

# AGENDA

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**Meeting:** Strategic Planning Committee  
**Place:** Council Chamber - Wiltshire Council Offices, County Hall, Trowbridge  
**Date:** Wednesday 7 November 2018  
**Time:** 10.30 am

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Please direct any enquiries on this Agenda to Roger Bishton, of Democratic Services, County Hall, Bythesea Road, Trowbridge, direct line 01225 713035 or email [roger.bishton@wiltshire.gov.uk](mailto:roger.bishton@wiltshire.gov.uk)

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

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## Membership:

Cllr Fleur de Rhé-Philipe (Chairman)	Cllr David Jenkins
Cllr Derek Brown OBE (Vice-Chairman)	Cllr Christopher Newbury
Cllr Ernie Clark	Cllr James Sheppard
Cllr Andrew Davis	Cllr Tony Trotman
Cllr Stewart Dobson	Cllr Fred Westmoreland
Cllr Sarah Gibson	

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## Substitutes:

Cllr Ian Blair-Pilling	Cllr Ruth Hopkinson
Cllr Clare Cape	Cllr Chris Hurst
Cllr Matthew Dean	Cllr Nick Murry
Cllr Christopher Devine	Cllr Stewart Palmen
Cllr David Halik	Cllr Graham Wright
Cllr Russell Hawker	

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## **Public Participation**

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

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

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

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

# AGENDA

## Part I

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

1 **Apologies**

To receive any apologies or substitutions for the meeting.

2 **Minutes of the Previous Meeting** (*Pages 5 - 28*)

To approve and sign as a correct record the minutes of the meeting held on 15 August 2018. (Copy attached)

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 10.20am on the day of the meeting.

The rules on public participation in respect of planning applications are detailed in the Council's Planning Code of Good Practice. The Chairman will allow up to 3 speakers in favour and up to 3 speakers against an application and up to 3 speakers on any other item on this agenda. Each speaker will be given up to 3 minutes and invited to speak immediately prior to the item being considered.

Members of the public will have had the opportunity to make representations on the planning applications and to contact and lobby their local member and any other members of the planning committee prior to the meeting. Lobbying once the debate has started at the meeting is not permitted, including the circulation of new information, written or photographic which have not been verified by planning officers.

### Questions

To receive any questions from members of the public or members of the Council received in accordance with the constitution which excludes, in particular, questions on non-determined planning applications.

Those wishing to ask questions are required to give notice of any such questions in writing to the officer named on the front of this agenda no later than 5pm on **Wednesday 31 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 **Friday 2 November 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 29 - 32*)

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

#### 7 **18/02671/FUL: Sunnyside Yarnbrook Road West Ashton BA14 6AR - The addition of two extra traveller pitches, two day rooms and associated ancillary development.** (*Pages 33 - 56*)

A report by the Case Officer is attached.

#### 8 **Date of Next Meeting**

To note that the next meeting of this Committee is due to be held on Wednesday 5 December 2018 at County Hall, Trowbridge, **starting at 2.00pm**.

#### 9 **Urgent Items**

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

### **Part II**

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

**None**

## **STRATEGIC PLANNING COMMITTEE**

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**MINUTES OF THE STRATEGIC PLANNING COMMITTEE MEETING HELD ON 15 AUGUST 2018 AT COUNCIL CHAMBER - COUNTY HALL, TROWBRIDGE BA14 8JN.**

**Present:**

Cllr Fleur de Rhé-Philippe (Chairman), Cllr Ernie Clark, Cllr Andrew Davis, Cllr Stewart Dobson, Cllr Sarah Gibson, Cllr David Jenkins, Cllr Christopher Newbury, Cllr Tony Trotman, Cllr Fred Westmoreland and Cllr Ian Blair-Pilling (Substitute)

**Also Present:**

Cllr Tony Jackson and Cllr Pip Ridout

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49 **Apologies**

Apologies for absence were received from Cllr Derek Brown OBE who was substituted by Cllr Ian Blair-Pilling and also from Cllr James Sheppard.

50 **Minutes of the Previous Meeting**

**Resolved:**

**To confirm and sign the minutes of the previous meeting held on 18 July 2018, subject to the inclusion of Cllr Christopher Newbury as being present.**

51 **Declarations of Interest**

There were no declarations of interest made at the meeting.

52 **Chairman's Announcements**

There were no Chairman's announcements.

53 **Public Participation**

The Chairman explained the rules governing public participation at meetings.

54 **17/01463/FUL - Bugley Barton Farm, Land South of Victoria Road, Warminster - A Comprehensive Development Comprising Demolition of the Existing Farm Buildings, Construction of 227 Residential Dwellings**

**(Use Class C3), a New Vehicular Access, Public Open Space, Landscaping, Sustainable Urban Drainage and other Associated Infrastructure Works**

The Committee received a presentation from the Case Officer which set out the issues in respect of the application. The purpose of the report was to assess the merits of the application against the relevant national and local development plan policies and other material considerations and to consider a recommendation that permission be granted, subject to the prior completion of a Section 106 legal agreement and planning conditions. He reported that Cranborne Chase & West Wiltshire Downs AONB had recently withdrawn their objection to the proposal on the grounds of visual and landscape impacts following some negotiation which led the officer to recommend an amendment to the published wording of condition 18 and to expand on the reason for the condition to make reference to the AONBs dark skies status and to secure the appropriate environmental zone standards for all external lighting within the scheme.

Members then had the opportunity to ask technical questions after which they heard a statement from Mr Chris Minors, the applicant, Persimmon Homes (Wessex) in support of the proposal.

Members then heard the views of Cllr Pip Ridout and Cllr Tony Jackson, the local Members, who were generally in support of the application and stressed the need for the new link road connecting Victoria Road and the Redrow estate to be delivered as part of the first phase of the development and sought to secure a local resident point of contact and adherence to the terms set out within the condition covering the need for a construction traffic management plan. The Case Officer advised the Committee that conditions 8, 9 and 14 would address these matters.

Members sought clarification about the bus strategy (referenced under the summarised s106 heads of terms) and the proposed attenuation basins and pond which formed a key part of the applicant's drainage strategy and asked about potential landscaping and the necessary management to avoid them becoming silted up, muddy and producing foul smells. The Case Officer pointed out that the S106 would require bespoke clauses to address the need for a bus strategy to be agreed through negotiation with the bus network manager (employed by Wiltshire Council) as well having direct liaison with bus providers; and that the s106 would require clauses covering the setting up of a management company to be fully responsible for the management and maintenance of the SUDs infrastructure. Members also sought to include an additional planning informative to secure the provision of swift bricks, bat boxes and encourage the developer to be sensitive to allowing hedgehogs to freely pass through hedgerows as part of planting up gaps and completing the landscaping scheme.

After some discussion, on the proposal of Cllr Andrew Davis, which was seconded by Cllr Fred Westmoreland,

**Resolved:**

**To grant planning permission, subject to:-**

**(1) the completion of a legal agreement under Section 106 of the Town & Country Planning Act 1990 as summarised in paragraph 9.89 of the Case Officer's report, and**

**(2) the following conditions:-**

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

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

**2. The development hereby permitted shall be carried out in accordance with the approved plans list as contained within the Schedule of Plans report dated 24 July 2018.**

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

**3. Notwithstanding the provisions of the Town and Country Planning (General Permitted Development) (England) Order 2015 (or any Order revoking or re-enacting or amending that Order with or without modification), no garage hereby approved which is required to satisfy the on-plot parking standards, shall be converted to ancillary habitable accommodation without first obtaining planning permission, no garage hereby approved shall be converted to ancillary habitable accommodation without first obtaining planning permission.**

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

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

**4. No demolition or construction works shall take place on the site outside the following hours: 07:30 to 18:00 Mondays to Fridays; and 08:00-13:00 on Saturdays; and, at any time on Sundays or Bank Holidays.**

**REASON: In the interests of protecting the amenity of nearby residential properties.**

**5. The development hereby approved shall be carried out in full accordance with the noise mitigation recommendations as set out within the Addendum Noise Assessment (version 1 SLR ref: 422.00776.00050 ES Addendum Appendix 8.1) produced by SLR in March 2018 pursuant to glazing and ventilation components and sound abatement measures.**

**REASON: In the interests of protecting future residential amenity.**

**6. No vehicular access shall be made to the site for construction vehicles via the St Andrews Road cul-de-sacs during the construction phrases.**

**REASON: To define the terms of this permission and in order to protect the amenities of local residents of the Broadway estate and to limit the adverse consequences of construction traffic.**

**7. No development shall take place on site until an archaeological watching brief has been submitted to and agreed in writing by the local planning authority. The watching brief shall include a written specification and agreed work practices that shall be followed should any archaeological remains be revealed whereupon works must stop to allow for archaeological appraisal. The written brief shall also include a scheme for allowing access at all reasonable times to any archaeologist nominated by the Local Planning Authority to observe site activities and any excavations and to record items of interest and finds, in accordance with the approved scheme.**

**REASON: To define the terms of this permission and to ensure that the development is undertaken in an acceptable manner that safeguards archaeological interests with the identification, reporting and recording of features of archaeological interest.**

**8. No development or works shall take place on site (including demolition, ground works and vegetation clearance) until a Construction Traffic Management Plan (CTMP) has been submitted to and approved in writing by the local planning authority. The CTMP shall include but not be restricted to details in relation to (i) the confirmed routing and signing of construction delivery routes to the site; (ii) the measures to be employed to ensure the suppression of dust and noise arising from construction traffic and processes within the site; (iii) the provision and exact location of wet wash vehicle tyre cleaning facilities on the exit route from the site; (iv) the location(s) and extent of the site compound(s) to include provision for delivery vehicles to unload and turn within the confirmed compound area at all times with specific care taken to avoid compounds backing onto neighbouring residential properties.**

**REASON: In the interests of highway safety and residential amenity.**

**9. No development or works shall take place on site (including demolition, ground works and vegetation clearance) until a Construction Environment Management Plan (CEMP) has been submitted to and approved in writing by the local planning authority. The CEMP shall include, but not necessarily be limited to, the following:**

- a. Identification of potentially damaging construction activities;**
- b. Measures (both physical measures and sensitive working practices) to avoid, reduce and mitigate impacts during construction on protected and other species including breeding birds, barn owls, badgers, reptiles,**



amphibians, dormice, hares, hedgehogs, and any other relevant species to include the controls of using oils and chemicals and removal of spoil and waste;

- c. Measures to avoid, reduce and mitigate harm to habitats features including hedgerows, trees and ponds;
- d. Details of mitigation measures which will be provided for loss of wildlife habitat including bird boxes, barn owl box, bat boxes;
- e. Details of pollution avoidance and control measures to protect watercourses and groundwater;
- f. Details of the location and use of generators and any temporary site accommodation including portable toilets;
- g. Details of any proposed pile driving operations If it is to be within 200m of residential properties);
- h. The times during demolition and construction when specialist ecologists including Ecological Clerk of Works, need to be present on site to oversee works;
- i. Details of the on-site responsible persons and local resident point of contact;
- j. The identification of “Biodiversity Protection Zones” and use of protective fences, exclusion barriers and warning signs; and,
- k. The ongoing monitoring, including compliance checks by a competent person(s) during construction and immediately post-completion of construction works.

The approved CEMP shall be adhered to and implemented throughout the construction period strictly in accordance with the approved details.

**REASON:** To ensure adequate protection, mitigation and compensation for protected species, priority species and priority habitats in accordance with submitted ecological reports.

**NOTE:** There shall be no burning of waste materials on the site during the demolition and construction phases.

10. Notwithstanding the details submitted pursuant to the Victoria Road junction, no development shall commence until full engineering plan details of the proposed temporary traffic signalled controlled access to the site including details of its later change to a roundabout junction to serve both north and south sides of Victoria Road, have been submitted to and approved by the local planning authority. The submitted details shall include all local measures to facilitate pedestrian movement through the junction, including any temporary footways and the measures to be employed to ensure that future local disruption for the construction of a roundabout is minimised through appropriate road infrastructure provision. The junction shall be constructed in accordance with the details to be approved and prior to any other part of the site construction works commencing.

**REASON:** In the interests of road safety and sustainable transport opportunities.

11. No demolition, site clearance or development, including the construction of the signal controlled junction shall commence, and; no equipment, machinery or materials shall be brought on to site for the purpose of development within any particular phase, until a Tree and Hedgerow Protection Plan showing the exact position of each tree and hedgerow and their protective fencing in accordance with British Standard 5837: 2012: "Trees in Relation to Design, Demolition and Construction - Recommendations"; has been submitted to and approved in writing by the Local Planning Authority, and;

The protective fencing shall be erected in accordance with the approved details. The protective fencing shall remain in place for the entire development phase and until all equipment, machinery and surplus materials have been removed from the site. Such fencing shall not be removed or breached during construction operations.

No retained tree/s shall be cut down, uprooted or destroyed, nor shall any retained tree/s be topped or lopped other than in accordance with the approved plans and particulars. Any topping or lopping approval shall be carried out in accordance British Standard 3998: 2010 "Tree Work - Recommendations" or arboricultural techniques where it can be demonstrated to be in the interest of good arboricultural practise.

If any retained tree is removed, uprooted, destroyed or dies, another tree shall be planted at the same place, at a size and species and planted at such time, that must be agreed in writing with the Local Planning Authority.

In this condition "retained tree and/or hedge" means an existing tree and hedgerow which is to be retained in accordance with the approved plans and particulars.

**REASON:** To safeguard trees to be retained in the interests of amenity.

12. No dwelling hereby approved (pursuant to each phase) shall commence until a land contamination remediation strategy (steps ii, iii and iv below) and a verification report along with any necessary long term monitoring (steps v and vi) have been submitted to and approved in writing by the local planning authority; and that during demolition and the construction phases, the development proceeds in accordance with the on-site measures to be deployed and recommendations set out within chapter 9 of the geo-environmental analysis and final report (ref 6271t2676) produced by the Earth Science Partnership (which forms part of the Environmental Statement) dated January 2017.

**Step (ii) Submission of Remediation Scheme:**

If any unacceptable risks are identified as a result of the investigation and assessment referred to in step (i) above, a detailed remediation scheme to bring the site to a condition suitable for the intended use must be prepared. This should detail the works required to remove any unacceptable risks to human health, buildings and other property and the

natural and historical environment, should be submitted to and approved in writing by the Local Planning Authority. The scheme must include all works to be undertaken, proposed remediation objectives and remediation criteria, a timetable of works and site management procedures.

**Step (iii) Implementation of Approved Remediation Scheme:**

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

**Step (iv) Reporting of Unexpected Contamination:**

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

**Step (v) Verification of remedial works:**

Following completion of measures identified in the approved remediation scheme a verification report (referred to in the former PPS23 as a validation report) must be produced. The report should demonstrate the effectiveness of the remedial works.

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

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

**Step (vi) Long Term Monitoring and Maintenance:**

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

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

**REASON:** To ensure that the development does not pose unacceptable pollution risks to controlled waters or future users of the land and residents, and to ensure that the development can be carried out safely without unacceptable risks to workers, neighbours and other offsite receptors. The previous site use as a working farm may have caused contamination of soils/subsoils/groundwater, which should be fully assessed. In addition the site is within a Source Protection Zone 3.

13. No dwelling hereby approved (pursuant to each phase) shall commence beyond slab level until details of all internal roads, verges, junctions, street lighting, sewers, drains, any retaining walls, service routes, surface water outfalls, vehicle overhang margins, any embankments, visibility splays, accesses, carriageway gradients, drive gradients, car parking and street furniture, footpaths and associated works; and, details of street lighting, fire-fighting apparatus and fire hydrants, have been submitted to and approved by the local planning authority. Thereafter, the roads, paths and associated works shall be provided in accordance with the approved details.

**REASON:** To ensure that the highway infrastructure is of an acceptable standard.

14. No dwelling hereby approved (pursuant to each phase) shall commence beyond slab level until a phasing plan for the delivery of the roads and paths on the site has been submitted to and approved by the local planning authority. The phasing plan shall include details of when the internal footpath and cycle track infrastructure and connection made to WARM6 shall be completed and when the site distributor road shall be completed to connect with the distributor road on the adjacent Redrow Homes site.

**REASON:** In order to ensure that local sustainable transport infrastructure is delivered to an acceptable timescale, and to aid the implementation of Travel Plan initiatives.

15. No dwelling hereby approved (pursuant to each phase) shall commence beyond slab level until a foul water drainage strategy has been submitted and approved in writing by the local planning authority to secure the following:

- A detailed drainage scheme which refers to a phased construction programme and includes appropriate arrangements for the agreed points of connections, discharge rates and the capacity improvements required to serve the proposed development phasing; and following the approval of the strategy; and,
- The drainage scheme shall be completed in accordance with the approved details and following a timetable to be agreed in writing with the local planning authority.

**REASON:** To ensure that the appropriate foul sewerage infrastructure is available to service the site and to ensure that the development does not increase the risk of sewer flooding to downstream properties.

**NOTE:** The above condition will require multipartite liaison with the local lead flood authority, the environment agency and Wessex Water.

16. No dwelling hereby approved (pursuant to each phase) shall commence beyond slab level until a scheme for the discharge of surface water from the site to include the provisions and measures to prevent pollution of receiving groundwater and/or surface waters, a timetable for its implementation; and a construction management and maintenance plan for the lifetime of the development incorporating sustainable drainage details, has been submitted to and approved in writing by the Local Planning Authority. Thereafter, the phased development shall not be first brought into use until the surface water drainage provisions have been completed and connections are made available in accordance with the drainage scheme.

**REASON:** This matter is required to be agreed with the Local Planning Authority before development commences to ensure that the development is undertaken in an acceptable manner and to ensure that the development does not increase the risk of flooding.

**NOTE:** The formation of a Management Company is a s106 obligation to legally bind the permission. It should also be appreciated that discharging the above requirement will require multipartite liaison with the local lead flood authority, the environment agency and Wessex Water.

17. No dwelling hereby approved (pursuant to each phase) shall commence beyond slab level until a landscape delivery schedule for all the proposed tree and shrub landscape planting including the infilling of the existing hedgerow boundary have been submitted to and approved in writing by the Local Planning Authority. The schedule shall also identify the timescale provision of advanced strategic tree planting in communal areas and confirming the tree stock specification for the western and northern parts of the site in advance of the first phase of development; and, for the remainder of the scheme, the landscape planting (pursuant to each phase) shall be carried out in the first planting and seeding season following the first occupation of the related building(s). Any trees or plants which 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. The landscaping and hedgerow enhancement planting shall be implemented in full accordance with the agreed delivery timeframe and the location planting details as set out in the Schedule of Plans approved by condition 2.

**REASON:** This information is required to ensure that the phased development and proposed landscaping is undertaken in an acceptable manner.

18. No dwelling hereby approved (pursuant to each phase) shall commence beyond slab level until a lighting strategy for the site has been submitted to and approved in writing by the local planning authority. The strategy shall:

- Show how and where external lighting would be installed (through the provision of appropriate lighting contour plans and technical specifications, including a Lux plot) so that it can be clearly demonstrated that areas to be lit would not result in light spill onto the nearby hedgerows or detrimentally affect the AONBs dark sky status;

- Specify luminaires, heights and positions of fittings, direction and other features e.g. cowls, louvres or baffles; and illumination levels in accordance with the appropriate Environmental Zone standards as set out by the Institute of Lighting Professionals in their publication GN01:2011, 'Guidance for the Reduction of Obtrusive Light' (ILP, 2011); and that,

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

**REASON:** To minimise light spillage and pollution into hedgerows and trees, and to ensure that there is no illumination of the bat roost and to maintain dark foraging and commuting corridors for bats, particularly along the northern boundary hedgerow; and to safeguard the AONB dark skies character and status.

19. The residential development hereby approved shall be designed to ensure it does not exceed 110 litres per person per day water consumption levels (which includes external water usage). Within 3 months of each phase being completed and the housing brought into use, a post construction stage certificate certifying that this standard has been achieved shall be submitted to the local planning authority for its written approval.

**REASON:** To ensure that the development delivers betterment in terms of the level of discharge of phosphates from the sewage treatment plant into the River Avon SAC.

20. The roads, including footpaths and turning spaces pursuant to each phase of development shall be constructed so as to ensure that, before each dwelling is occupied it 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.

21. No dwelling hereby approved (pursuant to each phase) shall be occupied until the necessary foul drainage infrastructure and capacity improvements have been completed in accordance with an agreed drainage strategy.

**REASON:** To ensure that the appropriate foul sewerage infrastructure is available to service the site.

22. No dwelling hereby approved shall be occupied until a Landscape and Ecological Management Plan (LEMP) has been submitted to, and approved in writing by the Local Planning Authority. The content of the LEMP shall include, but not necessarily be limited to, the following information:

- a) Details of the body (e.g. Management Company) responsible for implementing the LEMP
- b) Obligations and liabilities of the management company
- c) Identification of all communal ecological and landscape features to be managed on a scaled plan
- d) Aims of management for each feature
- e) Management prescriptions for each feature including timescales, equipment and manpower requirements
- f) 5 year work schedule capable of being rolled forward
- g) Outline management costs
- h) Mechanism for reviewing the plan

The LEMP shall also include details of the legal and funding mechanism(s) by which long-term implementation of the plan will be secured by the developer with the management body responsible for delivery.

The LEMP shall be implemented in full in accordance with the approved details.

**REASON:** To ensure the long-term management of protected and priority habitats and other landscape and ecological features, and to maintain and enhance these habitats and features in perpetuity.

**NOTE:** The LEMP should be written for the members of the Management Company who will include householders many of whom will have no knowledge or interest in landscape and ecology issues. It must explain the company's obligations and liabilities, identifying specific features and explaining how they need to be retained, protected and managed. It is best if it is a short document with a map showing the relevant features and a work programme. Baseline surveys from the application should not be repeated as these detract from the main purpose of the report and make the document too cumbersome and detailed for its readership.

23. No dwelling hereby approved (pursuant to each phase) shall be occupied until the parking space(s) together with the access thereto, have been provided in accordance with the approved plans.

**REASON:** In the interests of highway safety and the amenity of future occupants

24. No dwelling hereby approved shall be occupied until the visibility splays shown on the approved plans have been provided with no obstructions to hinder visibility at or above a height of 500mm above the nearside carriageway level. Thereafter, the visibility splays within the scheme shall be maintained free of obstruction at all times thereafter.

**REASON:** In the interests of highway safety.

25. No dwelling hereby approved (pursuant to each phase) shall be occupied until the enclosures, refuse storage and cycle parking respective to that dwelling has been provided in accordance with the approved plans.

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

26. That for the avoidance of any doubt, there shall be no vehicular access permitted to the site other than via the Victoria Road junction, unless and until the road connecting to the adjacent Redrow site has been completed and certified in writing by the local planning authority to be acceptable for use. Existing points of vehicular access to the site shall be closed prior to the commencement of the residential development (with the exception of the highway access works themselves) and their use prevented by means of an enclosure, the details of which shall require the written agreement by the local planning authority.

**REASON:** To ensure that access to and egress from the site is achieved in a safe manner.

**NOTE:** Construction traffic will only be permitted to access the site via Victoria Road.

27. The development hereby approved shall be completed in accordance with the submitted waste audit and management strategy.

**REASON:** In order to minimise waste production and the safe handling of any hazardous materials as well as ensuring that any waste is handled and transported in full accordance with the duty of care in full compliance with environmental requirements.

**Planning Informatives**



- 1. The applicant is required to contact Wessex Water and agree any diversion of the existing water main that runs through the site. The existing water main and associated 6m easement must be maintained following any agreed diversion with Wessex Water. Water Supply network modelling would be required to determine if any off site reinforcement is required to accommodate extra demand on supply generated by the development. Buildings above two storeys would however require on-site boosted storage.**
- 2. The applicant is advised that any works or alterations made to the existing watercourses or connections to them require separate land drainage consent from the appropriate drainage authority. In this case, the environment agency and lead local flood authority would be the appropriate bodies.**
- 3. The development should include water efficient systems and fittings. This could include dual-flush toilets, water butts, water-saving taps, showers and baths, and appliances with the highest water efficiency rating. Greywater recycling and rainwater harvesting could also be considered.**
- 4. An appropriate submitted scheme to discharge the condition 19 would include a water usage calculator showing how the development would not exceed a total (internal and external) usage level of 110 litres per person per day (lower figure given within Building Regulations Part G). The site is within the catchment of the Hampshire Avon River (SAC/SSSI) catchment which is already over-abstracted. Water efficiency measures can help to relieve abstraction pressures.**
- 5. The applicant is advised that the local authority will require an indemnity in order to operate on any road within the scheme that serve any houses that are not formally adopted, even on a temporary basis whilst the development is being completed. The applicant should refer to Appendix C of the Council's Waste Management guidance which includes a sample indemnity agreement.**
- 6. The Wiltshire Fire & Rescue Service recommends the provision of the following as part of satisfying Building Regulations and reducing the risk of death, injury and property damage:  
Sprinklers work from a standard main, although a 32mm connection is required. They are inexpensive to install, particularly in a new building. They do not activate by accident causing unwanted damage. They only operate through individually activated heads, not the whole system. They can be designed to fit flush to the ceiling behind a flat cover. They cause less water damage in a fire than normal fire-fighting operations. They significantly reduce fire and smoke damage.**
- 7. The applicant is furthermore encouraged to enter into a CoPA (Control of Pollution Act) s61 agreement with the Council to secure details on the construction phases, the construction compound locations, the hours of work, the delivery routes, the proposed plant and equipment to be used, identifying noise/vibration generators once the specific construction programme and plant type are known as well as identifying the measures to be adopted to minimise noise/vibration impacts (with community liaison, control measures and compliance monitoring schemes).**

8. The applicant is encouraged to make contact with the Council's local highway authority pursuant to the necessary s278 agreement.

9. To avoid disturbing nesting birds and breeding season, no works should take place to the site boundaries between March to July inclusive. All British birds (while nesting, building nests and sitting on eggs), their nests and eggs (with certain limited exceptions) are protected by law under Section 1 of the Wildlife and Countryside Act 1981 (as amended) and the Countryside and Rights of Way Act 2000. If birds are nesting on/in or within the vicinity of the proposed development, work should be undertaken outside the breeding season for birds to ensure their protection, i.e. works should only be undertaken between August and February. Further advice on the above can be sought from the Council Ecologists.

10. The applicant is encouraged to provide at least one swift brick within at least 25% of the new houses and buildings with an attic space to encourage nesting swifts and to provide bat boxes throughout the scheme. The applicant is furthermore encouraged to ensure that when securing the improvements to the site boundaries, special regard is given to creating room for hedgehogs to pass through hedgerows to connect with other habitats.

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

[www.wiltshire.gov.uk/planninganddevelopment/planningpolicy/communityinfrastructurelevy](http://www.wiltshire.gov.uk/planninganddevelopment/planningpolicy/communityinfrastructurelevy)

- 55 17/07793/FUL - Wavin Ltd Parsonage Way Chippenham Wiltshire - Works to existing road to provide new road link connecting B4069 Langley Road and Parsonage Way, including the provision of a footway/cycleway and new landscaping. Construction of new gyratory junction on Langley Road. Stopping up of existing section of Parsonage Way and change of use to provide storage area. Construction of link to existing storage area and provision of security fencing.

The Committee received a presentation from the Case Officer which set out the issues in respect of the application. The purpose of the report was to consider the proposed development in the context of national guidance and adopted

development plan policies and site specific impacts and to consider a recommendation that planning permission be granted subject to the completion of a legal agreement under Section 106 of the Town & Country Planning Act 1990 to meet identified highways requirements within six months of the date of the Committee resolution and conditions. The Case Officer drew attention to a late representation received from Langley Burrell Parish Council and Langley Burrell Residents' Association, which had been circulated to members of the Committee, drawing attention to certain areas of concern. The Case Officer confirmed that officers had reviewed and considered the submission and concluded that no new matters were raised that had not been considered and addressed in the report to the Committee. The Case Officer provided a response to concerns and proposals listed in the conclusion of the late representation.

Members then had the opportunity to ask technical questions after which they heard statements from members of the public as follows, expressing their views concerning the application:-

- Mr David Mannering, representing the Langley Burrell Residents' Association, spoke in opposition to certain aspects of the application as set out in the late submission.
- Mr Andrew Winstone, the agent, spoke in support of the application.
- Cllr Robert Whitrow, Chairman of Langley Burrell Parish Council spoke in opposition to certain aspects of the application as set out in the late submission.

It was noted that Cllr Nick Murry and Cllr Howard Greenman, the local Members, had sent their apologies for not attending due to prior commitments.

During discussion, Members considered requirements and provision of the proposed S106 agreement and a possible extension of the bund along the entire northern perimeter of the site and also the planting of a tree screen but after hearing from the Case Officer considered that the current arrangements were adequate.

Members also considered the design of the double roundabout system and considered that this would improve the flow of traffic.

After some discussion, on the proposal of Cllr Tony Trotman, which was seconded by Cllr Fred Westmoreland,

**Resolved:**

**To grant planning permission, subject to:-**

- (1) **The completion of a legal agreement under Section 106 of the Town & Country Planning Act 1990/planning obligation to secure**

Highways provisions with in six months of the date of this resolution. In the event of the applicant declining to enter into an agreement within this timeframe to refuse permission for the following reason:-

The proposed development without the required planning obligation fails to deliver the necessary highways works and enhancements required to secure a safe and appropriate development and thereby conflicts with Wiltshire Core Strategy (Jan 2015) CP3 CP34(ix) CP57 (ix) CP60 CP61 CP62; and paragraphs 11 and 108 (b) 109 110 of the National Planning Policy Framework (July 2018)

(2) The following conditions:-

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

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

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

Ecological Assessment and Surveys Received 05 April 2018 and 09 July 2018

Transport Statement Final V6-2 20 April 2018

Landscape and Visual Impact Assessment 05 April 2018

Double Roundabout Junctions 9 Arcady Report 05 April 2018

Single Roundabout/Rail Bridge Link Junctions 9 Arcady Report 05 April 2018

Hydrock Road Safety Audit Stage 1 RDW/TS/18/1692/RSA1; Ref: C14930 – Stage 1 RSA Designer’s Response 18 April 2018

C14930 D001 Topographical Survey A0 1:500

14930 C020c Engineering Layout Sheet 1 Of 5 A1 1:250

14930 C021c Engineering Layout Sheet 2 Of 5 A1 1:250

14930 C022c Engineering Layout Sheet 3 Of 5 A1 1:250

14930 C023d Engineering Layout Sheet 4 Of 5 A1 1:250

14930 C024d Engineering Layout Sheet 5 Of 5 A1 1:250

All Received 10 July 2017

Arboricultural Impact Assessment – D14 267 08 Rev A

Arboricultural Constraints Report – D14 267 07

Drawing AIA Plan – D14 267 P5

**All Received 09 August 2018**

**Site Location Plan PH3B/01B**

**Double Roundabout General Arrangement 14930-P009.0 Revision P2**

**One way Gyrotory Swept Path Analysis 14930-P009.1 Revision P1**

**Double Roundabout Visibility 14930-P009.2 Revision P1**

**Double Roundabout Deflection 14930-P009.3 Revision P1**

**Proposed Rail Bridge Link General Arrangement 14930-P008.0 Revision P2**

**Proposed Rail Bridge Link Swept Path Analysis 14930-P008.1 Revision P1**

**Proposed Rail Bridge Link Forward Visibility and Deflection 14930-P008.2 Revision P1**

**Phase 3B Change of Use PH3B/02A**

**Phase 3b Scheme Overview 1 PH3B/03B**

**Phase 3b Scheme Overview 2 PH3B/04B**

**Phase 3b Scheme Overview 3 PH3B/05B**

**Key To Larger Scale Plans PH3B/06B**

**Plan 1 PH3B/07B**

**Plan 2 PH3B/08A**

**Plan 3 PH3B/09B**

**Plan 4 PH3B/10A**

**Plan 5 PH3B/11**

**Plan 6 PH3B/12B**

**Section A-A PH3B/13B**

**Section B-B PH3B/14A**

**Section C-C PH3B/15**

**Section D-D PH3B/16**

**Panorama Images 1 – 25**

**Landscape Proposals Phase 3 683-02A**

**Landscape Context Plan 683-10C**

**Landscape Assessment Plan 683-11E**

**All received 05 April 2018**

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

**3. No demolition, site clearance or development shall commence on site until an Arboricultural Method Statement (AMS) prepared by an arboricultural consultant providing comprehensive details of construction works in relation to trees shall be submitted to, and approved in writing by, the Local Planning Authority. All works shall subsequently be carried out in strict accordance with the approved details. In particular, the method statement must provide the following: -**

- A specification for protective fencing to trees during both demolition and construction phases which complies with BS5837:2012 and a plan indicating the alignment of the protective fencing;**
- A specification for scaffolding and ground protection within tree protection zones in accordance with BS5837:2012**
- A schedule of tree works conforming to BS3998.**

- Details of general arboricultural matters such as the area for storage of materials, concrete mixing and use of fires;
- Plans and particulars showing the siting of the service and piping infrastructure;
- A full specification for the construction of any arboriculturally sensitive structures and sections through them, including the installation of boundary treatment works, the method of construction of the access driveway including details of the no-dig specification and extent of the areas of the driveway to be constructed using a no-dig specification;
- Details of the works requiring arboricultural supervision to be carried out by the developer's arboricultural consultant, including details of the frequency of supervisory visits and procedure for notifying the Local Planning Authority of the findings of the supervisory visits; and
- Details of all other activities, which have implications for trees on or adjacent to the site.

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

**4.** All soft landscaping comprised in the approved details of landscaping shall be carried out in the first planting and seeding season following the first use of the land or the completion of the development whichever is the sooner; All shrubs, trees and hedge planting shall be maintained free from weeds and shall be protected from damage by vermin and stock. Any trees or plants which, within a period of five years, die, are removed, or become seriously damaged or diseased shall be replaced in the next planting season with others of a similar size and species, commencing from the date of notified completion of the approved landscaping scheme to the LPA, unless otherwise agreed in writing by the local planning authority. All hard landscaping shall also be carried out in accordance with the approved details prior to the B8 Stockyard development and excluding the car park hereby approved being first brought into use or in accordance with a programme to be agreed in writing with the Local Planning Authority.

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

**5.** The approved floodlight(s) existing within the site approved under application reference 15/04763/FUL shall not be illuminated outside the hours of 05:00am in the morning and 11pm in the evening from Mondays to Sundays. The floodlights shall not be illuminated at any time on Bank or Public Holidays.

**REASON:** To minimise the impact of the floodlight(s) and in the interests of the amenity of the area.

**6. No additional external lighting beyond that approved under application reference 15/04763/FUL shall be installed on site until plans showing the type of light appliance, the height and position of fitting, illumination levels and light spillage spillage in accordance with the appropriate Environmental Zone standards set out by the Institute of Lighting Engineers in their publication “Guidance Notes for the Reduction of Obtrusive Light” (ILE, 2005)”, have been submitted to and approved in writing by the Local Planning Authority. The approved lighting shall be installed and shall be maintained in accordance with the approved details and no additional external lighting shall be installed.**

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

**7. The B8 Stockyard use hereby permitted (excluding the use of the staff car park) shall only take place between the hours of 05:00am in the morning and 11pm in the evening from Mondays to Sundays. The use shall not take place at any time on Bank or Public Holidays.**

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

**8. The site shall be used for B8 Storage and Distribution and for no other purpose (including any other purpose in Class B of the Schedule to the Town and Country Planning (Use Classes) Order 1987 (as amended) (or in any provisions equivalent to that class in any statutory instrument revoking or re-enacting that Order with or without modification).**

**REASON: The proposed use is acceptable but the Local Planning Authority wish to consider any future proposal for a change of use having regard to the circumstances of the case.**

**9. No development shall commence on site until a scheme for the discharge of surface water from the site (including surface water from the access / driveway), incorporating sustainable drainage details together with all required supporting evidence, has been submitted to and approved in writing by the Local Planning Authority.**

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

**10. The development shall not be first brought into use until surface water drainage has been constructed in accordance with the approved scheme.**

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

**11. The mitigation measures detailed in the approved Ecological Assessments [Wessex Ecological Consultancy March 2018 & Ellendale**

**GCN Survey 11 June 2018 EEL138R18060SP] shall be carried out in full prior to the first bringing into use of the development and/or in accordance with the approved timetable detailed in the Ecological Assessment. The works will be carried out in strict accordance with all recommendations given in the ecological survey reports by Wessex Ecological and Ellendale Environmental, to ensure that European Protected Species (especially great crested newts) are not adversely impacted by the works.**

**REASON: To mitigate against the loss of existing biodiversity and nature habitats.**

**12. There shall be no raising of existing ground levels on the site.**

**REASON: In the interests of visual amenity.**

**13. 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;**
- 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 application contained insufficient information to enable this matter to be considered prior to granting planning permission and the matter is required to be agreed with the Local Planning Authority before development commences in order that the development is undertaken in an acceptable manner, to minimise detrimental effects to the neighbouring amenities, the amenities of the area in general, detriment to the natural environment through the risks of pollution and dangers to highway safety, during the construction phase.**

**14. Notwithstanding the detailed drawings submitted as part of the application, full details of the construction of all the alterations to the existing Parsonage Way and the existing haul road and its new junctions shall be submitted to and approved by the local planning authority prior to the works commencing. The details shall include, but not be limited to,**



carriageway and cycle track structure, drainage, signing, lining, street lighting, landscaping, levels, fencing, retaining walls, anti-incursion barriers (railway), visibility splays and treatment of residual non-stopped-up elements of Parsonage Way. The works shall be undertaken in accordance with the details approved.

**REASON:** To ensure that an acceptable overall scheme is achieved.

15. Prior to the commencement of the development, the approved roundabout on the B4069 serving the North Chippenham mixed use site (Ref: N/12/00560/OUT) shall have been fully constructed and adopted, unless a formal legal agreement has otherwise been entered into between the local highway authority, the developer responsible for the North Chippenham B4069 roundabout and the applicant, which secures the delivery of a combined double roundabout junction.

**REASON:** To minimise highway disruption resulting from the double roundabout proposals, and to ensure that maintenance responsibilities are not obfuscated between developers.

16. The 'haul road' route shall not be opened for public use (and by inference, Parsonage Way shall not be stopped up) until the works have been completed in their entirety, including the closure of all accesses between the southern side of the 'haul road' and the adjacent storage yard and the approved fencing along the completed length of the 'haul road', and the local planning authority has confirmed that any recommendations of a Road Safety Audit ,Stage 3 have been appropriately addressed (certified as such in writing by the local highway authority) .

**REASON:** To ensure that the proposed alternative route to Parsonage Way is fit for purpose and safe for use by the public before Parsonage Way is closed to through traffic.

17. No works shall be undertaken on the site except in accordance with a programme of works which shall first have been submitted to and approved by the local planning authority.

**REASON:** In the interests of highway safety, and to ensure that existing access arrangements are not prejudiced.

**INFORMATIVE TO APPLICANT:**

The stopping up of Parsonage Way will only be addressed by way of an application to the Secretary of State for Transport, through the provision of s247 of Town and Country Planning Act 1990. If permitted, any planning permission resulting from this planning application will form the basis on which the s247 application will be determined.

A s278 agreement will be required between the applicant and Wiltshire Council in relation to the highway works shown in outline in the approved drawings. No works are permitted on the highway unless or until the agreement has been completed.

**Statutory Undertakers having apparatus in Parsonage Way will retain rights of access even if the road is formally stopped up, unless agreement on alternative routes can be reached; the applicant should be aware that, if new services are proposed for the Rawlings Green site, it could have implications for the proposals.**

**INFORMATIVE TO APPLICANT:**

**The applicant should note that the grant of planning permission does not include any separate permission which may be needed to erect a structure in the vicinity of a public sewer. Such permission should be sought direct from Thames Water Utilities Ltd / Wessex Water Services Ltd. Buildings are not normally allowed within 3.0 metres of a Public Sewer although this may vary depending on the size, depth, strategic importance, available access and the ground conditions appertaining to the sewer in question.**

**INFORMATIVE TO APPLICANT:**

**The applicant should note that the costs of carrying out a programme of archaeological investigation will fall to the applicant or their successors in title. The Local Planning Authority cannot be held responsible for any costs incurred.**

**INFORMATIVE TO APPLICANT:**

**The applicant is requested to note that this permission does not affect any private property rights and therefore does not authorise the carrying out of any work on land outside their control. If such works are required it will be necessary for the applicant to obtain the landowners consent before such works commence.**

**If you intend carrying out works in the vicinity of the site boundary, you are also advised that it may be expedient to seek your own advice with regard to the requirements of the Party Wall Act 1996.**

**INFORMATIVE TO APPLICANT:**

**This permission shall be read in conjunction with an Agreement made under Section 106 of the Town and Country Planning Act, 1990 and dated the [INSERT].**

**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.**

**INFORMATIVE TO APPLICANT:**

The consent hereby granted shall not be construed as authority to carry out works on the highway. The applicant is advised that a license may be required from Wiltshire's Highway Authority before any works are carried out on any footway, footpath, carriageway, verge or other land forming part of the highway.

Appendices: none

**Background Documents Used in the Preparation of this Report:**

**NPPF Revised July 2018  
Wiltshire Core Strategy  
Langley Burrell Neighbourhood Plan  
Chippenham Site Allocations Development Plan Document  
Application Supporting Documentation  
Planning Practice Guidance**

56 **Date of Next Meeting**

**Resolved:**

**To note that the next scheduled meeting of this Committee was due to be held on Wednesday 12 September 2018, in the Council Chamber at County Hall, Trowbridge, starting at 10.30am.**

57 **Urgent Items**

There were no items of urgent business.

(Duration of meeting: 10.30 am - 12.45 pm)

The Officer who has produced these minutes is Roger Bishton of Democratic Services, direct line 01225 713035, e-mail [roger.bishton@wiltshire.gov.uk](mailto:roger.bishton@wiltshire.gov.uk)

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

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**Wiltshire Council  
Strategic Planning Committee  
7<sup>th</sup> November 2018**

There are no Planning Appeals Received between 19/01/2018 and 26/10/2018 relating to Decisions made at Strategic Committee

Planning Appeals Decided between 19/01/2018 and 26/10/2018 relating to Decisions made at Strategic Committee

<b>Application No</b>	<b>Site Location</b>	<b>Parish</b>	<b>Proposal</b>	<b>DEL or COMM</b>	<b>Appeal Type</b>	<b>Officer Recommend</b>	<b>Appeal Decision</b>	<b>Decision Date</b>	<b>Costs Awarded?</b>
14/09744/WCM	Lower Compton Waste Management Facility, Lower Compton, Calne, Wiltshire, SN11 8RB	CALNE WITHOUT	Retain and extend existing Materials Recycling Facility including transfer activities, screening bund and ancillary activities and development	SPC	Inquiry	Approve with Conditions	Withdrawn	22/10/2018	None

A recent Court case (Dover District Council v CPRE Kent – December 2017) has set out more clearly the need for Councils to give reasons for their decisions when making planning decisions. Whilst this has been well known in relation to refusals of planning permission, the judgment adds more clarity as to what is required when decisions are taken to approve applications, and particularly when the decision is to approve an application against officer recommendation. This note looks at the implications of that court decision.

### **1. Refusal of applications and the addition of conditions**

It has long been the case that local planning authorities must give reasons for refusing permission or imposing conditions. This is because there is a statutory right of appeal against the refusal or the imposition of conditions. Article 35(1) of the Town and Country Planning (Development Management Procedure) (England) Order 2015 states that the authority in their decision notice must 'state clearly and precisely their full reasons'.

Members will be aware that in both delegated and committee reports, reasons for refusal are clearly set out by officers, and where members wish to refuse an application against officer recommendation, officers will prompt them for 'clear and precise' planning reasons. There is nothing new in this aspect. Members will also be aware that when officers are issuing delegated approvals, or recommending applications to committee for approval, the reasons for any conditions to be attached are identified in the decision notice or committee report.

### **2. Approval of planning applications**

In relation to delegated decisions, there is a duty to produce a written record of the decision 'along with the reasons for that decision' and 'details of alternative options, if any, considered or rejected' (regulation 7, Openness of Local Government Bodies Regulations 2014). The Council complies with this requirement in relation to planning applications by issuing a decision notice and preparing a separate delegated report. Both of these are then uploaded to the Council's web site so that any interested person can discover both the decision on the application and the reasons that the decision has been made. The judgment re-affirms that what is required is an adequate explanation of the ultimate decision.

In relation to committee decisions, where an application is recommended for approval by officers, the judgment makes it clear that if the recommendation is accepted by members, no further reasons are normally needed, as the Planning Officer's Report will set out the relevant background material and policies before making a reasoned conclusion and it will be clear what has been decided and why.

The Judgment breaks new ground by providing greater clarity on what is required in the circumstances where members of a planning committee choose to grant planning permission when this has not been the course recommended by officers in the Planning Officers Report.

In short, the Judgment makes it clear that there is a principle of 'fairness' that needs to be applied, so that those who may be opposed to the decision can understand the planning reasons why members have arrived at their decision. There is no question that members are of course entitled to depart from their officers recommendation for good reasons, but the judgment makes clear that these reasons need to be 'capable of articulation and open to public scrutiny'. The Judgment cites an extract from 'The Lawyers in Local Government Model Council Planning Code and Protocol (2013 update) as giving the following 'useful advice':

*'Do make sure if you are proposing, seconding or supporting a decision contrary to officer recommendations or the development plan that you clearly identify and understand the planning reasons leading to this conclusion/decision. These reasons must be given prior to the vote and recorded. Be aware that you may have to justify the resulting decision by giving evidence in the event of any challenge'*

A further paragraph of the Code is cited that offers the following advice:

*'Do come to your decision only after due consideration of all the information reasonably required upon which to base a decision. If you feel there is insufficient time to digest new information or that there is simply insufficient information before you, request that further information. If necessary, defer or refuse'*

The underlying purpose of the judgment is to ensure that members can demonstrate that when granting permission they have properly understood the key issues and reached a rational conclusion on them on relevant planning grounds. The Judgment notes that this is particularly important in circumstances where they are doing so in the face of substantial public opposition and against the advice of officers for projects involving major departures from the development plan or other policies of recognised importance. This enables those opposing the decision to understand how members have arrived at their decision.

### **3. Practical Implications of the Judgment**

The judgment re-affirms that the Council's existing practices and procedures are suitable to meet the legal duties imposed on it in relation to decision making on planning applications. The two key points are that where significant new information is provided shortly before a decision is due to be made, it is appropriate for members to ask for it to be explained, or if they consider that more time is required for themselves or officers to assess and understand it, to consider deferring a decision to provide suitable time. Secondly, when approving applications against officer recommendation, particularly those that are in sensitive areas or are controversial, the reasons why members consider that the harm identified can either be suitably mitigated or the reasons why a departure from policy is justified must be explained and recorded to demonstrate to those opposing the development how the Council has reached a rational conclusion. Members need to engage with the recommendations of the officer and explain the reasons for departure from those recommendations. If no rational explanation on planning grounds is recorded, any such decision could be at risk of challenge in the Courts.

Mike Wilmott

Head of Development Management

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## REPORT FOR STRATEGIC PLANNING COMMITTEE

<b>Date of Meeting</b>	7 November 2018
<b>Application Number</b>	18/02671/FUL
<b>Site Address</b>	Sunnyside Yarnbrook Road West Ashton BA14 6AR
<b>Proposal</b>	The addition of two extra traveller pitches, two day rooms and associated ancillary development.
<b>Applicant</b>	Mr Martin McDonagh
<b>Town/Parish Council</b>	WEST ASHTON
<b>Electoral Division</b>	SOUTHWICK – Cllr Horace Prickett
<b>Grid Ref</b>	387547 155528
<b>Type of application</b>	Full Planning
<b>Case Officer</b>	Matthew Perks

### Reason for the application being considered by Committee

The application has been called into committee at the request of Cllr Horace Prickett to consider the scale of development, the relationship to adjoining properties and environmental/highway impacts. The Cllr is also of the view that the application violates a terms of planning appeal previously granted by the Planning Inspector.

The reason that this application is brought before the Strategic Committee and not the Area committee is that the Inspector, when reporting on the Wiltshire Core Strategy, expressed concern about whether the Council's approach towards gypsies and travellers was consistent with national policy. National policy requires Council's to plan positively for traveller sites. In its response to the Inspector's concerns, the Council has committed to considering planning applications for new traveller sites as a strategic issue rather than a local issue. This proposal would increase the number of pitches available for travellers and is therefore before the Strategic Committee.

### 1. Purpose of Report

The purpose of the report is to assess the merits of the proposals against the policies of the development plan and other material considerations and to consider the recommendation that planning permission should be **GRANTED** subject to conditions.

### 2. Report Summary

The key issues in considering the applications are as follows:

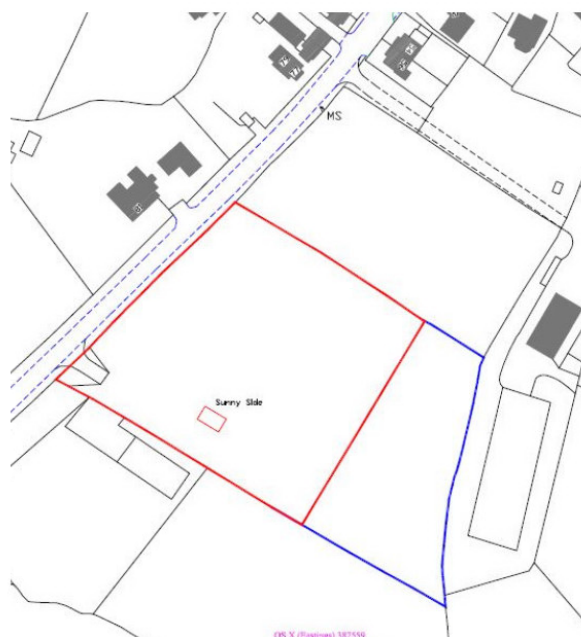
- Principle of the development.
- Highway Safety
- Impact on character and appearance of the area.
- Residential amenity
- Ecology

West Ashton Parish Council objects to the proposed development. Five letters of objection/comment were received.

### 3. Site Description

The application site is an existing Traveller site, with permission for “...No more than four caravans, as defined in the Caravan Sites and Control of Development Act 1960 and the Caravan Sites Act 1968 as amended (of which no more than two shall be static caravans) shall be stationed on the site at any time.”

The site is situated in a field on the south eastern side of the A350, some 320m south west of the West Ashton crossroads. The application site land is some 1500 m<sup>2</sup> in extent. Access is provided by an existing long established entrance with dropped kerbs directly off of the A350.



The application site covers the same extent of land granted permission under Appeal Ref, APP/Y3940/W/16/3147108 for two traveller pitches (discussed further below).

### 4. Planning History

87/01795/FUL: Temporary storage compound for salvaged building materials (in the north western corner of the parent property) - Refused

92/00788/FUL: New vehicular access - Permission

00/01053/FUL: Produce/machinery store - Permission

04/00454/FUL: Storage/machinery shed - Refused

W/12/01412/FUL: Change of use for one Romany Family. Permission: 06/12/2012

14/01798/VAR: Variation of conditions 2 and 3 of W/12/01412/FUL - to allow for general Gypsy and Traveller use and to allow up to 4 caravans on site of which no more than 2 would be static caravans. Permission: 14/01798/VAR

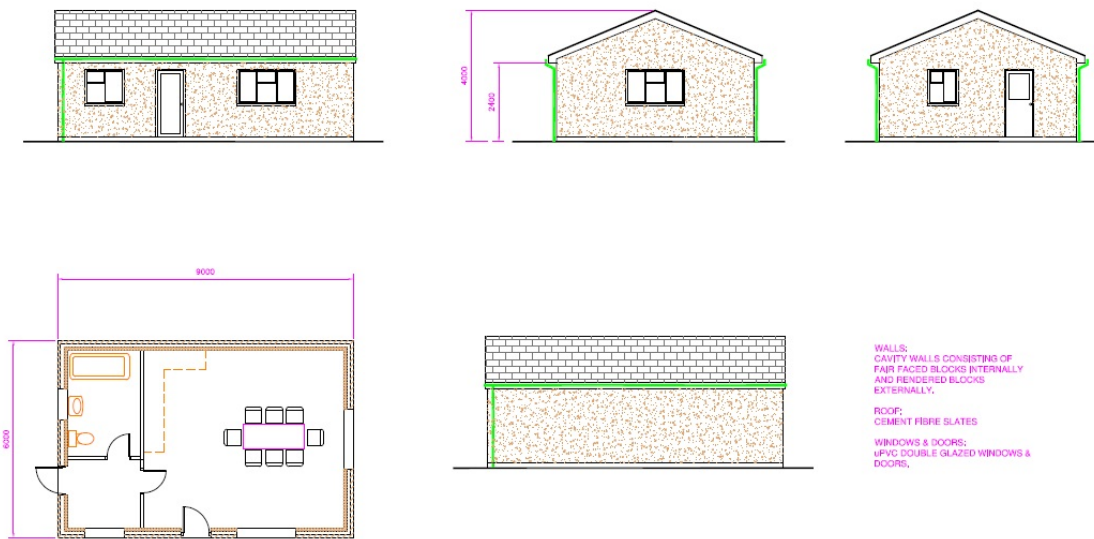
15/10492/FUL: Use of land as private gypsy and traveller caravan site, consisting of 2 no. pitches each with 1 no. mobile home, 1 no. touring caravan, and 1 no. utility dayroom, plus stabling. Refused: 11/03/2016. Permission granted on appeal under reference APP/Y3940/W/16/3147108. – Copy of decision letter attached as Appendix 1.

## 5. The Proposal

The application seeks planning permission to accommodate two additional Gypsy pitches comprising a mobile home, a touring caravan and dayroom to each site, and associated works. Each day room would replicate those approved on the authorised two pitches. The area adjacent to the south eastern boundary of the site would be subdivided into 3 pitches, with the existing pitch to the south western portion of the site retained. The existing access would remain as is. An area would be retained as paddock land, pasture and for the provision of a stable block (as per the approval under 15/10492/FUL).



Site layout including ecology enhancements



Day Room Design

## 6. Local Planning Policy

Wiltshire Core Strategy

Core Policy 1- Settlement Strategy

Core Policy 2- Delivery Strategy

Core Policy 47- Meeting the Needs of Gypsies and Travellers

Core Policy 50 - Biodiversity and Geodiversity

Core Policy 51- Landscape

Core Policy 57- Ensuring high quality design and place shaping Core

Policy 61- Transport and Development

National Planning Policy Framework 2018 (NPPF):

12. Achieving well-designed places

Planning Policy for Traveller Sites (PPTS) – DCLG 2015

## 7. Summary of consultation responses

West Ashton Parish Council objects to the application. The Parish refers to the W/12/01412/FUL decision which made the occupation of the site personal to the original applicant, and to the subsequent applications 14/01798/VAR (removal of the personal tie) and approval on Appeal in respect of 15/10492/FUL for the development of the site for two pitches. The Parish also refers to the enforcement Appeal APP/Y3940/C/15/3139663 that related to breaches of planning. The Parish notes that, in all these cases, conditions were imposed and states that: *“There is no clarity or confirmation that any of the conditions have been met but observation shows that the site has been periodically over populated with touring caravans contrary to the Appeal B conditions and indeed that the required removal of hardcore within 12 months of the decision date 28th October 2016 has not be met. Furthermore the foul water runoff from the site onto the A350 footpath and road have most probably resulted from the overpopulation, the non-removal of hardcore and the felling of trees that no longer draw water from the ground - the last point being a matter for Public Health concern. West Ashton Parish Council therefore strongly objects to yet another planning application (18/02671/FUL) when conditions seemed be so flagrantly ignored and now have resulted in a public health issue with respect to foul water running off onto a public highway. Please also note all previous objections submitted by this council referring to this site since 2012.”*

Wiltshire Council Ecologist: Conditions recommended after negotiation and submission of revised plan (see below – detailed discussion in Assessment section).

Wiltshire Council Public Protection: Officers note that there have been issues regarding overflowing septic tank/foul water run-off from this site and that a Notice was served in August 2017 which required the occupier to ensure the tank was regularly emptied and maintained so as not to cause a nuisance from odour and overflow. This issue had not been resolved (at the time of writing). The Officer also refers to comments on the previous application and the comments by the Drainage Officer requiring additional information and is of the view that a connection to the public sewer system would be required. Officers required further information (this is discussed further in the Assessment section below).

Drainage Officer: As noted by the Public Protection Officer, the drainage officer raised initial objections in respect of the drainage, confirming that the matter of foul water overflow onto the highway is of serious concern. The officer raised a holding objection. Following discussions between the Drainage Officer, Environmental Health and Enforcement Officers the agent was advised that a mains connection would be required. Following further negotiation, the agent provided confirmation that consent exists for access to the Wessex Water main, and submitted a plan showing the proposed layout. In view of these developments the Drainage Officer withdrew the holding objection and recommended approval subject to conditions.

Wiltshire Council Highways: The Officer notes the site history and that previous highway comments have been positive in terms of the access that serves the site. This view was also taken by the Inspector in the Appeal Decision regarding to planning application 15/10492:

*Reasoning, para: 15*

*'A number of other matters were raised by the Council and nearby residents who were at the Hearing. Dealing with matters raised by residents, firstly, there were concerns regarding access on to what was a busy, fast road. There was no objections raised by the highway authority and indeed it has already been approved for two pitches in 2014. Leaving the site I noted that there was good visibility in both directions for those waiting to exit the site and any vehicle waiting in the middle of the road to turn into the site would be clearly seen from both directions.'*

In light of these considerations there is no highway objection to the proposed development.

Wiltshire Council Spatial Plans: Officers note that the principle of a traveller site at in this location is established through a number of planning permissions. In terms of overall need the council's latest position for the North and West Housing Market Area (HMA) is that for the period December 2016-December 2021, an additional 22 pitches are required. This is set out in Core Strategy Core Policy 47. The Council's monitoring data shows that as of May 2018, this need has been met. However, National planning policy enshrined in Planning Policy for Traveller Sites (PPTS) at paragraph 11 is clear that where there is no identified need, proposals should be assessed against locational criteria where sites come forward. Wiltshire Core Strategy Core Policy 47 contains the relevant criteria, and these are considered in detail in the "Planning Considerations" section below.

Wessex Water: The agent has submitted copies of exchanges with WW regarding consents to link to the public sewer.

## **8. Publicity**

The application was advertised by neighbour letters and site notice. Five neighbour responses were received, raising the following issues/observations:

- Wiltshire has fulfilled its Core Strategy target for Traveller sites and pitches and there is no demonstrated need for any more. It follows that there is no need for more pitches on this site.
- The planning system is unfair, with different rules for travelers and the settled community;
- The original approval was for a Mr Sherred, justified on special circumstances;
- There have been a range of unauthorised activities on the site, including permanent settlement by workers from Eastern Europe, lack of compliance with conditions, new lighting not in accordance with plans, storage of building materials on site, removal of trees with no replacement planting and burning of materials on site;
- The rural character of the site has been destroyed;
- Wildlife has gone;
- becoming a transit site rather than a permanent traveller site;
- Increase of extra traffic onto the A350 creating a highway hazard;
- Inadequate drainage including could drainage which results in foul drain overspill running down the A350 and causing nuisance and smell;

## **9. Planning Considerations**

### 9.1 Principle of Development

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

In this case, the Wiltshire Core Strategy, including those policies of the West Wiltshire Local Plan saved in the WCS, forms the relevant development plan for the area. The National Planning Policy Framework (NPPF), Planning Practice Guidance (PPG) & Government's "Planning Policy for Traveller Sites" (PPTS: DCLG 2015) are material considerations which can be accorded substantial weight.

The Council has taken the decision that the proposed Gypsy and Travelers Sites DPD will now be incorporated into the preparation of the Wiltshire Local Plan.

PPTS provides in paragraph 10 that authorities should identify and update annually, a supply of specific deliverable sites sufficient to provide five years' worth of sites against their locally set targets. For the North and West Housing Market Area the 2014 Gypsy and Traveller Accommodation Assessment (GTAA) established a net requirement of 68 pitches for 2014-29. For the first five years of the GTAA period (2014-19), 21 pitches were required.

Since July 2014 (the base date of the GTAA), 48 pitches were permitted in the North and West HMA, with a further 6 pending consideration, which includes this proposal for 2 pitches. Therefore there is no need for additional pitches based on that assessment as the requirement has already been exceeded by 27 pitches. Consequently PPTS paragraph 11 is engaged which states that criteria based policies should guide proposals where there is no overall need but proposals nevertheless come forward.

## 9.2 Core Policy 47 locational criteria including services, highways, appearance of the area and neighbouring amenity

Core Policy 47 of the Wiltshire Core Strategy remains the adopted policy and provides locational criteria as follows:-

*Criterion i) requires that no significant barriers to development exist in terms of flooding, poor drainage, poor ground stability or proximity to other hazardous land or installation where conventional housing would not be suitable.*

The application site is within Flood Zone 1, the zone with least likelihood of flooding in accordance with Environment Agency classifications. The new pitches would be an extension of an existing site, which has been in situ for a number of years, onto an immediately adjacent portion of open land. As noted above, Council's Drainage and Environmental Health Officers did raise issues (also identified in neighbour comments) with both foul and surface water drainage. Following negotiation with the Drainage Officer, the agent provided proof of consent to access - and connect to - Wessex Water infrastructure. It is considered that appropriate conditions to ensure mains connection for this larger site would address the need for proper foul drainage to the site. Connection to mains drainage would furthermore resolve the existing problems on the site.

*Criterion ii) requires that the site is served by a safe and convenient vehicular and pedestrian access.*

The existing access referred to by the Highway Officer above and as considered under Appeal Ref APP/Y3940/W/16/3147108 would continue to be utilised. The highway officer raises no highway objections to the proposed development. It should also be noted that Paragraph 109 in 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.*" The highway officer has not raised any issue in respect of unacceptable compromising of highway safety, and the Inspector's comments at the last appeal, reported above, indicate that there are no highway safety reasons to object to the proposal.

*Criterion iii) requires that the site can be properly serviced and is supplied with essential services, such as water, power, sewerage and drainage, and waste disposal.*

The site would be serviced by mains water and power as an extension of the existing site. There are special drainage considerations, as previously discussed, which would be resolved by appropriate conditions.

*Criterion iv) requires that the site must also be large enough to provide adequate vehicle parking, including circulation space, along with residential amenity and play areas.*

As above, the highway officer is satisfied with the proposal. Each pitch would be between 500m<sup>2</sup> and 650m<sup>2</sup> in extent, providing wholly adequate amenity space and parking provision.

*Criterion v) states that a site is located in or near to existing settlements within reasonable distance of a range of local services and community facilities, in particular schools and essential health services.*

This issue was addressed in the original application W/12/01412/FUL and the sustainability of the location has been established in principle for a number of years.

*Criteria vi), vii) and viii) relate to landscape and visual amenity, requiring that a site will not have an unacceptable impact on the character and appearance of the landscape and the amenity of neighbouring properties, and is sensitively designed to mitigate any impact on its surroundings; adequate levels of privacy should be provided for occupiers and that development of the site should be appropriate to the scale and character of its surroundings and existing nearby settlements.*

The site would occupy the same red-line area as that approved on Appeal under APP/Y3940/W/16/3147108. In his decision notice at the time, the Inspector observed that “development would have no material impact on the wider landscape and that an objection could not be sustained on that basis.” The proposed development would include, as permanent structures, two additional day rooms of the same design as the two approved units. The red-line site area does not extend into the copse at the northern end of the land under the control of the applicant. As pointed out by the Parish and objectors, tree felling took place and this has been the subject of separate investigation by the forestry authorities and Council’s tree officer.

The development would not give rise to any loss of privacy, given separation distances from neighbouring properties.

With further regard to neighbouring amenity, a common theme in the objections received was the impact on the site of unauthorised works and activities. This has been an ongoing matter for Council’s Enforcement, Drainage and Environmental Health Teams, in particular following the Appeal Decision under reference APP/Y3940/W/16/3147108. It has to be acknowledged that the situation has been unsatisfactory but management/past behavior is not a planning consideration. The current application provides an opportunity especially in respect of addressing the drainage issues, landscaping and reinstatement of an acceptable appearance of the site by the current occupants.

*Criterion ix requires that a site should not compromise a nationally or internationally recognised designation nor have the potential for adverse effects on river quality, biodiversity or archaeology.*

The site does not fall within any recognised landscape designation and landscape is discussed above. Furthermore, again, the additional two pitches would be located within the red-line area previously approved for the traveller site.

However the ecologist raised an initial holding objection given the evidence which has been gathered in respect of the local Bechstein’s Bat population since permission 15/10492 was determined. As a result, Natural England has recognized that Trowbridge’s breeding colony of Bechstein’s bats may require formal statutory protection in its own right (not just due to its association with the SAC) and announced earlier this year that it will be investigating the designation of woodlands in the area as SSSI as a priority. Sunnyside lies in a key position between Biss Wood and Flowers Wood. Both woods are used for breeding and the bats are highly likely to move between these and other woodlands on a regular basis. Bats can therefore be expected to make use of the application site and land within the blue line as flight lines and for foraging. There followed engagement between the agent and the ecologist on appropriate measures to address the issue of mitigation that would be required. The agent submitted proposals which included new planting, the removal of lighting and the protection of a tree which had been omitted from the initial drawings. A revised plan was submitted.

Following further consultation the Ecologist noted that the layout has been revised and that the 0.1 ha of grassland habitat which will be lost through this scheme will be compensated by:

- 1, .Planting 255m of new hawthorn and blackthorn hedgerow;
2. The removal of existing bollard lighting along the SW boundary of the site;
3. Removal of proposed bollard lighting along the SE boundary of the site; and
4. Retention of an existing mature ash tree through the repositioning of the static and touring caravan pitches

The Ecologist further understands that the applicant does not have the resources to replant the woodland (poplar plantation) which was felled by a previous owner on land within the blue boundary. However, in lieu of this, significant benefit will arise from removing existing bollard lighting along the



SW hedgerow boundary and overall the scheme will lead to a net benefit for Bechsteins bats.

The Ecologist's assessment was made in light of information gathered for appropriate assessments for Ashton Park, The Grange and Land at Drynham Lane and she concludes that, provided the above measures are adequately secured by condition, there would be no adverse effect on the features of the Bath and Bradford on Avon Bats SAC alone and in-combination with other schemes. Natural England in turn accepted the Ecologist's assessment suggesting only that an additional requirement in respect of tree planting be conditioned.

In light of the Ecologist's comments it is considered that criterion (v) would be properly addressed by the imposition of appropriate conditions.

### 9.2 Parish and Objector comments

Neighbour and Parish concerns in respect of the situation following on from the Appeal Decision APP/Y3940/W/16/3147108 must be taken seriously. A discharge of conditions application was submitted and the details such as landscaping and drainage were approved. However, implementation was not satisfactory. Action has been taken by enforcement, drainage and environmental health officers to resolve matters. It was also noted during the site visit on the current application that planting in respect of the landscaping scheme had failed. However a substantial amount of hardcore that had been piled on the site had been removed and, in general, the site was in a tidy state.

It is unfortunately the case that the previous occupants, following the Appeal, have left the site and there has not been continuity in respect of developing the site. It is however considered that the current application (acceptable in principle for the reasons outlined above) provides the opportunity to regularize matters fully and in addition provide ecological enhancements. Conditions should however be robustly framed so as to ensure that proper implementation occurs. In particular the matter of foul drainage, which the applicant has confirmed will be connected to mains, would be resolved.

### 9.3 Status of the Applicant

According to the agent the applicants are an established traveller family who travel frequently for work purposes carrying out landscaping and driveway work. This notwithstanding, the use of the site for general occupation by travellers was established under earlier applications, and any extension to number of pitches would be subject to an appropriate condition. Moreover, planning permission runs with the land and not the applicant. The condition would ensure that the Council retains control so that all occupiers satisfy the definition of a traveller as set out in national policy. The proposal therefore accords with the PPTS in this respect.

## **10. Conclusion**

The proposal seeks permission for an additional two gypsy/traveller pitches within the established traveller site. In the absence of any DPD or other development plan document allocating sites, the proposal must be assessed against the criteria within Core Policy 47 locational criteria and National Policy.

The principle of the use at this location is long established. The increased use of the existing access together with the generation of additional traffic movements resulting from the proposed development is acceptable to the highway officer.

The proposal is therefore considered to be in accordance with both local and national Planning policies.

## 11. RECOMMENDATION

Planning permission should be GRANTED subject to the following conditions:

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

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

2. The site shall not be occupied by any persons other than gypsies and travellers as defined in Annex 1: Glossary of Planning Policy for Traveller Sites published August 2015.

REASON: Planning permission has only been granted on the basis of the provision of accommodation for gypsies and travellers and it is necessary to keep the site available to meet that need.

3. No more than eight caravans, as defined in the Caravan Sites and Control of Development Act 1960 and the Caravan Sites Act 1968 as amended (of which no more than four shall be static caravans) shall be stationed on the site at any time.

REASON: To control the number of caravans on the site in order to safeguard interests of visual and residential amenity in accordance with CP47 of the Wiltshire Core Strategy 2015.

4. No commercial activities shall take place on the land, including the storage of materials used in connection with any business operated by the occupiers of the site.

REASON: In the interests of visual amenity, highway safety and the amenity of occupants of the site.

5. No vehicle over 3.5 tonnes 'gross unladen' weight shall be stationed, parked or stored on this site.

REASON: In the interests of visual amenity, highway safety and the amenity of occupants of the site.

6. No commercial use of the stables hereby permitted shall take place on the land; they shall only be used as shelter for the appellant's own horses and/or ponies.

REASON: In the interests of highway safety.

7. There shall be no occupation of the pitches hereby approved prior to the connection of the foul drainage system to the main sewer as shown on the drawing indicating the drainage run, received on 6 July 2018.

REASON: 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.

8. No development shall commence on site until a scheme for the discharge of surface water from the site (including surface water from the access / driveway), incorporating sustainable drainage details together with permeability test results to BRE365 (at the location of the proposed soakaways), has been submitted to and approved in writing by the Local Planning Authority.

REASON: To ensure that the development can be adequately drained

9. The development shall not be first occupied until surface water drainage has been constructed in accordance with the approved scheme.

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

10. All soft landscaping comprised in the approved details as shown on hereby approved drawing MM1 Rev 1 shall be carried out in the first planting and seeding season following the first occupation of the new. All hard landscaping shall also be carried out in accordance with the approved details prior to the occupation of new pitches 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 wildlife habitat.

11. Prior to the installation of any new external artificial lighting a lighting plan shall be submitted to Wiltshire Council for approval in writing. The lighting plan shall illustrate the location of proposed external lighting and shall specify the type, height and position of luminaire(s) and other fixtures/fittings such as cowls, louvres or baffles; and shall demonstrate that the proposed lighting will not illuminate the hedgerows and tree-lines along the site boundaries through provision of a lux plot/lighting contour plan. All existing perimeter lighting shall be removed prior to the occupation of any new pitch.

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

12. Before commencement of development, details of six trees to be planted within hedgerows within the development including their location, species and size of stock, shall be submitted and approved by the Local Planning Authority. The trees will be planted in accordance with the approved details in the first planting season following first occupation and maintained and replaced as necessary for the first five years and thereafter retained.

REASON: To ensure the protection of important wildlife habitat features.

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

Site Location Plan registered on 23 March 2018;

Day Room / Amenity Block registered on 23 March 2018;

Stable Block registered on 23 March 2018;

Revised Layout Plan MM1 Rev 1 received on 05 September 2018; and  
Plan showing drainage run received on 6 July 2018

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



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## Appeal Decisions

Hearing held on 30 August 2016

Site visit made on 30 August 2016

by **D E Morden MRTPI**

an Inspector appointed by the Secretary of State for Communities and Local Government

Decision date: 28 October 2016

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### **Appeal A: APP/Y3940/C/15/3139663**

#### **Sunnyside, Yarnbrook Road, West Ashton, Trowbridge, Wilts, BA14 6AR**

- The appeal is made under section 174 of the Town and Country Planning Act 1990 as amended by the Planning and Compensation Act 1991.
- The appeal is made by Mr J Gammell against an enforcement notice issued by Wiltshire Council.
- The enforcement notice, Ref 15/00923/ENF, was issued on 3 November 2015.
- The breach of planning control as alleged in the notice is, engineering operations comprising the excavation of the land and the deposit of material, including hard-core, rubble and tarmacadam to create a hard surface.
- The requirements of the notice are (a) remove from the land, other than the land shown hatched in black on the plan attached to the Notice, all material used to create the unauthorised hard surface; (b) reinstate the excavated areas of the land to their original form and levels using soil and (c) reseed the reinstated area of the land detailed in requirement (b) with grass seed.
- The periods for compliance with the requirements are six months for (a) and (b) and for (c) the next planting season following compliance with the first two requirements and in any event within 12 months of the date the notice takes effect.
- The appeal is proceeding on the grounds set out in section 174(2)(a) and (g) of the Town and Country Planning Act 1990 as amended.

**Summary of Decision: The appeal is dismissed and the Notice upheld as set out in the Formal Decision at paragraph 34 below.**

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### **Appeal B: APP/Y3940/W/16/3147108**

#### **Sunnyside, Yarnbrook Road, West Ashton, Trowbridge, Wilts, BA14 6AR**

- The appeal is made under section 78 of the Town and Country Planning Act 1990 against a refusal to grant planning permission.
- The appeal is made by Mr J Gammell against the decision of Wiltshire Council.
- The application Ref 15/10492/FUL was refused by notice dated 11 March 2016.
- The development proposed is use of land as a private gypsy and traveller caravan site consisting of 2 No. pitches each with 1 mobile home, 1 touring caravan and 1 utility dayroom; stabling.

**Summary of Decision: The appeal is allowed and planning permission is granted in the terms set out in paragraph 35 below.**

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### **Procedural Matters**

1. The s78 appeal is for the use of the land for two travellers' pitches and includes a dayroom for each pitch. It also concerns a stable block to be erected on the site. The s174 appeal however, is only for the operational development set out in the allegation. I will, therefore, deal with the s78 appeal and the s174(a) appeal separately and in those circumstances it is logical to consider the s78 appeal first.

## **The s78 appeal – Appeal B**

### **Background**

2. Planning permission was granted on 18 June 2014 for two pitches on a smaller part of the overall area that forms the land the subject of this appeal; the whole area was in the appellant's ownership at the time of that earlier application. That smaller part is closer to the road; the hard surfaced area specifically excluded from the enforcement notice equating to roughly the total area on which permission was granted to site the caravans, parking areas and other ancillary development. A previous owner/occupant had originally been granted permission for one pitch on that smaller rectangular area of land.
3. This appeal concerns a modified proposal by the appellant to include a dayroom for each pitch (in addition to the mobile home and touring caravan approved in 2014) and also a stable building close to the northern boundary of the land on an area shown as paddock.
4. The Council acknowledged firstly, that it considered the appellant still satisfied the definition of 'gypsy/traveller' as set out in the August 2015 updated version of Planning Policy for Traveller Sites; Annex 1, paragraph 2. A local resident questioned whether this was in fact the case but from the information contained in the representations and from what was stated by the appellant's agent at the Hearing concerning the appellant's lifestyle, I am satisfied that he and his family are gypsies/travellers and will determine these appeals on that basis.
5. Secondly, the Council acknowledged that there was a shortfall of provision for gypsies and travellers in the area (as there had been when the 2014 application had been approved) and in those circumstances there was no objection in principle to two pitches being granted permission. There was no discussion therefore on the question of need (either generally or for this appellant) or his personal circumstances at the Hearing.

### **Main Issue**

6. I consider that the main issue in this case, having regard to the prevailing policies in the adopted Development Plan and the objection set out by the Council, is the impact of this development on the rural character and appearance of the site.

### **Reasoning**

7. The Council acknowledged both in its written representations and orally at the Hearing that views of the site from outside were almost non-existent other than when immediately outside the entrance (even then they were very limited unless the solid gates were open) and from one neighbouring property to the north when on the first floor in that property. I confirmed when on site and when walking several footpaths in the area that there were virtually no views of the site whatsoever from either medium or long distance viewpoints.
8. At the entrance, the existing mobile home near the front of the site can be seen even though the land rises quite steeply from the road but if, as proposed the caravans and other buildings are sited at the rear of the site, they will not be seen over the entrance gates. Very little would be seen even with the gates open if the caravans and other buildings are sited as proposed.

9. The appellant also proposed various landscaping features on the site that would restrict even further views of the development from Yarnbrook Road. The Council accepted the opinion of the appellant's landscape architect that the development would have no material impact on the wider landscape and that an objection could not be sustained on that basis. Its objection simply concerned the fact that more land was being used in total and more proposed as hard surface than had previously been approved. That would, argued the Council, radically change the character of the site and was objectionable; in its view that was sufficient to justify refusal of the proposal.
10. The Council accepted that the stable block and hard surfaced apron in front of it were acceptable. Altogether about 40% of the land is shown as hard surface on the layout plan but as stated by the appellant this could be reduced considerably. In particular, the two 'plots' for the caravans/dayrooms are shown as completely hard surfaced areas whereas they could be mainly soft landscaped areas.
11. I noted that whilst the hard surfaced area that has permission is to be reduced by about half, the access from the entrance gates is still shown to be 7 metres wide and this could be halved. Similarly the track running across the front of the two plots could be much reduced in width.
12. The character of the overall site has already been changed by the permission that has been granted for the siting of two plots for travellers. Whilst this proposal increases the area of hard surfacing that would be on the land, I do not consider that increase to be significant now that the principle has been established. Further, the proposal would move the location of the caravans to the rear of the site; from there they would not be seen from Yarnbrook Road and its footways as is currently the case.
13. From immediately outside the site there would be an improvement visually and any change in character, which the Council is concerned about, would, therefore, be less obvious. Also the approved hard surface area immediately inside the entrance which is clearly seen every time the gates are open would be reduced to just an access track to the rear of the site and lined with trees. In that way it would appear no different to any other long driveway access.
14. Taking all these factors into account, whilst I acknowledge that the appearance of the site will change and will do so differently to what has been approved, I do not consider that it is so different that it would materially harm the character of the site and justify not allowing this development. Clearly the layout needs to be amended from what was submitted – reducing the hard surfaced areas – and the appellant stated his willingness to do so and this can be achieved by submitting a new detailed layout to be approved and also amending the proposed landscaping details.
15. A number of other matters were raised by the Council and nearby residents who were at the Hearing. Dealing with matters raised by residents, firstly, there were concerns regarding access on to what was a busy, fast road. There were no objections raised by the highway authority and indeed it has already been approved for two pitches in 2014. Leaving the site I noted that there was good visibility in both directions for those waiting to exit the site and any vehicle waiting in the middle of the road to turn into the site would be clearly seen from both directions. Objections on highway grounds cannot be substantiated in this appeal.

16. Secondly those nearby were concerned about drainage and that works carried out by the appellant had caused flooding from the site on to Yarnbrook Road. The Council also raised its concerns about an increased area of hard surfacing increasing the run off from the site. It was satisfied, however, that this was a technical issue and the imposition of a condition requiring drainage details to be agreed would resolve any possible problems. The appellant stated that he did not object to connecting to the mains system as had been suggested by the drainage officer in the pre application advice response if that proved necessary.
17. The other point made by local residents (and indeed it was also set out in the Council's reasons for issuing the enforcement notice) was that what had happened was an example of what the Government had, on 31 August 2015 in a change to national policy advice sent out in a letter from its Chief planner, termed intentional unauthorised development (IUD). The change in policy made IUD a material consideration that would be weighed in the determination of planning applications and appeals received from that 31 August date onwards.
18. Whilst the Government is primarily concerned with such development in the Green Belt, the policy applies to all developments and one of the main reasons given for the policy is that 'In such cases, there is no opportunity to appropriately limit or mitigate the harm that has already taken place.' The Council argued that following the pre application advice that had been given, the appellant was fully aware that he needed planning permission before undertaking what he has started to do on the site and in fact he has carried out more than was shown in those pre application proposals.
19. The land forming the planning unit already has permission for two traveller's pitches and the Council does not object in principle to that aspect of the development or to the proposed stables. As argued by the appellant, this is a case where mitigation is included in the scheme by virtue of a considerable amount of landscaping and the layout can be set out in a manner that does not harm the rural character and appearance of the area or the site.
20. I acknowledge that work was carried out before permission was obtained and that weighs against the appellant but this is not a finely balanced case. It is one where the objections raised cannot be sustained and where, subject to conditions, the development should be permitted. By itself the fact that the development was commenced before there was any planning permission does not carry sufficient weight to justify dismissing this appeal.

### **Conclusions on the s78 appeal – Appeal B**

21. Taking all the above facts into account I consider that the subject to appropriate conditions the development should be approved and I, therefore, allow this appeal.

### **The s174 appeal – Appeal A**

#### **The appeal on Ground (a)**

22. This appeal concerns firstly, excavation works at the rear of the site to level the land and secondly, the large amount of hard-core, tarmac and rubble that has been spread over a considerable area of the site. In places the piles of material were over 0.5m in height and from what I saw on the site there is



considerably more there than is needed to complete what is shown on the layout plan; and that will be much reduced in area.

23. The volume of material spread over such a wide large area has significantly changed the character and appearance of the site to its considerable detriment and should not be permitted to remain. The land has been levelled at the rear (adjoining the copse of trees owned by the appellant but outside both the land the subject of the enforcement notice and the planning appeal) but a level site is needed on which to site the caravans and dayrooms. Also lowering the land means that the development (which I have permitted) is less likely to be seen from outside the site.

### **Conclusions on the s174 appeal – Appeal A**

24. Taking these factors into account I consider that the development is materially harmful to the character and appearance of the rural nature of the site and should not be allowed. I therefore dismiss this appeal.

### **The appeal on Ground (g)**

25. The appellant stated that six months was insufficient in respect of requirements (a) and (b) and firstly argued that two years should be allowed to enable him to raise the money to carry out the necessary remedial works. Following a short discussion about his time frame for carrying out the landscaping works and other matters to be covered by conditions on the s78 permission to be granted, he revised the two years down to 12 months.
26. The Council stated that the physical work should take no more than a couple of months to carry out and six months was more than sufficient to undertake requirements (a) and (b). The works were carried out over a few days and it would be relatively straightforward to put things right.
27. In my view 6 months is sufficient time to undertake the works necessary and the time set out in the Notice is not unreasonable and I shall, therefore, dismiss this appeal.

### **Planning conditions**

28. The Council put forward a list of planning conditions that it considered ought to be imposed should the s78 appeal be successful. There were a number of fairly standard conditions for this type of development that were suggested and, I agree, should be imposed. These conditions limited occupation of the development to gypsies/travellers; restricted the number of caravans on site; prohibited any commercial activity taking place on the site; restricted the use of the stables to non-commercial use; listed the approved plans and restricted the weight of vehicles that could be used by the appellant.
29. Other suggested conditions are, in my view, justified and were agreed by the parties. These were conditions requiring landscaping, surface water drainage, foul drainage and external lighting to be submitted for approval. The last condition concerns waste from the stables and I agree that there should be a condition prohibiting the burning of that waste and details should be submitted for approval as to how it is to be disposed of.
30. Finally a local resident queried whether the earlier permission needed to be revoked or referred to in any way by condition as the pitches approved in that

2014 permission would not have to be removed to enable the two contained in this proposal to be sited where proposed. The question of whether the development permitted in 2014 had commenced was not raised at the Hearing but in the appellant's final comments (sent in on 1 July 2016) it was stated that he had misunderstood that his permission did not cover the whole area that he owned and he commenced work on a wider area.

31. From what I saw on site it appeared to me that work had been undertaken on altering the hard surface area both within as well as outside the 2014 application red line area. In my view, therefore, that development has commenced and in those circumstances it is not possible to impose a condition on this permission that would state that the permissions are in the alternative.
32. There are conditions to be attached to the permission granted here that limit the number of caravans on the whole area to four and also require that the layout be submitted for approval so there are in my view adequate controls and restrictions. Also, the Council could make a Revocation Order taking away the earlier (2014) permission and in the circumstances (of a permission granted by this decision for the same number of pitches and caravans) there would not be any liability for compensation.

### **Overall conclusions**

33. The proposed development in the s78 appeal is acceptable subject to a number of planning conditions and I shall allow that appeal (Appeal B). The development enforced against (Appeal A) is unacceptable; I shall dismiss that appeal and the Notice will be confirmed. Where the requirements of the Notice are inconsistent with the permission granted, then by virtue of s180(1) of the Town and Country Planning Act 1990, the Notice will cease to have effect; those requirements will only come into effect if the appellant decides not to implement the permission granted in this decision.

### **Formal Decisions**

#### **Appeal A: APP/Y3940/C/15/3139663**

34. The appeal is dismissed and the enforcement notice is upheld. Planning permission is refused on the application deemed to have been made under section 177(5) of the 1990 Act as amended.

#### **Appeal B: APP/Y3940/W/16/3147108**

35. The appeal is allowed and planning permission is granted for use of land as a private gypsy and traveller caravan site consisting of 2 No. pitches each with 1 mobile home, 1 touring caravan and 1 utility dayroom, and stabling at Sunnyside, Yarnbrook Road, West Ashton, Trowbridge, Wiltshire, BA14 6AR in accordance with the terms of the application, Ref 15/10492/FUL, dated 16 October 2016, and the plans submitted with it, subject to the following conditions:
  - 1) The site shall not be occupied by any persons other than gypsies and travellers as defined in Annex 1: Glossary of Planning Policy for Traveller Sites published August 2015.
  - 2) No more than four caravans, as defined in the Caravan Sites and Control of Development Act 1960 and the Caravan Sites Act 1968 as amended (of

which no more than two shall be static caravans) shall be stationed on the site at any time.

- 3) No commercial activities shall take place on the land, including the storage of materials used in connection with any business operated by the occupiers of the site.
- 4) No vehicle over 3.5 tonnes 'gross unladen' weight shall be stationed, parked or stored on this site.
- 5) No commercial use of the stables hereby permitted shall take place on the land; they shall only be used as shelter for the appellant's own horses and/or ponies.
- 6) The use hereby permitted shall cease and all equipment and materials brought onto the land for the purposes of such use shall be removed within 28 days of the date of failure to meet any one of the requirements set out in i) to iv) below:
  - i) Within 3 months of the date of this decision a scheme for the development of the site (hereinafter referred to as the Site Development Scheme) shall have been submitted for the written approval of the local planning authority and the scheme shall include a timetable for its implementation. The scheme shall include (a) details of external lighting (if any); (b) details of foul and surface water disposal; (c) details of waste disposal from the stables; (d) details of the site layout including the siting of the caravans, day rooms, stable block, hardstandings, access track(s) and amenity areas; (e) details of hard and soft landscaping including all new tree, hedge and shrub planting.
  - ii) If within 11 months of the date of this decision the local planning authority refuse to approve the Site Development Scheme or fail to give a decision within the prescribed period, an appeal shall have been made to, and accepted as validly made by, the Secretary of State.
  - iii) If an appeal is made in pursuance of ii) above, that appeal shall have been finally determined and the submitted Site Development Scheme shall have been approved by the Secretary of State.
  - iv) The approved Site Development Scheme shall have been carried out and completed in accordance with the approved timetable.

Upon implementation of the approved Site Development Scheme specified in this condition, that scheme shall thereafter be retained and remain in use.

In the event of a legal challenge to this decision, or to a decision made pursuant to the procedure set out in this condition, the operation of the time limits specified in this condition will be suspended until that legal challenge has been finally determined.

- 7) All planting, seeding or turfing proposed in the approved details of landscaping shall be carried out in accordance with the approved Site Development Scheme. Any trees or plants which within a period of 5 years from the completion of the scheme die, are removed or become seriously damaged or diseased, shall be replaced in the next planting season with others of similar size and species.

- 8) The development hereby permitted shall be carried out in accordance with the following listed plans except in so far as they are amended by virtue of the details submitted and approved by condition 6 above. The approved plans are as follows:- 01312/2C: Rev 4, dated 15/12/15 entitled Development Scheme; 01312/5: Rev 1 dated 03/01/15 entitled Proposed Stable Block; and 01312/7C: Rev 2, dated 15/12/15 entitled Alternative Day Room/Amenity Block.

***D E Morden***

INSPECTOR

## APPEARANCES

### FOR THE APPELLANT:

Dr A Murdoch MRTPI  
BA(Hons) MA, MSc, PhD  
Mr R Crandon  
BA(Hons) DipLA

Principal, Murdoch Planning Limited, PO Box 71,  
Ilminster, Somerset, TA19 0WF  
Director TDA, Canna Studio, Llangan, Vale of  
Glamorgan, CF35 5DR

### FOR THE LOCAL PLANNING AUTHORITY:

Mr M Perks	Senior Planning Officer, Wiltshire Council
Mr S Williams	Team Leader, Planning Enforcement, Wiltshire Council
Ms N Rivans	Planning Enforcement Officer, Wiltshire Council

### INTERESTED PERSONS:

Mr R Covington	West Ashton Parish Council
Mr F Morland	Local resident
Mr R Hill	Local resident
Ms P Hume	Local resident

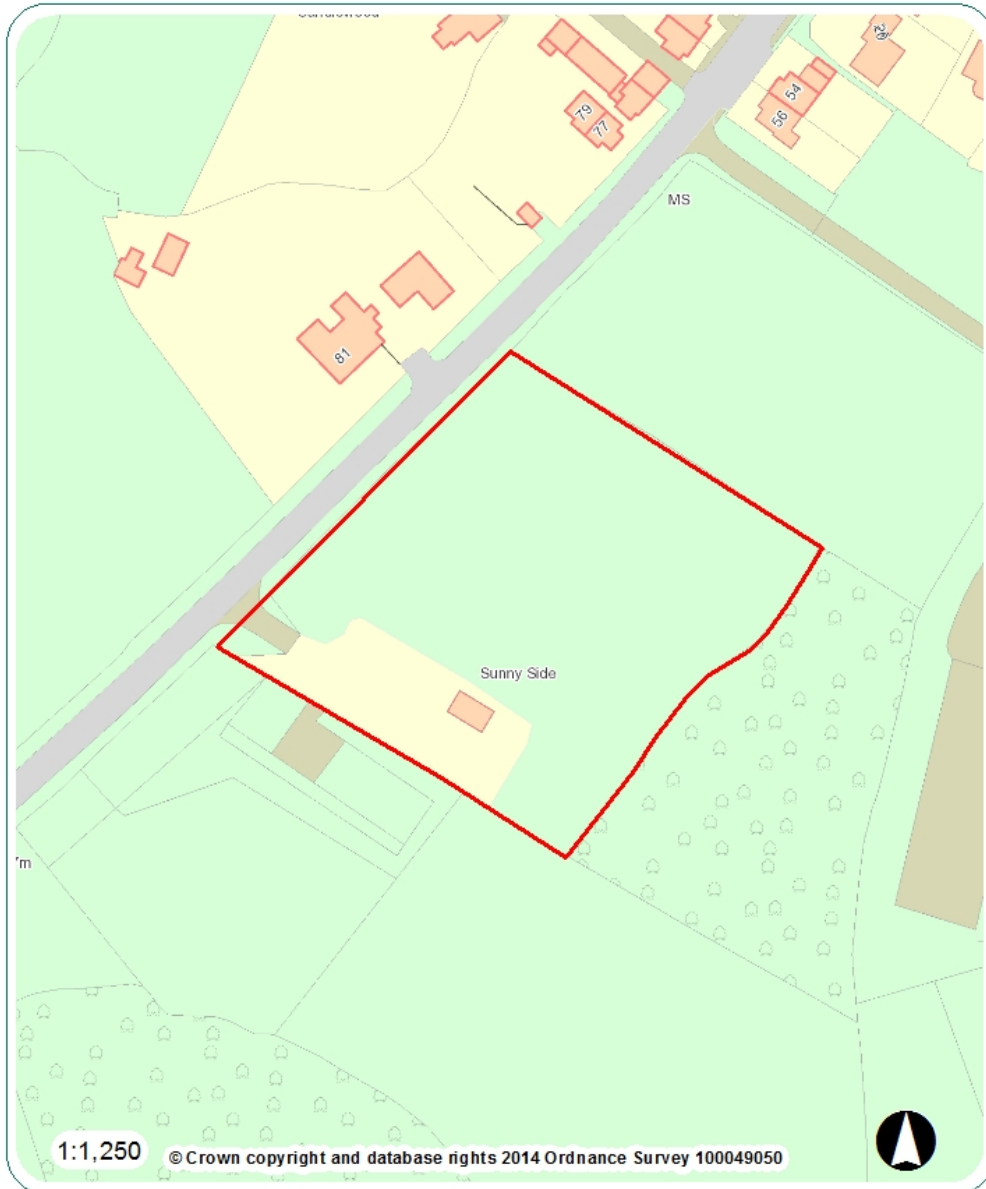
## DOCUMENTS

- 1 Email and correspondence between the Council and appellant from 2014
- 2 Extracts from Wiltshire Core Strategy (Core Policies 47, 50, 51 & 57)
- 3 Legible copies of photographs in Council's Appendix 9
- 4 Legible key to Council's plan at Appendix 1 of its Revised statement

## PHOTOGRAPH

- 1 Mr Crandon's set of photographs of landscaping at a site in Bridgend.

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