highway safety, during the construction phase.

13. Prior to the commencement of development including any demolition works, a mitigation strategy in the form of a site plan shall be submitted to and approved in writing by the local planning authority. The plan shall show the number, type and location of all bat and bird integral boxes to be included within the development. All works connected with the development hereby permitted shall be carried out in strict accordance with the recommendations for ecological mitigation (bats and birds) in Section 5 of the submitted Bat and Protected Species Survey (Malford Environmental Consulting, 23 September 2016) and the approved plan the subject of this condition.

REASON: In the interests of protected species and their habitats.

14. No development shall commence within the area indicated (the proposed development site) until:
 - a. A written programme of archaeological investigation, which should include on-site work and off-site work such as the analysis, publishing and archiving of the results, has been submitted to and approved by the Local Planning Authority; and
 - b. The approved programme of archaeological work has been carried out in accordance with the approved details.

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

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

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

16. 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 scheme shall include details of permeability test results to BRE365 with determination of top ground water levels taking into

account seasonal variations and full catchment investigations with regards to existing flooding in/adjacent to the site together with all third party approvals. The development shall not be first occupied until surface water drainage has been constructed in accordance with the approved scheme.

REASON: The matter is required to be agreed with the Local Planning Authority before development commences in order that the development is undertaken in an acceptable manner, to ensure that the development can be adequately drained without increasing flood risk to others.

17. 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.

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

REASON: In the interests of highway safety.

19. Notwithstanding the provisions of the Town and Country Planning (General Permitted Development) (England) Order 2015 (or any Order revoking or re-enacting or amending that Order with or without modification), no first floor window, dormer window or rooflight shall be inserted in the rear (south facing) elevation of plot 6 of the development hereby permitted.

REASON: In the interests of residential amenity and privacy.

20. 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 first floor window shall be inserted in the north facing gable of plot 1 of the development hereby permitted.

REASON: In the interests of residential amenity and privacy.

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), there shall be no additions to, or extensions or enlargements of any building forming part of the development hereby permitted.

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

22. INFORMATIVE TO APPLICANT: The applicant should note that under the terms of the Wildlife and Countryside Act (1981) and the Habitats Regulations (2010) it is an offence to disturb or harm any protected species, or to damage or disturb their habitat or resting place. Please note that this consent does not override the statutory protection afforded to any such species. In the event that your proposals could potentially affect a protected species you should seek the advice of a suitably qualified and experienced ecologist and consider the need for a licence from Natural England prior to commencing works. Please see Natural England's website for further information on protected species.
23. 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/communityinfrastructuralevy
24. INFORMATIVE TO APPLICANT: The proposed widening to the front of Cedarwood and on the corner of Bunnies Lane as shown on the drawing will be required to be conditioned and secured as adopted highway via a short form S278 agreement. The parking provision within the site shall meet the minimum requirements in accordance with the Wiltshire Local Transport Plan 2011 – 2016: Car Parking Strategy (March 2011) and be provided as shown on the approved drawing. All accesses should be surfaced in a consolidated material for at least the first 2.5m. If the site is to be accessed by a refuse lorry under agreement the turning area for the lorry should be built to adoptable standards i.e. consolidated surfacing.



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REPORT FOR EASTERN AREA PLANNING COMMITTEE

Report No. 2

| | |
|----------------------------|--|
| Date of Meeting | 1 November 2018 |
| Application Number | 18/07000/FUL |
| Site Address | Land to the rear of Trinity Cottage, Castle Grounds, Snails Lane, Devizes SN10 1DB |
| Proposal | Proposed dwelling on site of former horticultural buildings. |
| Applicant | Mr & Mrs R Smart |
| Town/Parish Council | DEVIZES |
| Electoral Division | DEVIZES AND ROUNDWAY SOUTH – Cllr Sue Evans |
| Grid Ref | 400331 161217 |
| Type of application | Full Planning |
| Case Officer | Nick Clark |

Reason for the application being considered by Committee

The application is being reported to the planning committee for consideration at the request of Councillor Evans, who considers that:

‘The proposal is carefully designed it is a significant improvement on the previous application it is lower down the sloping site and is on the same footprint as the existing former brick and glass structures’.

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 application follows a previous proposal considered by the Committee in October 2017. As with that proposal, the main issues to be considered are the impact of the development on the setting of Devizes Castle as a Scheduled Monument and the grade 1 listed Victorian castle, the associated grade 2 castle walls and the nearby grade 1 St John’s Church and grade II Sexton Cottage, and impacts in terms of the archaeological potential of the site and the Devizes Area of Minimum Change.

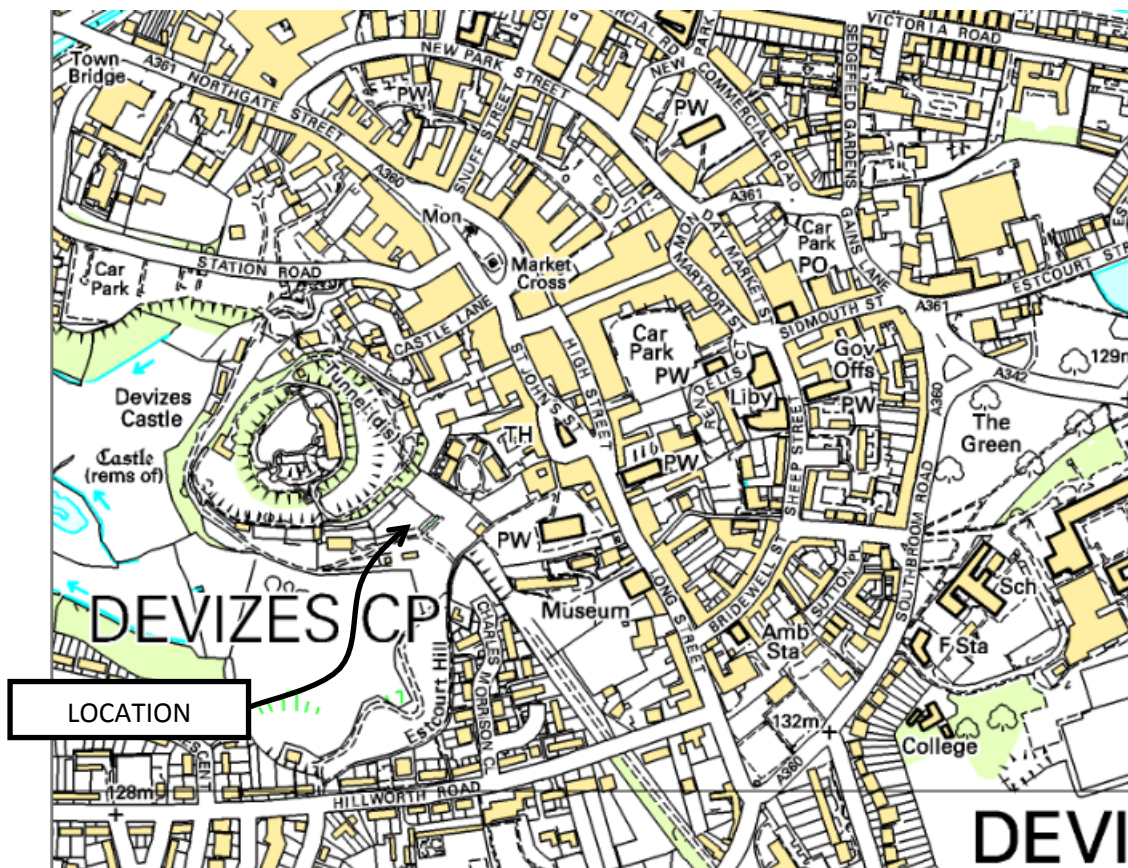
In these respects, the report concludes in agreement with objections received from Historic England, the Conservation Officer and the Assistant County Archaeologist, that the proposed house will have an adverse impact on the significance of designated heritage assets; principally the Scheduled Monument and grade 1 listed castle and associated walls but also in terms of its position between the castle and the grade I Church of St John the Baptist, with which the castle has strong historic associations.

Furthermore the development would be detrimental to the character of the town's designated Area of Minimum Change.

The NPPF advises that development resulting in harm to heritage assets cannot be approved unless the harm is outweighed by public benefits. With no such public benefits identified, the report recommends refusal of the application.

3. Site Description

The application site is within the setting of Devizes Castle; being on slopes at the foot of the castle mound currently occupied by the remains of glass houses.



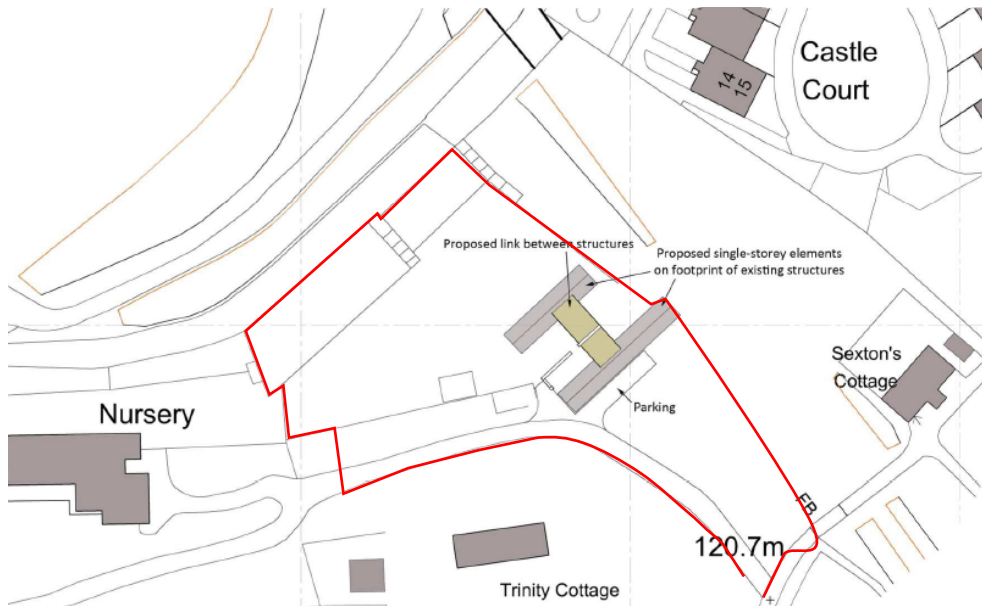
The original castle and mound are designated as a Scheduled Monument. The Victorian castle is grade I listed (including glass house walls and garden walls encircling the west side of mound). The castle walls and gates are grade II listed. The grade I listed St John's Church and grade II Sexton Cottage are in close proximity and the site lies adjacent to the boundary of the Devizes Conservation Area, and within the Area of Minimum Change designated around the castle.

4. Planning History

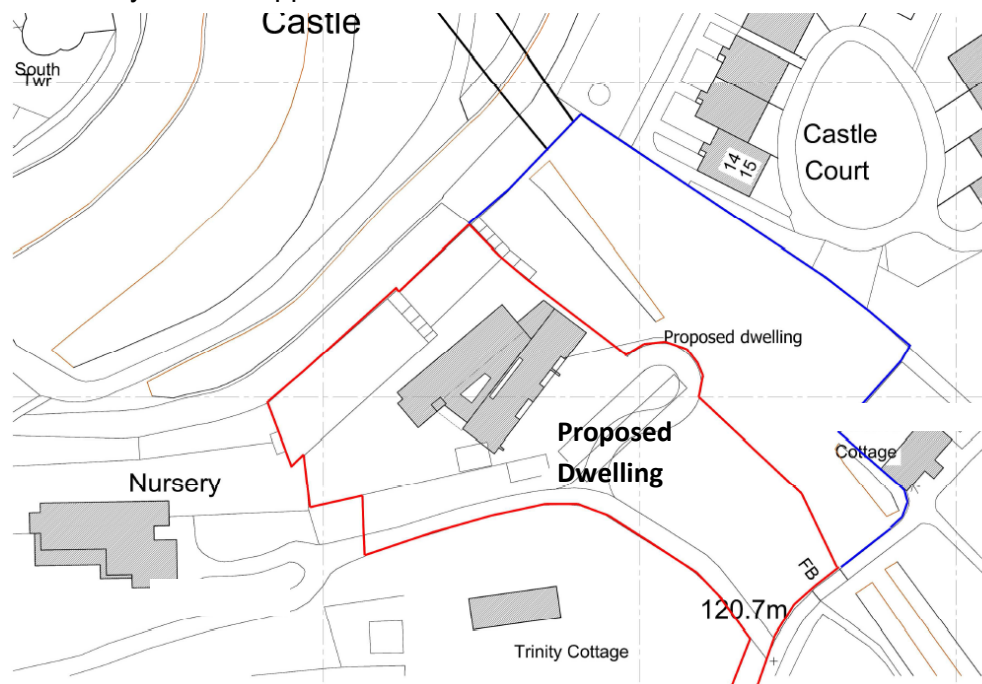
17/06842/FUL Proposed dwelling on site of former horticultural buildings Committee refusal
5th October 2017

5. The Proposal

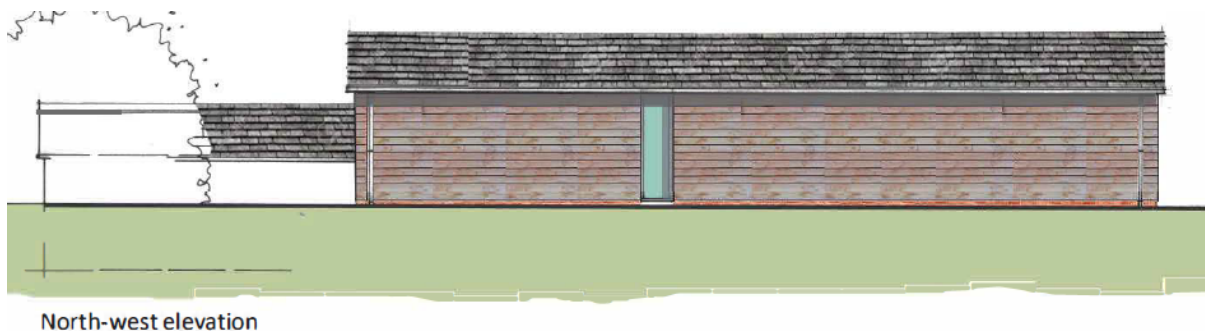
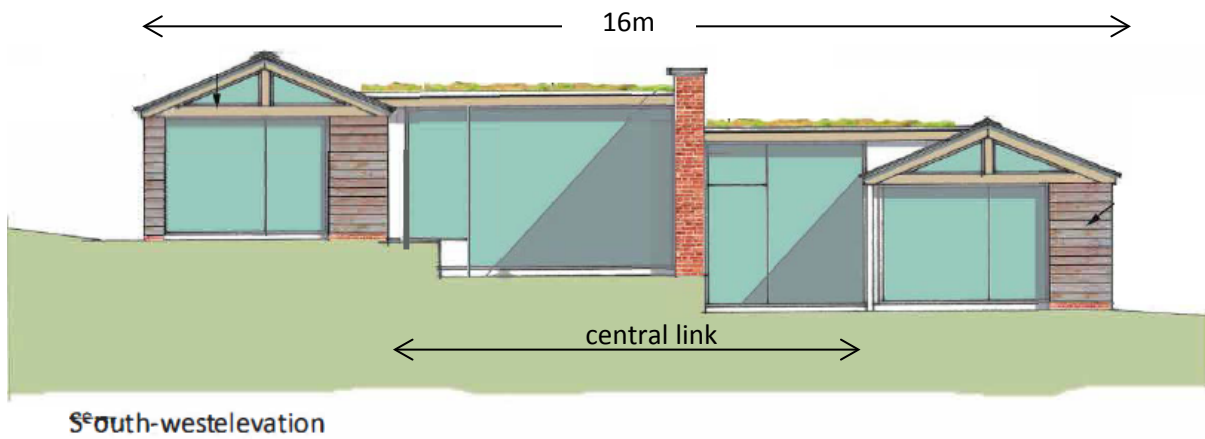
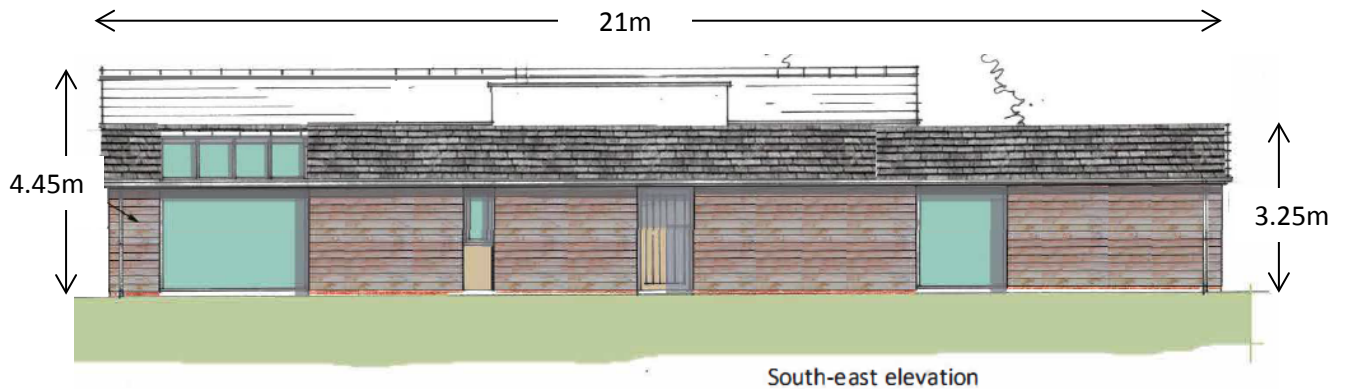
The application proposes a detached single storey dwelling on the site located as below:

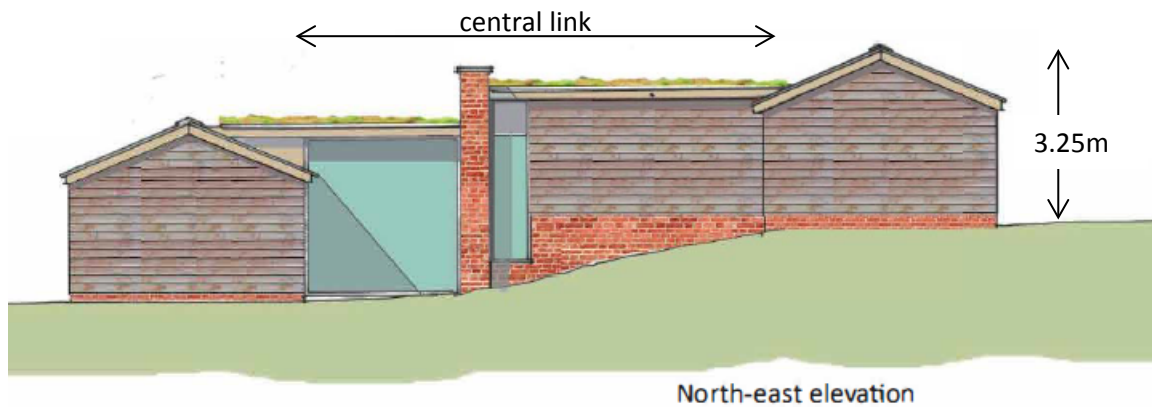


Previously refused application for reference:



The dwelling would be of H-shaped plan form, set on 2 levels with a central link, a footprint of c. 190m², a width of 21m and a total height of 4.45m, to create a 3-bedroom dwelling with attached garden store/ cycle shed:





The 2 main parallel elements of the building would have dual-pitched slate roofing. The central link would have a green roof. External walls would be variously glazed or timber-clad. The site would be accessed from Hillworth Road to the south west by an existing driveway that is included within the application site.

6. Local Planning Policy

The development plan so far as is relevant comprises the Wiltshire Core Strategy (2015) and saved policies of the Kennet Local Plan.

The following policies of the Wiltshire Core Strategy are of particular relevance to the proposal:

- CP57 Ensuring high quality design and place shaping
- CP58 Historic environment

The following saved policy of the Kennet Local Plan is also key, as the site lies within a designated Area of Minimum Change

- HH10 Areas of Minimum Change

Government policy for 'conserving and enhancing the historic environment' is set out in section 16 of the National Planning Policy Framework and needs to be read together with other policies of the Framework.

7. Summary of consultation responses (responses in full [online](#))

Devizes Town Council: "whilst the committee did not raise any objections to this application, it would not like to see any further development on the site which would lead to an overdevelopment."

Historic England: A building in this location, in addition to the necessary access, hard landscaping and domestic associations (patios, bin stores etc), will fundamentally alter the character of what is currently former garden land associated with the castle. It also forms an important, unspoilt setting (a visual connection) between the castle and church which reinforces the strong relationship between the two.

Whilst we accept that some modern development has occurred in proximity to the site, we do not consider this to form an acceptable precedent, and does not preclude the merits of this individual plot which still forms a vestige of the historic relationship between the church and castle. We are currently not convinced that the principle of siting development on this plot can be implemented without significantly, and adversely, diminishing the contribution that this open space adds to the setting and relationship of church and castle.

Further, it is possible that the application site may lie over archaeological deposits associated with the castle, including a ditch. Such deposits may be regarded as of high sensitivity.

We therefore conclude that, whilst this proposal has reduced the impact from the 2017 application, less than substantial harm will still be inflicted, and that paragraph 196 is resultantly engaged; the harm should be weighed against the public benefits of the proposal.

| | |
|--------------------------|---|
| Trust for Devizes: | No objection |
| WC Archaeologist: | Objection due to the impact within the landscape setting of the Ancient Monument. |
| WC Conservation Officer: | Objection: 'adverse impact on the significance of the designated heritage assets principally the Scheduled and listed Castle and associated walls but also the strong historic associations and visual connections with the grade I Church of St John the Baptist'. |
| WC Highway Officer: | No objection |
| Other: | 2 letters of support received from individuals: <ul style="list-style-type: none">• sympathetic to the historic setting• very unobtrusive and would blend in well - improvement |

8. 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.

Sections 16 and 66 of the Planning (Listed Buildings and Conservation Areas) Act 1990 provide in respect of listed buildings, that the Council must 'have special regard to the desirability of preserving the building or its setting or any features of special architectural or historic interest which it possesses'. Section 72 requires that the Council must pay special attention in the exercise of planning functions to the desirability of preserving or enhancing the character or appearance of a conservation area.

Principle of development

The site is located within the Limits of Development for Devizes where the main considerations are impacts upon the setting of Devizes Castle and walls and the nearby St John's Church and Sexton Cottage, and impacts in the context of the designated Area of Minimum Change and the adjoining Devizes Conservation Area, and the archaeological potential of the site.

The setting of Devizes Castle and St John's Church

Devizes Castle is designated as both a Scheduled Monument (the original castle and mound) and a Grade 1 listed building (the Victorian Castle). Scheduled Monuments and listed buildings are of national importance and grade 1 listed buildings in particular are defined as being of 'exceptional national interest'.

The setting of the castle is considered to be of key importance to its heritage significance, with the national heritage listing noting that 'the rich parklands of the Old Park form, with the Castle mound, a fine piece of landscape, which should always be preserved'. The Conservation Area Statement similarly notes that 'The impact of Devizes Castle is best viewed from the south where there is a footpath from Hillworth Road. Here it is possible to appreciate the importance of the original Castle as a defensive structure'.

It is the Victorian castle that is largely seen today along with the castle walls and mound. The area immediately surrounding the castle was enclosed by walls and landscaped as a private pleasure ground. The southern slopes were developed as a kitchen garden for the occupants of the castle. The garden area of the application site thus provides a visual link to the Victorian uses of the castle and the glasshouses are indicative of the horticultural uses which continued until relatively recently. Glasshouse by their transparent nature and use relate to the gardens and are of an ancillary character with minimal visual impact.

The connection between the castle and church of St John the Baptist is also of historic importance. The church was built to serve the garrison of the castle and other important historical events show the links between the two, as considered in the Conservation Officer's comments. The importance of the relationship between the castle and church is also recognised in the applicant's submitted heritage assessment.

At present, the site comprises the remains of former glasshouses and rough grassland with some leylandii trees. The largely undeveloped, quiet and 'naturalised' character of the site contributes to the landscape setting of the castle mound. Historic England notes that the site is part of "an important, unspoilt setting (a visual connection) between the castle and church which reinforces the strong relationship between the two".

While the site may have been dominated by glasshouses in the past, the original glasshouses were part of the castle's Victorian garden layout and had a functional and ancillary connection to the castle. The remnants of the layout of the Victorian gardens thus in themselves contribute to the significance of the grade 1 castle.

Within this setting, the form of the dwelling would be prominent within the landscape setting of walls around the mound, and the building, with associated driveway, vehicle parking and garden paraphernalia would clearly disturb the landscape setting of the castle, particularly in views from the south and south east, from where the dwelling, set on rising ground would be visible from the churchyard and the public footpath.

The establishment of a house in this setting would result in some loss of the physical and visual evidence of the Victorian gardens, which contribute towards the overall significance of the functioning and design of the Victorian castle and gardens.

Historic England notes that the setting of the castle has been compromised in the past by previous development but does not consider this to set a precedent for further development within this important landscape setting. It notes that the development now proposed is based on the footprint of the glasshouses, is slightly further away than from the scheduled monument and that it is now more subtly designed to respond to the surroundings. It nonetheless considers that the development would intrude upon the vestige of the historic relationship between the church and castle and despite the improved design and position, Historic England concludes that it is not convinced that the principle of siting development on this plot can be implemented without significantly, and adversely, diminishing the contribution that this open space adds to the setting and relationship of church and castle.

The Council's Conservation Officer and the Assistant County Archaeologist similarly also raise objection to the impact of the development upon, and the harm to, the setting of the Scheduled Monument, the Grade 1 listed castle and the grade 1 listed St John's Church.

Sextons Cottage

Sextons Cottage is a grade II listed building dating from the 17th century. The development would be clearly visible from Sextons Cottage, and while it would impact on the wider heritage setting of the cottage to a degree, the application site setting is not considered to be key to the heritage significance of the cottage and the impact would not result in any harm to the cottage's heritage significance.

The former railway and tunnel

The dwelling would be sited adjacent to the railway cutting and approach to the tunnel beneath the mound. The development would not impact directly on the tunnel approach or its heritage significance as a non-designated heritage asset.

The level of harm to heritage significance

The National Planning Policy Framework advises that 'clear and convincing justification' is needed for any harm to heritage assets, including from development within its setting. It identifies harm in terms of it being either 'substantial' or 'less than substantial'. 'Substantial harm' is generally limited to direct impacts on an asset itself rather than impacts on the setting.

As identified above, the development would harm the setting of Devizes Castle and the

Church of St John The Baptist. As the development affects the assets' setting, the harm falls within the scope of 'less than substantial'. Within this category however, there is a wide spectrum of harm. Considering the designation of the Scheduled Monument, the Grade I recognition of the castle and church and the 'significant adverse impact' identified by Historic England, together with the objections of the Council's Conservation Officer and Archaeologist, the level of harm to the heritage significance of the castle and church is considered to fall at the higher end of the spectrum of harm.

The NPPF advises that the harm should be weighed against the public benefits of the development. The level of public benefit needs to be sufficient to outweigh the permanent and irrevocable harm to heritage significance that would result from introducing a dwelling into the setting.

Public benefits

The documents supporting the application conclude that there would be no harm to the heritage significance of the listed buildings or Scheduled Monument. The applicant's supporting statement suggests that the replacement of the glasshouses by a dwelling would lead to a visual enhancement to the setting but this is at odds with the professional views of Historic England and the Council's Senior Conservation Officer and Assistant County Archaeologist. No 'clear and convincing justification' can therefore be found for the development in terms of public benefits, and as such the development would be contrary to both the advice of the National Planning Policy Framework and Core Policy 58.

Area of Minimum Change

The importance of the wider site around the mound is recognised by Kennet Local Plan policy HH10, which designates Areas of Minimum Change in order to protect areas of land within, or at the edge of built up areas that make an important contribution to the character and appearance of the settlement. The policy applies to significant areas of public and private open space, gardens and churchyards.

Policy HH10 states that planning permission will not be granted for development that would materially damage the character of an Area of Minimum Change.

The relatively undeveloped nature of the Area designated around the Castle is thus recognised and protected by the policy. Whilst there is some long-established development within the designated Area, this is not considered to a precedent for further development. The introduction of a new residential unit into this relatively undeveloped and naturalised area of the designated Area, in the recognised landscape setting of the mound and castle mound, would materially damage the character of the Area of Minimum Change and would be contrary to policy HH10.

Archaeology

The area around the castle and mound is of high archaeological potential and Historic England also notes that the site may lie over archaeological deposits associated with the castle, including its defensive ditch.

The submitted heritage assessment identifies that previous disturbance resulting from the Victorian gardens and the glasshouses may have caused only localised disturbance to the upper horizons of any archaeological deposits and that the shallow foundations of the glasshouses are likely to have had only limited impact on any archaeological interest of the site.

To avoid the need for archaeological investigation, the dwelling is proposed to be constructed on reinforced ground-bearing slabs. Whilst this does not appear to be reflected in the submitted drawings, it is considered that further details and any archaeological measures could be adequately secured by way of planning conditions.

Ecology

The additional ecological assessment included with the current application identifies the site as being heavily used by foraging bats with reptiles also having been found on the site during surveys. The mitigation measures proposed include controls on external lighting and translocation of reptiles to adjoining land owned by the applicant. Bird and bat boxes are also recommended as additions to the development, with any landscaping to be of native species. These measures could be secured by way of planning conditions.

9. Conclusion (The Planning Balance)

The development would result in harm to the heritage significance of Devizes Castle and the Church of St John The Baptist, and to the character of the Area of Minimum Change. With there being no clear and convincing justification for the harm, and no identified public benefits to outweigh the level of harm, the application is recommended for refusal for the reason set out below.

RECOMMENDATION

That planning permission is **REFUSED** for the following reason:

The application site occupies a sensitive heritage setting in the designated Area of Minimum Change on the slopes at the base of the Devizes Castle mound, where the largely undeveloped nature of the land and its residual character as former gardens to the castle contribute to the heritage significance of the Scheduled Monument and Grade I listed castle. Within this setting, the proposed dwelling would be visible from a number of directions. The significant size and elevated position of the dwelling and the associated access and garden accoutrements would be detrimental to the character and appearance of the site and would intrude upon the heritage setting of the castle and particularly the relationship between the castle and the grade I listed St John's Church, resulting in less than substantial harm to their heritage significance. As such, the development would be contrary to saved Kennet Local Plan policy HH10, Core Policies 57 and 58 of the Wiltshire Core Strategy, and in the absence of public benefits sufficient to outweigh the harm, the National Planning Policy Framework.

18/07000/FUL
Land to the rear of Trinity Cottage
Castle Grounds
Snails Lane
Devizes
SN10 1DB



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WILTSHIRE COUNCIL

AGENDA ITEM NO.

EASTERN AREA PLANNING COMMITTEE

1 NOVEMBER 2018

WILDLIFE AND COUNTRYSIDE ACT 1981

THE TOWN AND COUNTRY PLANNING ACT 1990 SECTION 257

**THE WILTSHIRE COUNCIL MARLBOROUGH 30 DIVERSION AND DEFINITIVE
MAP AND STATEMENT MODIFICATION ORDER 2018**

Purpose of Report

1. To:
 - (i) Consider six objections to The Wiltshire Council Marlborough 30 Diversion and Definitive Map and Statement Modification Order 2018 made under The Town and County Planning Act 1990 and Section 53 of the Wildlife and Countryside 1981.
 - (ii) Recommend that the Order be forwarded to the Secretary of State for Environment, Food and Rural Affairs with a recommendation from Wiltshire Council that the Order be confirmed without modification.

Relevance to the Council's Business Plan

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

Background

3. Wiltshire Council received an application dated 18 April 2018 from David Burton of Redrow Homes, for an Order to divert public footpath 30 over land at Salisbury Road, Marlborough. The footpath requires diverting in conjunction with planning application 15/02026/OUT and 17/03219/REM. Wiltshire Council's planning officers approved these applications with conditions on 29 July 2016 and 20 September 2017 respectively.
4. The application will divert 65 metres of path to a new route with an approximate length of 75 metres. The new route will be laid to tarmac and hoggin (compressed clay, gravel and sand). A copy of the order route can be seen at **Appendix 2A**.
5. Wiltshire Council conducted an initial consultation on the application dated 3 May 2018 with an end date of 1 June 2018. This initial consultation was sent to Marlborough Town Council, the local Wiltshire Councillor, statutory undertakers The Ramblers and other user groups. No responses were received.

6. All of the relevant tests were duly considered in the council's Decision Report appended here at **Appendix 1**. Applying the legal test contained within Section 257 of the Town and Country Planning Act 1990 (see **Appendix 1 paragraph 9**), the application meets the requirements as planning permission has been granted by Wiltshire Council which makes it necessary to divert public footpath MARL30 to enable the permitted development to proceed. An Order was made to divert the path as per the order plan at **Appendix 2A** and for the diversion to be recorded in the definitive map and statement.
7. The Order was duly advertised on site and in the Wiltshire Gazette and Herald and attracted seven objections (one now withdrawn).
8. Where objections are received to an Order and are not withdrawn Wiltshire Council may not confirm or abandon the Order and must forward it to the Secretary of State for Environment, Food and Rural Affairs (SoSEFRA) for determination. However, it must first consider the representations and objections to the Order and make a recommendation to SoSEFRA regarding the determination of the Order.
9. It is important that only the legislative tests are considered and it should be noted that the footpath diversion application is not a second opportunity to object to the planning permission which has been granted by Wiltshire Council.

Main Considerations for the Council

10. Section 53(2) of the Wildlife and Countryside Act 1981 places a duty upon the Surveying Authority to keep the definitive map and statement of public rights of way under continuous review.
11. The Order is made under Section 53(3)(a) of the Wildlife and Countryside Act 1981 with regard to Section 257(1) of The Town and County Planning Act 1990:

Section 53 of the Wildlife and Countryside Act 1981

“-the coming into operation of any enactment or instrument, or any other event, whereby-“

- (i) *“a highway shown or required to be shown in the map and statement has been authorised to be stopped up, diverted, widened or extended;”*

Section 257 of the Town and Country Planning Act 1990

- (1) *Subject to section 259, a competent authority may by order authorise the stopping up or diversion of any footpath, bridleway or restricted byway if they are satisfied that it is necessary to do so in order to enable development to be carried out-*
 - (a) *In accordance with planning permission granted under Part III, or*
 - (b) *By a government department.*

12. **Objections:**

Seven objections were received from the following to the making of the Order:

- (1) Mr Alan Daw
- (2) Ms Sara Daw
- (3) Mr Duncan Ardley
- (4) Ms Amanda Barrett
- (5) VJ and MK Bilton
- (6) Ms Caroline Heath
- (7) Marlborough Town Council (now withdrawn).

These objections and the withdrawal of Marlborough Town Council's objection can be seen in full at **Appendix 3**.

13. **Comments on the Objections**

13.1. **Mr Alan Daw [Appendix 3(i)]**

"I feel that this change is not necessary. This is an ancient path and should be kept. The developer knew of this path and should accommodate its plan accordingly. If you let this through then it's a part of our history lost, no matter how small"

Wiltshire Council has granted planning permission which affects the line of the footpath; therefore, it is necessary to divert the footpath.

13.2. **Ms Sara Daw [Appendix 3(ii)]**

"Whilst a diversion may seem necessary by a developer, to locals it is a serious infringement of social history and as such should be considered highly detrimental. Up until recently, it also bordered thick hedgerow, now grubbed out under questionable activity by Redrow, these hedgerows were not only filled with birds but also part of an ancient route used to gather sloes and walk onwards to Cadley and beyond. I object most strongly to this deviation"

A diversion is necessary as planning permission has been granted. Any environmental concerns will have been addressed at the planning stage in the planning officer's report and work carried out in accordance with the planning consent will be within the conditions set. This is not an issue which can be addressed in accordance with the footpath diversion. The footpath can still be used to walk from Marlborough to Cadley, via the 75 metre diverted section and the unaffected continuation.

13.3. **Mr Duncan Ardley [Appendix 3(iii)]**

"I wish to object to this in the strongest possible way,... all this ancient right of way is being shifted for is for some extra ground for the posh big house they are building on an Adder basking ground. Here's an idea, move the house, that path is an ancient extension to Figgins Lane, part of which still exists within Marlborough Town"

Wiltshire Council has granted planning permission which requires the footpath to be diverted, any environmental concerns will have been

addressed at the planning stage and any breach of that permission is an issue for planning enforcement. The diversion of the footpath is a separate process.

13.4. **Ms Amanda Barrett [Appendix 3(iv)]**

“I wish to object to the permanent diversion of this footpath which is continually in use by local people and their dogs. Please take Our objections seriously.”

The footpath diversion is necessary as planning permission has been granted which affects the line of the footpath. The diversion route will provide access for people to walk with their dogs and continue walking the route north and south of the diverted section.

13.5. **VJ and MK Bilton [Appendix 3(v)]**

“To whom it may concern.

We strongly object to the proposal by Redrow to divert the Footpath30 on the grounds it is an old Established Footpath which goes over the old Roman Road. This Footpath is many Centuries old which is proposed to be destroyed for the Profits of Developers.”

Wiltshire Council has granted planning permission over the line of the footpath, a diversion of the footpath is necessary. The majority of the length of the path through the site has been left on its original route with 65 metres being diverted.

13.6. **Ms Caroline Heath [Appendix 3(vi)]**

“This is an ancient footpath that leads directly to Savernake Forest. It is also home to a wide variety of wildlife, such as Dormice (Protected Species) grass snakes, Adders, field mice, Nesting for Wrens, Robins, Dunnocks, Blackbirds, Finches to name but a few. As well as homes to remaining slowworms already destroyed and relocated. The Modification to the Path is to provide part of a turning/parking area for cars. As Redrow have continually modified their plans to “squeeze” in a few more houses and thus dessimated copses and trees and hedging at will - and without planning consent - it is obvious they can redraw this part of the acreage and allow the path to remain untouched, and for Marlborough to retain some of its ancient history.”

Planning permission has been granted which affects the line of the footpath which requires it to be diverted. The public will still be able to walk to and from Savernake Forest using the diverted section of footpath and the unaffected continuation. Any environmental concerns will have been addressed as part of the planning process.

13.7. **Marlborough Town Council [Appendix 3(vii)]**

“RESOLVED: that Marlborough Town Council should object to this diversion on the grounds of destruction of wildlife habitat and lack of clarity in the original plans”

This objection has now been withdrawn- see **Appendix 3(viii)**

13.8. The applicant, David Burton of Redrow Homes, has submitted the following response to the objections received.

1. *The footpath route to be closed is 65m and the new footpath route is 75m.*
2. *If left in place the existing footpath passes directly in front of plot 67 giving no defensible space to the frontage of the property and consequent loss of privacy through passers by looking into the property. Leaving the footpath on the existing route will also mean footpath users will have to cross over visitor parking spaces and the shared private drive and turning head for plots 67-69. Cars may be parked in the visitor spaces which will block the route. The existing path passes directly through a vehicle turning head for the cars and delivery vehicles for plots 67-69 which presents safety issues for mixing pedestrians and vehicles. As it is a turning head some vehicles will be reversing which by its nature offers reduced visibility so increases the risk of injury to pedestrians on the existing path. As this is a shared private drive there will be legal implications for the conveyance of plots 67-69. There will also be the risk of practical day to day problems arising between homeowners and members of the public crossing their property. This could result in future legal issues and applications to stop up or divert the footpath in the future.*
3. *The short proposed diversion path offers a safer route on a newly constructed adopted footpath which navigates around the private drive for plots 67-69 which has been granted planning permission. It will also remove the risk of day to day problems arising between homeowners and the public and the need for any future legal matters.*

13.9. The following email was sent to all objectors (except Marlborough Town Council who rang to discuss the process).

I acknowledge your objection to the footpath diversion of MARL30.

If any objections are not withdrawn then Wiltshire Council cannot confirm the order and it must be referred to the Secretary of State who will appoint an inspector from The Planning Inspectorate to determine the order. Before sending the order to the Secretary of State it will go before Wiltshire Councils Planning Committee to determine what recommendation is attached to the order when sent to the Secretary of State. At the Planning Committee stage you will have the opportunity to address the committee and present your case. Again if the order is objected to and it reaches the Secretary of State they will decide whether to determine the order via written representations, a public hearing or a public inquiry, you will once again have the opportunity to present your case either in person and or in written form.

The order must be determined by the legal tests set out in section 257 of the Town and Country Planning Act 1990.

If you would like to make any further comments or withdraw your objection this can be done by contacting me using the details below.

No responses were received.

Overview and Scrutiny Engagement

14. Overview and Scrutiny Engagement is not required in this case.

Safeguarding Considerations

15. There are no safeguarding considerations associated with the confirmation of this order.

Public Health Implications

16. There are no identified public health implications which arise from the confirmation of this Order.

Corporate Procurement Implications

17. There are no procurement implications associated with this Order.
18. In the event this Order is forwarded to the Secretary of State there are a number of opportunities for expenditure that may occur and these are covered in paragraph 22 of this report.

Environmental and Climate Change Impact of the Proposal

19. There are no environmental or climate change considerations associated with the confirmation of this Order.

Equalities Impact of the Proposal

20. The proposed new route will be over tarmac footways and a small section of path laid to hoggin (compressed gravel, sand and clay). As part of the development the continuation of footpath 30 not affected by the diversion and within the development boundary will be widened and laid to a hoggin surface.

Risk Assessment

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

Financial Implications

22. The Local Authorities (Recovery of Costs for Public Path Orders) Regulations 1993 (SI 1993/407) amended by Regulation 3 of the Local Authorities (Charges for Overseas Assistance and Public Path Orders) Regulations 1996 (SI 1996/1978), permits authorities to recover costs from the applicant in relation to the making of public path orders, including those made under Section 257 of the Town and Country Planning Act 1990. The applicant has agreed in writing to meet the actual costs to the council in processing this Order though the council’s costs relating to the Order being determined by the Planning Inspectorate on behalf of the Secretary of State may not be reclaimed from the applicant.

23. Where there is an outstanding objection to the making of the Order, the committee may resolve that Wiltshire Council continues to support the making of the Order, in which case it should be forwarded to the Secretary of State for decision. The outcome of the Order will then be determined by written representations, local hearing or local public inquiry, all of which have a financial implication for the council. If the case is determined by written representations the cost to the council is £200 to £300; however, where a local hearing is held the costs to the council are estimated at £300 to £500 and £1,000 to £3,000 where the case is determined by local public inquiry with legal representation (£300 to £500 without). There is no mechanism by which these costs may be passed to the applicant and any costs must be borne by Wiltshire Council. It is therefore considered appropriate where an Order is made under the council's powers to do so in the landowners' interest that the council does not provide any legal support for the Order at a hearing or inquiry thus minimising the expenditure of public funds even though it considers that the legal tests have been met.
24. Where the council no longer supports the making of the Order, it may resolve that the Order be withdrawn and there are no further costs to the council. The making of a Public Path Order is a discretionary power for the council rather than a statutory duty; therefore, a made Order may be withdrawn up until the point of confirmation if the council no longer supports it. However, where there is a pre-existing grant of planning permission the council must make very clear its reasons for not proceeding with the Order.

Legal Implications

25. If the council resolves that it does not support the Order, it may be abandoned. There is no right of appeal for the applicant; however, clear reasons for the abandonment or withdrawal must be given as the council's decision may be open to judicial review. This could be more likely where a grant of planning permission has already been made.
26. Where the council supports the making of the Order, because it has outstanding objections, it must be sent to the Secretary of State for determination, which may lead to the Order being determined by written representations, local hearing or local public inquiry. The Inspector's decision is open to challenge in the High Court.

Options Considered

27. Members may resolve that:
- (i) The Order should be forwarded to the Secretary of State for determination as follows:
 - (a) The Order be confirmed without modification, or
 - (b) The Order be confirmed with modification;
 - (ii) Wiltshire Council no longer supports the making of the Order, in which case the Order should be abandoned, with clear reasons given as to why Wiltshire Council no longer supports the making of the Order, i.e. why the Order fails to meet the legal tests.

Reason for Proposal

28. Council officers are aware of the local concerns regarding the diversion of a footpath which has been in its current location for many years; however, it is necessary to divert a 65 metre section of the route as planning permission has been granted over the route. Any concerns with the environmental impact of the planning consent have been addressed at that stage. This process is not an opportunity to object to the planning decision which has been made.
29. As described above by the developer, visitor parking bays and a private driveway will be built over the line of the existing footpath which will completely change the nature of the current route of the footpath. It would not be practicable to leave a public footpath going through a parking bay which is highly likely to have a vehicle parked in it the majority of the time. This would result in the footpath being blocked by a vehicle. While it would be possible to have a footpath leading over a private driveway and turning area, it would not be an ideal situation and would inevitably lead to future issues. This is an opportunity to divert the footpath, which is necessary, to a useable route which will be safe, away from vehicle movements of the turning area and uninhibited by obstructions and potential conflict with owners of the private driveway.

Proposal

30. That “The Wiltshire Council Marlborough 30 Diversion and Definitive Map and Statement Modification Order 2018” is forwarded to the Secretary of State for Environment, Food and Rural Affairs with the recommendation that it is confirmed as made.

Tracy Carter

Director – Waste and Environment

Report Author:

Craig Harlow

Acting Rights of Way Officer – Definitive Map

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

None

Appendices:

- | | | |
|-------------|---|---|
| Appendix 1 | - | Decision Report |
| Appendix 2A | - | The Wiltshire Council Marlborough 30 Diversion and Definitive Map Order Plan |
| Appendix 2B | - | “The Wiltshire Council Marlborough 30 Diversion and Definitive Map and Statement Modification Order 2018” |
| Appendix 3 | - | Objections to the Order |

DECISION REPORT
WILTS HIRE COUNCIL

Town and Country Planning Act 1990 –

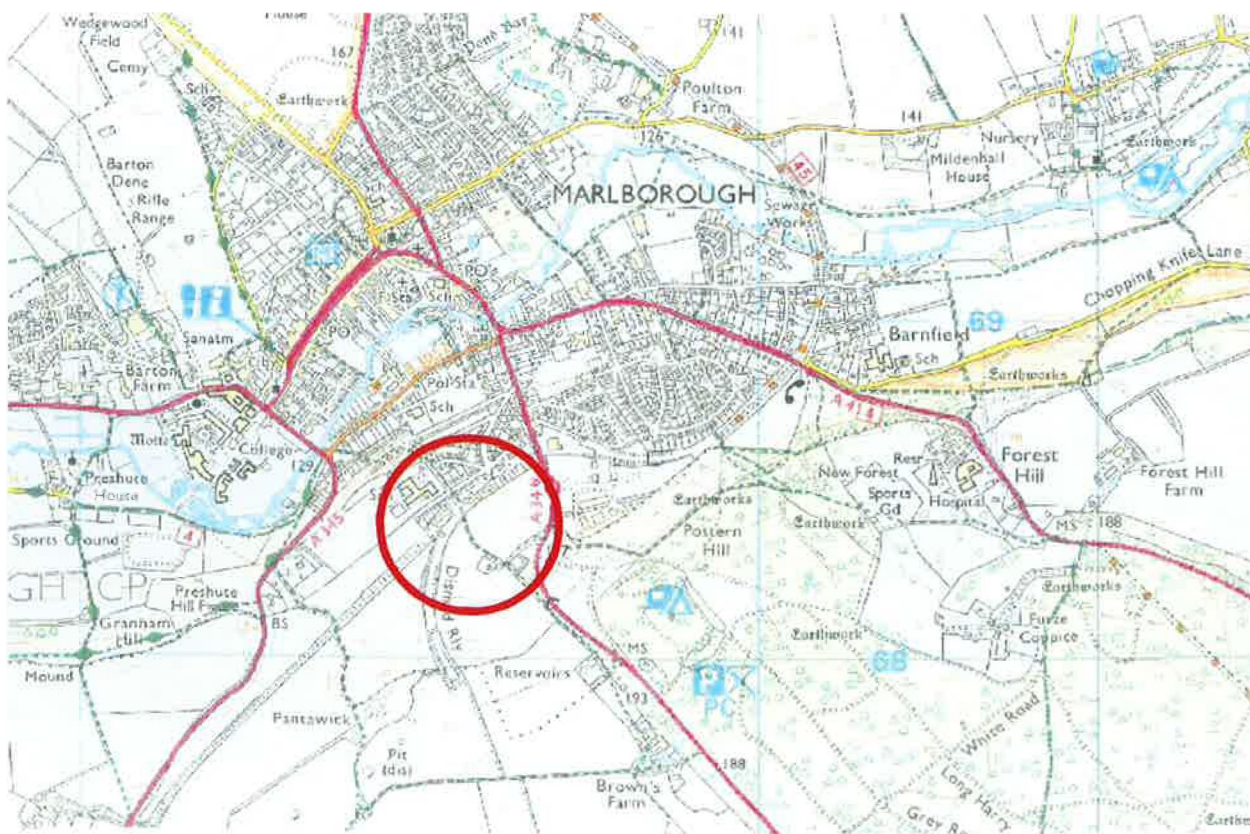
Section 257

The Proposed Diversion of Footpath No. 30 Marlborough

1 Purpose of Report

Consider and comment on an application to divert footpath Marlborough 30. This is in conjunction with planning permission 15/02025/OUT and reserved matters planning permission 17/03219/REM to which relate to an application for construction of 168 new 1,2 3,4 and 5 bedroom dwellings (to include 67 (40%) affordable homes) and associated highways and engineering works, landscaping and open space.

2 Location



- 2.1 Definitive footpath MARL30 leads from Marlborough High Street in a south easterly direction leading to the parish boundary with Savernake.

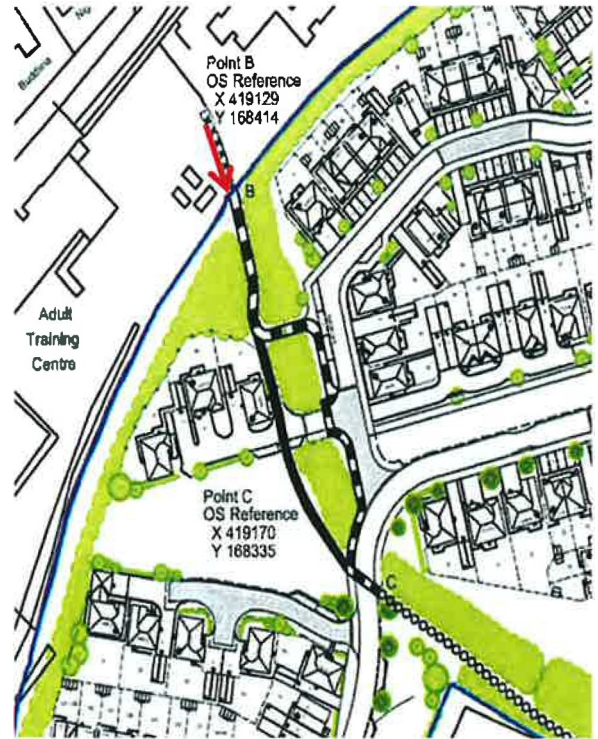
3 Background

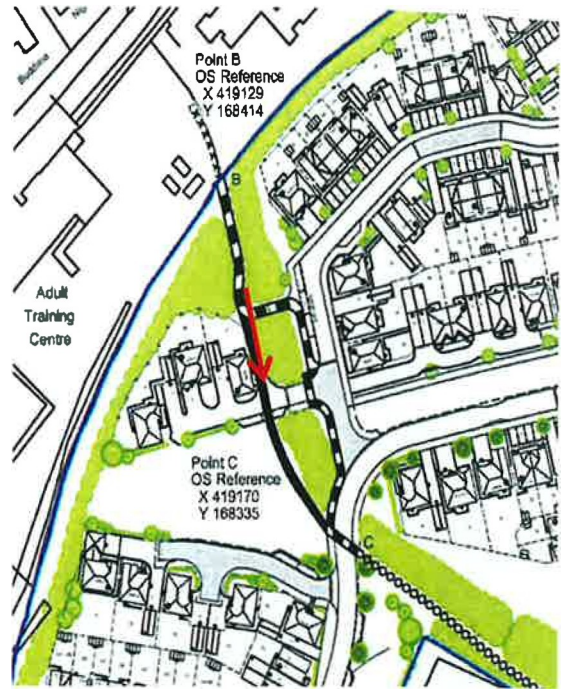
- 3.1 On 30 April 2018 Wiltshire Council acknowledged an application to divert footpath MARL30 to the west of Salisbury Road, Marlborough. The application was made by David Burton of Redrow Homes South West who proposes the diversion of the footpath to allow construction of 168 new 1, 2 3,4 and 5 bedroom dwellings (to include 67 (40%) affordable homes) and associated highways and engineering works, landscaping and open space under planning permission 15/02025/OUT and reserved matters applications, 17/03219/REM.
- 3.2 Outline permission for application 15/02025/OUT was approved with conditions on 29 July 2016 and the reserved matters application was approved with conditions on 20 September 2017.
- 3.3 A reduced plan at the original scale of 1:2000 of the proposed diversion is attached below. The new proposed route can be seen annotated as a dashed black line and the current route to be diverted as a solid black line.



- 3.4 The proposed diversion will divert a 65 metre section of path and create 75 metres of path. The new route will be laid to tarmac and hoggin (a compactable groundcover that is composed of a mixture of clay, gravel, and sand or granite dust that produces a buff-coloured bound surface). The sections of footpath MARL30 that are within the development site, but do not need to be diverted, will also be improved with a surface of hoggin and a width of 2 metres will be provided.

4 Photos





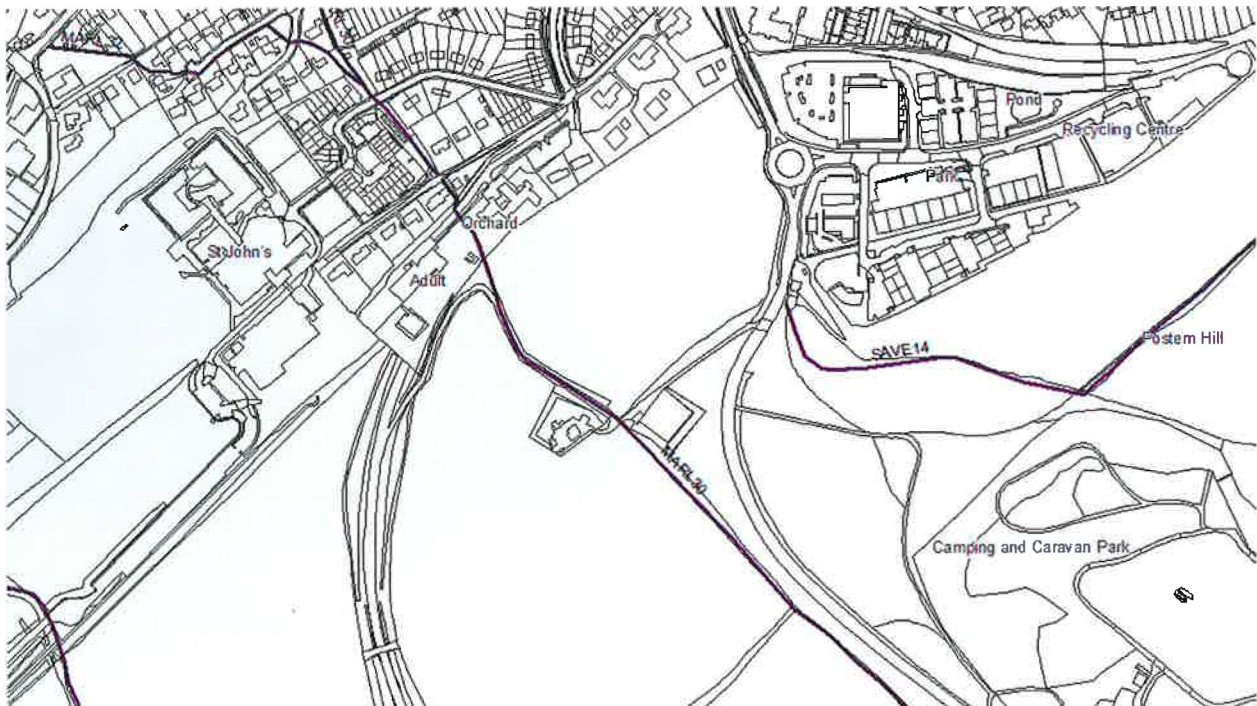
The photographs show the current footpath which has been fenced off from the construction site where the new route will be constructed.

5 Current Records

5.1 The definitive statement records the ways as follows:

| | | | |
|-------------|----|--|---|
| Marlborough | 30 | <u>FOOTPATH.</u> From the London - Bristol Trunk Road, A.4, between Nos.38 and 40 High (Figgins Lane), leading south-east across the River by an iron bridge, across George B.3052, (Isbury Lane) across [upper Church Fields] past the Pumping Station to the boundary at Forest Avenue (Long Harry). Approximate length 1550 metres. | relevant date 27 August 1991 Part subject to ploughing |
|-------------|----|--|---|

5.2 The working copy of the definitive map records the ways as follows:



6 Land Ownership

The land in question is owned by Redrow Homes Limited of Redrow House, St. Davids Park, Ewloe, Deeside, CHS 3RX.

7 Consultation

- 7.1 The following letter was sent on 3 May 2018 to interested parties, including Marlborough Town Council, the local Councillor, the local Wiltshire Ramblers' representative, user groups' representatives and statutory undertakers.

Town and Country Planning Act 1990
- Section 257

The Proposed Diversion of Footpath No. 30 Marlborough (part) at Salisbury Road Marlborough

Wiltshire Council is in receipt of an application dated 18 April 2018, to divert footpath No. 30 Marlborough (part of).

It is proposed to divert the footpath in conjunction with planning consent to construct 168 dwellings on the land west of Salisbury Road, Marlborough. A reserved matters application has been granted with a detailed site layout (ref-1703219/REM) which can be viewed on the Wiltshire Council website.

The proposed diversion of the footpath will divert a 65 metre section of the existing footpath to a new route shown on the attached map. The surface of the path will be laid to hoggin and tarmac with a width of 2 metres.

If you would like to make any observations or representations regarding the diversion proposal, I would be very grateful if you could forward them to me, in writing, at the above address, or via email not later than 1 June 2018.

A copy of the proposed diversion map was also sent with the consultation letter.

8 Consultation responses

No responses to the consultation were received.

- 9 **The Town and Country Planning Act of 1990** (as amended by Section 12 of the Growth and Infrastructure Act 2013), states in Sections 257 and 259:

257 Footpaths and bridleways affected by development: orders by other authorities.

(1) Subject to Section 259, a competent authority may by order authorise the stopping up or diversion of any footpath or bridleway if they are satisfied that it is necessary to do so in order to enable development to be carried out-

- (a) In accordance with planning permission granted under Part III, or
- (b) by a government department.

(1A) Subject to Section 259, a competent authority may by order authorise the stopping up or diversion in England of any footpath, bridleway or restricted byway if they are satisfied that --

- (a) an application for planning permission in respect of development has been made under Part 3, and
 - (b) if the application were granted it would be necessary to authorise the stopping up or diversion in order to enable the development to be carried out.
- (2) An order under this section may, if the competent authority are satisfied that it should do so, provide-
- (a) for the creation of an alternative highway for use as a replacement for the one authorised by the order to be stopped up or diverted, or for the improvement of an existing highway for such use;
 - (b) for authorising or requiring works to be carried out in relation to any footpath or bridleway for whose stopping up or diversion, creation or improvement provision is made by the order;
 - (c) for the preservation of any rights of statutory undertakers in respect of any apparatus of theirs which immediately before the date of the order is under, in, on, over, along or across any such footpath or bridleway;
 - (d) for requiring any person named in the order to pay, or make contributions in respect of, the cost of carrying out any such works.
- (3) An order may be made under this section authorising the stopping up or diversion of a footpath or bridleway which is temporarily stopped up or diverted under any other enactment.
- (4) In this section "competent authority" means-
- (a) in the case of development authorised by a planning permission, the local planning authority who granted the permission or, in the case of a permission granted by the Secretary of State, who would have had power to grant it.
 - (b) in the case of development carried out by a government department, the local planning authority who would have had power to grant planning permission on an application in respect of the development in question if such an application had fallen to be made.
 - (c) in the case of development in respect of which an application for planning permission has been made under Part 3, the local planning authority to whom the application has been made or, in the case of an application made to the Secretary of State under Section 62A, the local planning authority to whom the application would otherwise have been made."

259 Confirmation of orders made by other authorities

- (1) An order made under Section 257 or 258 shall not take effect unless confirmed by the Secretary of State or unless confirmed, as an unopposed order, by the authority who made it.
- (1A) An order under Section 257(1A) may not be confirmed unless the Secretary of State or (as the case may be) the authority is satisfied –
- (a) that planning permission in respect of the development has been granted, and
 - (b) it is necessary to authorise the stopping up or diversion in order to enable the development to be carried out in accordance with the permission.
- (2) The Secretary of State shall not confirm any such order unless satisfied as to every matter as to which the authority making the order are required under Section 257 or, as the case may be, Section 258 to be satisfied.

- (3) The time specified-
- (a) in an order under Section 257 as the time from which a footpath or bridleway is to be stopped up or diverted; or
- (b) in an order under Section 258 as the time from which a right of way is to be extinguished shall not be earlier than confirmation of the order.
- (4) Schedule 14 shall have effect with respect to the confirmation of orders under Sections 257 or 258 and the publicity for such orders after they are confirmed.

9.1 Section 257 of the Town and Country Planning Act 1990 requires that before the order may be confirmed either Wiltshire Council (in the case of an order that has not attracted objections) or the Secretary of State must be satisfied that it is necessary to extinguish or divert the footpath in question in order to enable development to be carried out in accordance with planning permission granted.

9.2 Section 12 of the Growth and Infrastructure Act 2013 amends Part 10 of the Town and Country Planning Act 1990 (highways), as follows:

"12. Stopping up and diversion of public paths

(1) *Part 10 of the Town and Country Planning Act 1990 (highways) is amended as follows.*

(2) *In Section 257 (footpaths, bridleways and restricted byways affected by other development: orders by other authorities), after subsection (1) insert-*

"(1A) Subject to Section 259, a competent authority may by order authorise the stopping up or diversion in England of any footpath, bridleway or restricted byway if they are satisfied that-

(a) an application for planning permission in respect of development has been made under Part 3, and

(b) if the application were granted it would be necessary to authorise the stopping up or diversion in order to enable the development to be carried out."

(3) *In that section, in subsection (4)-*

(a) *omit the "and" following paragraph (a), and*

(b) *after paragraph (b) insert-*

"(c) in the case of development in respect of which an application for planning permission has been made under Part 3, the local planning authority to whom the application has been made or, in the case of an application made to the Secretary of State under Section 62A, the local planning authority to whom the application would otherwise have been made."

(4) *In Section 259 (confirmation of orders made by other authorities), after subsection (1) insert-*

"(1A) An order under Section 257(1A) may not be confirmed unless the Secretary of State (or the case may be) the authority is satisfied-

(a) that planning permission in respect of the development has been granted, and

(b) it is necessary to authorise the stopping up or diversion in order to enable the development to be carried out in accordance with the permission."

(5) *In that section, in subsection (2), for "any such order" substitute "any order under Sections 257(1) or 258".*

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

9.4 These three matters are:

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

- 9.5 The Equality Act applies to a highway authority's provision of public rights of way services. (DEFRA Guidance *Authorising structures (gaps, gates and stiles) on rights of way* Oct 2010). In this case the application does not introduce any new structures to the right of way and improves the surface of the footpath.
- 9.6 The Council must also have regard to the needs of agriculture, forestry and the conservation of biodiversity.
- 9.7 The Council is also empowered to make a 'combined order' under Section 53(2)A of the Wildlife and Countryside Act 1981. The effect of this means that on the confirmation of the order the definitive map and statement may be changed without the further need to make an order under Section 53(3)(a)(i) of the 1981 Act (also known as a 'legal event order' or an 'unadvertised order').
- 9.8 An order made under Section 257 of the Town and Country Planning Act 1990 will come into effect only after confirmation.
- 10.** The Council has also taken into consideration the Wiltshire Council Rights of Way Improvement Plan (ROWIP) 2015-2025.
- 10.1 At page 5, Section 1B.1 of the policy document referring to public path orders it states *"The council has discretionary powers to alter the rights of way network The main procedures are set out within the Town and Country Planning Act 1990 and the Highways Act 1980.* As such, this diversion is being processed under those stated powers.
- 10.2 Page 6 of the policy document at Section 18.2 in relation to *Public Path Order Application and their Prioritisation* states *· diverted/newly created path should meet the Council's minimum standards width: Footpath 2 metres"*. This diversion is proposed with a width of 2 metres.
- 10.3 The ROWIP states in regards to use of the countryside access network at page 32 7.3 conclusion 5 *"If older people are to keep active and therefore healthy, they will need a more accessible network as they are more likely to find stiles (and sometimes surfacing and latches) difficult than other people. This highlights the need to replace stiles with gaps or gates"* This proposed diversion offers no new obstructions across the right of way and an improved surface on the section being diverted and the continuation of the footpath.
- 11** Comments on Considerations - Whether it is necessary to divert the routes in question to allow development to be carried out in accordance with the planning permission already given but not substantially completed.
- 11.1 Section 57(1)(a) permits Wiltshire Council to make an order to extinguish or divert a footpath if it is satisfied that it is necessary to do so in order to enable development to be carried out in accordance with planning permission granted under Part III or where application has been made but not yet granted but where it would be necessary to alter the rights of way if it were granted.
- 11.2 The Particulars of Development given in the Planning Application are as follows:

"Up to 175 dwellings (Use Class C3), hotel (C1), new access from Salisbury Road, open space, landscaping, ecological mitigation, drainage works and ancillary works."
- 11.3 Footpath Marlborough 30 leads through the centre of the application area and will be affected by the construction of a dwelling and roads constructed over them as per the planning application. It is

therefore necessary to divert the footpaths in accordance with Section 257 of the Town and Country Planning Act 1990.

- 11.4 It should be considered the effect that the order would have on those whose rights may be affected if the order comes into effect. It is deemed the diversion order would have a minimal impact on any adjoining residents as the properties will be adjacent to the road in any case and any use of the footpath will be minimal in terms of noise or any adverse effect on privacy.

12 Other considerations

12.1 Environmental Impact of the Recommendation

All considerations were undertaken when planning permission was granted by Wiltshire Council for the site, this included environmental concerns.

The nature of the footpath will clearly be majorly altered by the construction of the dwellings and associated infrastructure where the land before construction work began was agricultural fields, although the footpath was enclosed by fencing at least on one side. With outline and reserved matters applications approved the diversion of the right of way in isolation has no identified environmental impact.

12.2 Risk Assessment

As stated previously the nature of the footpaths will be significantly altered by the development. The footpath will have to cross a newly constructed road which is clearly not ideal but a situation which cannot be altered with permission for the road granted and the necessity to cross it for any walker wishing to continue on the right of way.

12.3 Legal Considerations and Financial Implications

The applicant will meet costs related to the application and will meet all costs related to the confirmation of the order excluding any costs associated with sending the Order to the Secretary of State (SoS) for determination. This occurs if objections are received. The SoS may choose to determine the order by written representations (no additional cost to the Council), a local hearing (approximate cost £200-£300) or a public inquiry (approximate cost £2500).

- 12.4 Although the making of public path orders is a power that Wiltshire Council has and is not a duty, where the planning authority and the highway authority are the same authority, a duty is implied. If Wiltshire Council fails to make an order following the granting of planning permission it is liable to application for judicial review from the developer. This has a potential cost to the Council of up to £50,000.

12.5 Equality Impact

The nature of the proposed diverted path will consist of a hoggin surface and a section of tarmac path which will give a level surface to the path. There will be pedestrian crossing points at the road crossing locations on the proposed route to allow safe crossing of the road. These improvements to the surface and safety measures will result in the equality impact of the diversion of the footpath to be negligible.

12.6 Safeguarding Considerations

The proposed diversion has no effect on matters relating to safeguarding.

13 Options to Consider

- i) To make an Order to divert the ways under Section 257 of the Town and Country Planning Act 1990.
- ii) Not to make an Order.

14 Reasons for Recommendation

- 14.1 The existing route needs to be extinguished or diverted to enable the permitted development to proceed. The proposed diversion of the path has been consulted upon and no concerns have been raised. All associated costs of the diversion will be covered by the applicant.
- 14.2 Statutory undertakers affected by the proposal will retain any rights of access they previously had.

15 Recommendation

That Wiltshire Council makes an Order under Section 257 of the Town and Country Planning Act 1990 and Section 53 of the Wildlife and Countryside Act 1981 to divert footpath Marlborough 30 and if after due advertisement no objections or representations are received that the Order be confirmed and after certification of the new route that the definitive map and statement be altered accordingly.

Craig Harlow
Rights of Way Officer

12 June 2018

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Development Boundary

MARL30 Route to be Closed
Distance = 65m

New Footpath
Page 83
Distance = 15m

Unaffected Route

Key

A-C

A-B-C



REDROW
HOMES

Redrow Homes South West

Redrow House, West Point, Great Park Road, Bradley Stoke, Bristol BS32 4QG
Tel: 01454 625000 Fax: 01454 616033 Web: www.redrow.co.uk

Legal Disclaimer TBC

This layout has been designed after due consideration of our Context & Constraints Plan

STAGelovment
Land Off Salisbury Rd

Wiltshire Council

Marborough 30 Diversion and Definitive Map
and Statement Modification Order 2018

Scale @ A3 - 1:2000



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**PUBLIC PATH DIVERSION AND DEFINITIVE MAP AND STATEMENT
MODIFICATION ORDER**

THE TOWN AND COUNTRY PLANNING ACT 1990 SECTION 257

WILDLIFE AND COUNTRYSIDE ACT 1981 SECTION 53(A)(2)

**THE WILTSHIRE COUNCIL MARLBOROUGH 30 DIVERSION AND DEFINITIVE
MAP AND STATEMENT MODIFICATION ORDER 2018**

This Order is made by Wiltshire Council under Section 257 of the Town and Country Planning Act 1990 because it is satisfied that it is necessary to stop up and divert the footpath to which this order relates in order to enable development to be carried out in accordance with planning permission granted under Part 3 of the Town and Country Planning Act 1990, namely: the construction of 168 dwellings and associated infrastructure work.

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

BY THIS ORDER:

1. The footpath over the land shown by a bold black line on the map contained in this order and described in Part 1 of the Schedule to this order("the Schedule") shall be stopped up or diverted and thereupon the Marlborough and Ramsbury District Council Area Definitive Map and Statement dated 1952 shall be modified as provided below.
2. There shall be created to the reasonable satisfaction of Wiltshire Council an alternative highway for use as a replacement for the said footpaths as provided in Part 2 of the Schedule and shown by bold black dashes on the attached map.
3. The diversion and stopping up of the footpaths shall have effect on the date on which Wiltshire Council certify that the terms of Article 2 have been complied with and upon the occurrence of that diversion and stopping up the Marlborough and Ramsbury Rural District Council Area Definitive Map dated 1952 as modified under the Wildlife and Countryside Act 1981 shall be modified by deleting from it the paths or ways referred to in paragraph 1 of

this order and the paths or ways referred to in paragraph 2 of this order shall be added to it, and the definitive statement shall be modified as described in part 3 of the schedule.

4. Where immediately before the date on which the footpaths are diverted there is apparatus under, in, on, over, along or across it belonging to statutory undertakers for the purpose of carrying on their undertaking, the undertakers shall continue to have the same rights in respect of the apparatus as they then had.

SCHEDULE

PART 1

Description of site of existing path or way

That length of footpath, as shown on the attached map by a bold black line, leading from point A, at OS Grid Reference SU 1916-6833, in a broadly north, north westerly direction for approximately 65 metres to point C, at OS Grid Reference SU 1914-6839 .

PART 2

Description of site of alternative highway

That length of footpath, as shown by bold black dashes on the attached map, leading from point A, at OS Grid Reference SU 1916-6839 in a broadly northerly direction for a length of approximately 60 metres to point B at OS Grid Reference SU 1915-6839 before leading in a westerly direction for approximately 15 metres to point C at OS Grid Reference SU 1914-6839 having a width of 2 metres.

PART 3

Modification of Definitive Statement

Variation of particulars of path or way

| <u>Parish</u> | <u>Path No.</u> | <u>Modified Statement to read:-</u> | <u>Modified under Section 53(3) as specified</u> |
|---------------|-----------------|-------------------------------------|--|
|---------------|-----------------|-------------------------------------|--|

Marlborough 30

FOOTPATH. From the London - Bristol Trunk Road, A.4, between Nos.38 and 40 High Street, (Figgins Lane), leading south-east across the River by an iron bridge, across George Lane, B.3052, (Isbury Lane) across [upper Church Fields] past the Pumping Station to the Borough boundary at Forest Avenue (Long Harry).
Approximate length 1550 m.
Width of 2 metres from SU 1914-6839 to SU 1916- 6833.

relevant date
27th August 1991
Part subject
to ploughing

THE COMMON SEAL OF
THE WILTSHIRE COUNCIL
was hereunto affixed this
18th June 2018
In the presence of:

}
}
}
}



EMMA LICCARDI

Senior Solicitor



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From: [Roberts, Ali](#)
To: [alan daw](#)
Cc: [Harlow, Craig](#)
Subject: RE: PPO enquiry re 2018/06
Date: 02 July 2018 07:41:42

Dear Mr Daw,

I have forwarded your email on to the case officer Craig Harlow for his attention.

Kind regards,

Ali Roberts

From: alan daw [REDACTED]
Sent: 01 July 2018 15:02
To: rightsofway
Subject: PPO enquiry re 2018/06

PPO enquiry re 2018/06 in RoW PPO <http://www.wiltshire.gov.uk/row/ppo/getppo.php?id=6212>

I feel that this change is not necessary. This is an ancient path and should be kept. The developer knew of this path and should accommodate its plan accordingly. If you let this through then it's a part of our history lost, no matter how small.

AW DAW

From: [Roberts, Ali](#)
To: [REDACTED]
Cc: [Harlow, Craig](#)
Subject: RE: Footpath Application Diversion at Salisbury rd Marlborough of Footpath Marl30-Permanent.
Date: 02 July 2018 11:25:52

Dear Ms Daw,

I have forwarded your objection to this order to the case officer, Craig Harlow.

Kind regards,

Ali

From: [REDACTED]
Sent: 02 July 2018 11:09
To: rightsofway
Subject: Footpath Application Diversion at Salisbury rd Marlborough of Footpath Marl30-Permanent.

Hello,

I wish to log an objection to the above location footpath diversion by Redrow at Marl30. This is an ancient footpath, one in which I wrote a thesis on a few years ago, and has been enjoyed and walked by locals for centuries. Whilst a diversion may seem necessary by a developer, to locals it is a serious infringement of social history and as such should be considered highly detrimental. Up until recently, it also bordered thick hedgerow, now grubbed out under questionable activity by Redrow, these hedgerows were not only filled with birds but also part of an ancient route used to gather sloes and walk onwards to Cadley and beyond. I object most strongly to this deviation and will also submit my objection in written form. Please can you confirm by email that you have logged this objection.

Many Thanks,

Sara Daw

From: [Roberts, Ali](#)
To: [DUNCAN ARDLEY](#)
Cc: [Harlow, Craig](#)
Subject: RE: Redrow/Wiltshire Councils collusion at Marlborough
Date: 04 July 2018 10:33:57

Dear Mr Ardley,

I have forwarded your email on to the case officer, Craig Harlow.

Kind regards,

Ali Roberts
Rights of way officer

From: DUNCAN ARDLEY [REDACTED]
Sent: 03 July 2018 18:42
To: rightsofway
Subject: Redrow/Wiltshire Councils collusion at Marlborough

Dear Sir/Madam, with regards to the Redrow-permanent diversion of footpath MARLB30 at Salisbury rd. I wish to object to this in the strongest possible way, it is disgusting that Wiltshire Councils Planning dept and it's creature Morgan Jones can just ride roughshod over peoples right to object and ignore their objections, Redrow cleared the standing of trees at the beginning of Spring when the birds were starting their nesting period AGAINST an order not to do so, but they did it anyway and all this ancient right of way is being shifted for is for some extra ground for the posh big house they are building on an Adder basking ground. Here's an idea, move the house, that path is an ancient extension to Figgins Lane, part of which still exists within Marlborough Town.

Thank You.

Kindest Regards.
Duncan Ardley.

From: [Roberts, Ali](#)
To: [AMANDA BARRETT](#)
Cc: [Harlow, Craig](#)
Subject: RE: Footpath 30 Orchard Road
Date: 02 July 2018 07:47:36

Dear Amanda,

I have forwarded your email on to the case officer Craig Harlow for his attention.

Kind regards,

Ali

From: AMANDA BARRETT [REDACTED]
Sent: 01 July 2018 16:48
To: rightsofway
Subject: Footpath 30 Orchard Road

I am a long person and I wish to object to the permanent diversion of this footpath which is continually in use by local people and their dogs.

Please take Our objections seriously.

Kind regards

Amanda

From: [Roberts, Ali](#)
To: [vicbilton](#)
Cc: [Harlow, Craig](#)
Subject: RE: Foot path 30
Date: 18 July 2018 10:06:35

Dear Mr and Mrs Bilton,

I have forwarded your email on to the case officer for this diversion application, Craig Harlow for his attention.

Regards,

Ali

From: vicbilton [REDACTED]
Sent: 15 July 2018 21:08
To: rightsofway
Subject: Foot path 30

To whom it may concern.

We strongly object to the proposal by Redrow to divert the Footpath30 on the grounds it is an old Established Footpath which goes over the old Roman Road. This Footpath is many Centuries old which is proposed to be destroyed for the Profits of Developers.

VJ & MK Bilton

[REDACTED]

15th July 2018

From: caroline heath
To: [Harlow, Craig](#)
Subject: Rerouting of footpath - 15/02025/OUT and 17/03219/EEM
Date: 26 July 2018 14:43:47

Dear Mr Harlow,

I am writing to object to the modification proposed to footpath MARL30. (WEST OF SALISBURY ROAD MARLBOROUGH)

This is an ancient footpath that leads directly to Savernake Forest. It is also home to a wide variety of wildlife, such as Dormice (Protected Species) grass snakes, Adders, field mice, Nesting for Wrens, Robins, Dunnocks, Blackbirds, Finches to name but a few. As well as homes to remaining slowworms already destroyed and relocated.

This modification will undoubtedly impact heavily on these animals for a very long time.

The Modification to the Path is to provide part of a turning/parking area for cars. As Redrow have continually modified their plans to “squeeze” in a few more houses and thus dessimated copses and trees and hedging at will - and without planning consent - it is obvious they can redraw this part of the acreage and allow the path to remain untouched, and for Marlborough to retain some of its ancient history.

Please just leave the existing footpath alone!!

Marlborough Town Council

Tel: 01672 512487
Fax No: 01672 512116
VAT No: 195 5986 93
Town Clerk: Mrs S A Parker, PSLCC
www.marlborough-tc.gov.uk
e-mail: enquiries@marlborough-tc.gov.uk



COUNCIL OFFICES
5 HIGH STREET
MARLBOROUGH
WILTSHIRE
SN8 1AA

26th July 2018

Mr Craig Harlow
Rights of Way and Countryside
Wiltshire Council
County Hall
Bythesea Road
Trowbridge
BA14 8JN

Dear Mr Harlow

TOWN AND COUNTRY PLANNING ACT 1990 SECTION 257 – WILDLIFE AND COUNTRYSIDE ACT 1981 SECTION 53(a) (2): PUBLIC PATH DIVERSION THE WILTSHIRE COUNCIL MARLBOROUGH 30 DIVERSION AND DEFINITIVE MAP AND STATEMENT MODIFICATION ORDER 2018

At the Full Town Council Meeting of 23rd July 2018, Town Councillors asked that I pass on the following objection to the above Order (as taken from the meeting minutes):

RESOLVED: that Marlborough Town Council should object to this diversion on the grounds of destruction of wildlife habitat and lack of clarity in the original plans

We should be grateful to be kept informed of the outcome of this process.

Yours sincerely

[Redacted Signature]
Mrs S A Parker, PSLCC
Town Clerk

From: Shelley Parker
To: [Harlow Craig](#)
Cc: [Todd Morgan](#); [David Burton](#)
Subject: Withdrawal of objection to diversion of MARL30
Date: 01 October 2018 08:30:01
Attachments: [image001.png](#)

Dear Craig

Withdrawal of objection to diversion of MARL30

Following our recent telephone conversation, I can confirm that the Town Council has resolved to withdraw its objection to the diversion of public footpath MARL30. The following is an extract from the draft minutes of the Planning Committee which met on 24th September 2018:

247/18 TOWN AND COUNTRY PLANNING ACT 1990 SECTION 257 – WILDLIFE AND COUNTRYSIDE ACT 1981 SECTION 53(A) (2): PUBLIC FOOTPATH DIVERSION

As a result of the Town Council's decision to lodge an objection to the diversion of MARL30 (Min.172/18), Redrow Homes South West had provided further clarification and a detailed justification for the proposed diversion and requested that the Town Council withdraw this.

Councillor Heath had provided annotated images of the area together with an explanation of his concerns about the proposals which were relayed at the meeting and these were circulated and discussed by Members.

RESOLVED: to withdraw the Town Council's original objections to the diversion of public footpath MARL30 associated with the Redrow development off Salisbury Road, Marlborough.

I hope this gives you the confirmation you need of the Town Council's decision.

With best regards

Shelley

Shelley Parker
Town Clerk
Marlborough Town Council
01672 512487
07931 996632
townclerk@marlborough-tc.gov.uk
www.marlborough-tc.gov.uk

Sent: 26 September 2018 07:57

To: Shelley Parker <townclerk@marlborough-tc.gov.uk>

From: Harlow, Craig (Craig.Harlow@wiltshire.gov.uk)
<Craig.Harlow@wiltshire.gov.uk>

Subject: RE: Planning meeting 24/9/18

Dear Shelley,

Thank you for your telephone call yesterday morning confirming that the Town Council have withdrawn their objection to the footpath diversion.

Regards,

David

From: David Burton
Sent: 24 September 2018 16:07
To: Shelley Parker
Cc: Todd Morgan; Harlow, Craig (Craig.Harlow@wiltshire.gov.uk)
Subject: RE: Planning meeting 24/9/18
Importance: High

Dear Shelley,

Thank you for contacting us about this before your meeting.

To assist you in further understanding this, attached is a copy of the aerial photo where I have annotated the arrows A, B and